

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

NOTICE OF PROPOSED RULEMAKING

TITLE 1. RULES AND RULEMAKING PROCESS

CHAPTER 6. GOVERNOR'S REGULATORY REVIEW COUNCIL

PREAMBLE

1. Sections Affected

R1-6-101
R1-6-104
R1-6-105
R1-6-106
R1-6-107
R1-6-108
R1-6-109
R1-6-111
R1-6-112
R1-6-113
R1-6-201
R1-6-301
R1-6-302
R1-6-401

Rulemaking Action

Amend
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. § 41-1051(E)

Implementing statutes: A.R.S. §§ 41-1051 through 41-1056.01; 41-1033; and 41-1081

3. A list of all previous notices appearing in the Register addressing the proposed rules:

Notice of Rulemaking Docket Opening: 9 A.A.R. 474, February 14, 2003

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

Name: Jeanne Hann
Address: 100 N. 15th Avenue
Phoenix, AZ 85007
Telephone: (602) 542-2006
Fax: (602) 542-1486
E-mail: Jhann@ad.state.az.us

5. An explanation of the rules, including the agency's reasons for initiating the rules:

The Council is updating its rules to make them consistent with statutory changes made to the Administrative Procedure Act in 2002 and with the practices of a nearly paperless rule-review process.

6. A reference to any study relevant to the rules that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rules or proposes not to rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

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

Not applicable

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

Changes to the Administrative Procedure Act in 2002 are reflected in this rulemaking as follows:

Deleting the requirement that a separate concise explanatory statement be submitted with a final regular rulemaking,

Requiring an agency to provide notice in its cover letter if it determines that its rule needs an immediate effect date, and

Requiring the agency head to certify in the cover letter that all studies reviewed and either relied on or not relied on in making the rule are disclosed.

The economic impact of these changes is minimal and results directly from the statutory changes.

The Council has been using a nearly paperless rule-review process for eight months. This change has a positive economic impact on agencies that submit rule-related materials for Council review and action. Agencies can potentially save the cost of producing 11 copies of each rule-related item placed on the Council's agenda. This reduces the cost of materials and time to prepare the copies. The new procedure also saves agencies the cost of having personnel make multiple trips to the Council office. Businesses that supply paper and other materials or services used to produce copies may have decreased revenue as a result of agencies not making so many copies of their rule-related materials.

The nearly paperless rule-review process has increased costs for the Council. There was an initial cost to purchase lap-top computers and provide training for all Council members. There is a monthly cost to have the rule-related materials converted to a CD that is useable by the Council members. The business that converts the materials to a CD has increased revenue.

The proposed rules also require a person who submits written comments regarding a rule-related item on the Council's agenda to submit the comments directly to each Council member, Council staff, and the rulemaking agency rather than submitting copies to Council staff for distribution to others. Because of the cost of postage or delivery to multiple addresses, this requirement may increase costs for those who submit comments. However, this cost can be avoided because the proposed rules allow the written comments to be submitted electronically.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Jeanne Hann
Address: 100 N. 15th Avenue
Phoenix, AZ 85007
Telephone: (602) 542-2006
Fax: (602) 542-1486
E-mail: Jhann@ad.state.az.us

10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rules, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rules:

An oral proceeding on the proposed rules will be held as follows:

Date: Thursday, September 18, 2003
Time: 9:00 a.m.
Location: 100 N. 15th Avenue, Rooms 300B and C

Written comments regarding the proposed rules and the economic impact of the rules may be submitted to the person identified in item #4 until 5:00 p.m. on September 18, 2003.

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

None

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

None

13. The full text of the rule follows:

TITLE 1. RULES AND RULEMAKING PROCESS

CHAPTER 6. GOVERNOR'S REGULATORY REVIEW COUNCIL

ARTICLE 1. RULES OF PROCEDURE

Section

- R1-6-101. Definitions
- R1-6-104. Placing a Regular Rule on the Council Agenda
- R1-6-105. Submitting a Proposed Summary Rule
- R1-6-106. Placing a Final Summary Rule on the Council Agenda
- R1-6-107. Submitting Approved Regular Rules
- R1-6-108. Filing Rules Approved by the Council
- R1-6-109. Returned Rules
- R1-6-111. Oral and Written Comments
- R1-6-112. ~~§~~ Five-year-review Report
- R1-6-113. Rescheduling a ~~§~~ Five-year-review Report

ARTICLE 2. DELEGATION AGREEMENTS

Section

- R1-6-201. Appeal of a Delegation Agreement

ARTICLE 3. AGENCY PRACTICE OR SUBSTANTIVE POLICY STATEMENTS

Section

- R1-6-301. Petition for Council Rulemaking or Review
- R1-6-302. Appeal of an Existing Agency Practice or Substantive Policy Statement

ARTICLE 4. APPEALS OF ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENTS

Section

- R1-6-401. Appeal of an Economic, Small Business, and Consumer Impact Statement

ARTICLE 1. RULES OF PROCEDURE

R1-6-101. Definitions

- A. The definitions in A.R.S. § 41-1001 apply to this Chapter.
- B. In this Chapter:
 - 1. "Agency head" means the chief officer of an agency or another person directly or indirectly purporting to act on behalf of or under the authority of the agency head.
 - 2. "Chair" means the chairperson of the Council.
 - 3. "Electronic copy" means a document submitted by e-mail.
 - ~~3-4.~~ "Open Meeting Law" means A.R.S. §§ 38-431 through 38-431.09.
 - ~~4-5.~~ "Regular rule" means a rule made according to A.R.S. §§ 41-1021, 41-1022 through 41-1025, 41-1028 through 41-1032, 41-1035, ~~41-1036~~, 41-1052, and 41-1055.

R1-6-104. Placing a Regular Rule on the Council Agenda

- A. To place a regular rule on the Council agenda, an agency shall deliver to the Council office ~~2~~ two rule packages prepared in the manner required by this Chapter and the rules of the Office of the Secretary of State. The agency shall ensure that each rule package contains the following items assembled in the following order:
 - 1. Cover letter signed by the agency head specifying:
 - a. The close of ~~the~~ record date;
 - b. Whether definitions of terms contained in statutes or other rules and used in the ~~adopted~~ rule are attached;
 - c. Whether the rulemaking relates to a ~~§~~ five-year-review report and, if applicable, the date the report was approved by the Council;
 - d. Whether the ~~rulemaking rule~~ rule contains a new fee and, if ~~applicable~~ so, citation of the statute expressly authorizing the new fee;
 - e. Whether the ~~rulemaking rule~~ rule contains a fee increase, ~~and~~ ;
 - f. Whether an immediate effective date is requested for the rule under A.R.S. § 41-1032;
 - g. A certification that the preamble discloses a reference to any study relevant to the rule that the agency reviewed and either did or did not rely on in the agency's evaluation of or justification for the rule; and
 - ~~f-h.~~ A list of all items enclosed.

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2. Notice of Final Rulemaking, required by A.A.C. R1-1-602, including the preamble, table of contents for the ~~rule~~ rule-making, and text of the rule;
 3. Economic, small business, and consumer impact statement that contains the information required by A.R.S. § 41-1055;
 4. ~~Concise explanatory statement that contains the information required by A.R.S. § 41-1036;~~
 - 5.4. Copy of the existing rule if the entire existing rule is not shown as part of the revised text of a rule the agency is amending; and
 6. ~~Copy of the general and specific statutes authorizing the rule; and~~
 - 7.5. Copy of definitions of terms, contained in statutes or other rules, used in the rule, if any.
- B.** In addition to the items specified in subsection (A), an agency shall submit ~~+~~ one copy of each of the following:
1. All written comments received by the agency concerning the proposed rule, if any; and
 2. Materials incorporated by reference, if any.
- C.** After a rule is placed on the Council agenda, Council staff shall review the rule for compliance with the requirements of A.R.S. § 41-1052(C), ~~and (D), and (E)~~ and this Chapter and may suggest changes to the agency. After making any ~~changes~~ change, the agency shall submit the rule package to the Council office ~~enough copies~~ under one of the following alternatives:
1. If the agency believes it is likely that the rule package will be approved by the Council without change, it shall submit:
 2. Four paper copies of the rule-package items listed in subsections (A)(1) through (A)(7), assembled in the order specified in subsection (A), to make 1 complete original rule package and 10 complete copies. (A)(2) and (A)(3) assembled in the order specified in subsection (A);
 - a. One original and three paper copies of an agency certificate prepared as provided in A.A.C. R1-1-105 except that the item in R1-1-105(6) shall be omitted;
 - b. Two paper copies of an agency receipt prepared as provided in A.A.C. R1-1-106; and
 - c. A computer disk that includes the items listed in subsection (A) and the general and specific statutes authorizing the rule; or
 - d. A computer disk that includes the items listed in subsections (A)(2) and (A)(3) and an electronic copy of all the items listed in subsection (A) and the general and specific statutes authorizing the rule; or
 2. If the agency is uncertain whether the rule package will be approved by the Council without change, it shall submit:
 - a. One paper copy of the items listed in subsections (A)(2) and (A)(3); and
 - b. A computer disk that includes the items listed in subsection (A) and the general and specific statutes authorizing the rule; or
 - c. A computer disk that includes the items listed in subsections (A)(2) and (A)(3) and an electronic copy of all the items listed in subsection (A) and the general and specific statutes authorizing the rule.
- D.** After a rule is placed on the Council agenda, an agency may have the rule moved to the agenda of a later meeting by having the agency head send a notice to the Chair that includes the date of the later meeting.
- E.** If it is necessary for a rule to be heard at more than ~~+~~ one Council meeting, the agency shall:
1. ~~Contact~~ contact the Council office ~~staff~~ to learn which rule-package items, ~~if any~~, the agency needs to resubmit for the later meeting; ~~or~~
 2. ~~Submit 1~~ one original and 10 copies of the rule package described in subsection (A) for the later meeting.

R1-6-105. Submitting a Proposed Summary Rule

To submit a proposed summary rule, an agency shall deliver to the Council office ~~+~~ one copy of the following items, assembled in the following order and prepared in the manner required by this Chapter and the rules of the Office of the Secretary of State:

1. Notice of Proposed Summary Rulemaking, including the preamble, table of contents for the proposed summary ~~rule~~ rulemaking, and text of the proposed summary rule filed with the Office of the Secretary of State as required by A.R.S. § 41-1027(B); and
2. Statute that repeals or supersedes the authority under which the original rule was enacted or the statute that is repeated verbatim in the original rule or proposed summary rule.

R1-6-106. Placing a Final Summary Rule on the Council Agenda

A. To place a final summary rule on the Council agenda, an agency shall deliver to the Council office ~~+~~ one original and 10 copies of a rule package the following items, prepared in the manner required by this Chapter and the rules of the Office of the Secretary of State:

1. The cover letter described in subsection (B)(1);
2. Four paper copies of the items listed in subsections (B)(2) through (B)(4), assembled in the order specified in subsection (B);

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3. One original and three paper copies of an agency certificate prepared as provided in A.A.C. R1-1-105 except that the item in R1-1-105(B)(6) shall be omitted;
 4. Two paper copies of an agency receipt prepared as provided in A.A.C. R1-1-106; and
 5. A computer disk that includes the items listed in subsection (B) and the general and specific statutes authorizing the rule; or
 6. A computer disk that includes the items listed in subsections (B)(2) through (B)(4) and an electronic copy of all of the items listed in subsection (B) and the general and specific statutes authorizing the rule.
- B. An agency shall ensure that the rule package contains the following items assembled in the following order:
1. Cover letter signed by the agency head specifying:
 - a. The close of ~~the~~ record date;
 - b. Whether the rulemaking relates to a 5 five-year-review report and, if applicable, the date the report was approved by the Council; ~~and~~
 - c. Whether an immediate effective date is requested for the rule under A.R.S. § 41-1032;
 - d. A certification that the preamble discloses a reference to any study relevant to the rule that the agency reviewed and either did or did not rely on in the agency's evaluation of or justification for the rule; and
 - e. A list of all items enclosed.
 2. Notice of Final Summary Rulemaking, required by A.A.C. R1-1-801, including the preamble, table of contents for the final summary ~~rule~~ rulemaking, and text of the final summary rule;
 3. Economic, small business, and consumer impact statement that contains the information required by A.R.S. § 41-1055 or a statement that the rulemaking is exempt from this requirement under A.R.S. § 41-1055(D)(2); and
 4. Concise explanatory statement ~~that contains the information required by A.R.S. § 41-1036; and~~
 5. Copy of the general and specific statutes authorizing the rule.
- C. In addition to the ~~rule packages materials~~ items specified in subsection (B), an agency shall submit ~~+~~ one copy of all written comments received by the agency concerning the proposed summary rule.

R1-6-107. Submitting Approved Regular Rules

- A. For ~~each a~~ a final regular ~~or summary~~ rule placed on the Council's agenda under R1-6-104(C)(2) and approved by the Council or placed on the Council's agenda under R1-6-104(C)(1) and approved by the Council with changes, an agency shall deliver to the Council office within 14 calendar days after Council approval, unless a later date is arranged under subsection (B), the following items, prepared in the manner required by this Chapter and the rules of the Office of the Secretary of State:
1. A letter identifying each change made at the direction of the Council. If no changes were directed, no letter is required;
 2. One original and ~~3~~ three paper copies of the following items assembled in the following order:
 - a. Agency certificate, required by A.A.C. R1-1-105(B); and ~~either~~
 - b. Items listed in R1-6-104(A)(2) ~~through R1-6-104(A)(4) and (A)(3) for a regular rule; or~~
 - c. ~~Items listed in R1-6-106(B)(2) through R1-6-106(B)(4) for a summary rule;~~
 3. ~~One original and 1 copy~~ Two copies of the receipt required by A.A.C. R1-1-106-; and
 4. One computer disk that contains the information listed in subsection (A)(2)(b).
- B. If an agency is unable to deliver an approved regular ~~or summary~~ rule to the Council office within the time specified in subsection (A), the agency shall contact the Council office and arrange to submit the approved rule at a later date.

R1-6-108. Filing Rules Approved by the Council

- A. If the Council approves an agency rule as submitted under R1-6-104(C)(1) or R1-6-106(A) or if the Council approves an agency rule as submitted under R1-6-104(C)(2) and the agency submits the items required by R1-6-107, the Council shall file the original and ~~2~~ two copies of the agency's items; ~~2~~ two copies of the agency receipt; and the computer disk, and 1 copy of materials incorporated by reference with the Office of the Secretary of State. The Council shall include a written notice ~~signed by the Chair~~ specifying the Sections approved and the date of Council approval.
- B. If the Council approves a preamble, table of contents for the ~~rule~~ rulemaking, rule, or economic, small business, and consumer impact statement, ~~or concise explanatory statement~~ subject to the agency making changes as directed by the Council, and the agency submits the items required by R1-6-107:
1. ~~The Chair~~ Council staff shall verify that each change required by the Council was made and file the items with the Office of the Secretary of State as prescribed in subsection (A).
 2. If an agency submits a revised preamble, table of contents for the ~~rule~~ rulemaking, rule, or economic, small business, and consumer impact statement, ~~or concise explanatory statement~~ that does not contain the exact words approved by the Council, ~~the Chair~~ Council staff shall notify the agency and require that the items be submitted as approved or schedule the matter for reconsideration by the Council.

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- C. Except as specified in subsection (B), an agency shall not make any change to a preamble, table of contents for the ~~rule rulemaking~~, rule, economic, small business, and consumer impact statement, ~~concise explanatory statement~~, or materials incorporated by reference after Council approval.
- ~~D. If the Council is not able to file an agency's approved rule with the Office of the Secretary of State on the day that the agency submits it, the Council office shall inform the agency of the filing date.~~

R1-6-109. Returned Rules

The Council may vote to return a preamble, table of contents for the ~~rule rulemaking~~, rule, or economic, small business, and consumer impact statement, ~~or concise explanatory statement~~ under A.R.S. § 41-1052(B), after identifying the manner in which the returned rule-package item does not meet the standards at A.R.S. § 41-1052(C) ~~and (D)~~ through (E).

1. The Council may schedule a date for resubmission in consultation with the agency representative.
2. An agency resubmitting a preamble, table of contents for the ~~rule rulemaking~~, rule, or economic, small business, and consumer impact statement, ~~or concise explanatory statement~~ to the Council shall attach to the resubmitted rule-package item a letter that:
 - a. ~~Identify~~ Identifies all changes made in response to the Council's explanation for its return of the rule package item.
 - b. ~~Explain in writing~~ Explains how the changes ensure that the rule package item meets the standards at A.R.S. § 41-1052(C) ~~and (D)~~; through (E), and
 - c. Show Shows that the resubmitted rule is not substantially different from the proposed rule under the standards in A.R.S. § 41-1025.
3. In accordance with R1-6-110, an agency representative shall appear at the Council meeting at which the resubmitted preamble, table of contents for the rule, rule, or economic, small business, and consumer impact statement, ~~or concise explanatory statement~~ is to be considered.

R1-6-111. Oral and Written Comments

- A. Under A.R.S. § 41-1052(~~F~~) (G), a person may submit written comments to the Council about an agency rulemaking.
- B. A person may make oral comments about an agency rulemaking at a Council meeting.
- C. A person who makes written or oral comments to the Council shall:
 1. Ensure that the comments relate to a rule scheduled on the Council meeting agenda;
 2. Cite the particular provision of A.R.S. § 41-1052(C) ~~or (D)~~ through (E) that is the basis for the Council's authority to consider each issue addressed;
 3. State specifically how each issue relates to the particular provision cited;
 4. Tell what other efforts the person made to communicate with the rulemaking agency about each issue; and
 5. ~~Submit 1 original and 9 copies~~ If making oral comments, submit a paper or electronic copy of any visual aids or written materials supplementing the oral comments directly to the following:
 - a. Each member of the Council,
 - b. The Administrator of Council staff,
 - c. The Council's Assistant Attorney General, and
 - d. The head of the rulemaking agency, or
 6. ~~Submit 1 original and 9 copies~~ If not making oral comments, submit a paper or electronic copy of any written comments to the Council office and 1 copy to the rulemaking agency; and directly to the individuals listed in subsection (C)(5).
 7. ~~If written comments are submitted to the Council and the rulemaking agency fewer than 6 days before the Council meeting, tell why the person was unable to submit the written comments earlier.~~
- D. If materials are submitted under subsection (C)(5) or (C)(6) fewer than six days before the Council meeting, the Council shall consider the reason for the untimely submittal, fairness to the rulemaking agency, and the best interests of the state in determining the action to take under A.R.S. § 41-1052.

~~D.E.~~ The Chair may limit the time allotted to each speaker and preclude repetitious comments.

R1-6-112. 5 Five-year-review Report

- A. To place a ~~5~~ five-year-review report on the Council agenda, an agency shall deliver to the Council office ~~2~~ two copies of the ~~5~~ five-year-review report required by A.R.S. § 41-1056. Except as indicated in subsection (B), the agency shall separately discuss and present the following information in the ~~5~~ five-year-review report in the following order for each rule:
 1. General and specific statutes authorizing the rule;
 2. Objective of the rule;
 3. Effectiveness of the rule in achieving the objective;
 4. Consistency of the rule with state and federal statutes and rules, and a listing of the statutes or rules used in determining the consistency;
 5. Agency enforcement policy, including whether the rule is currently being enforced and, if so, whether there are any problems with enforcement;

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6. Agency ~~views~~ view regarding current wisdom of the rule;
 7. Clarity, conciseness, and understandability of the rule;
 8. Summary of the written criticisms of the rule received by the agency within the ~~5~~ five years immediately preceding the ~~5~~ five-year-review report, including letters, memoranda, reports, and written allegations made in litigation ~~and~~ or administrative proceedings in which the agency was a party that the rule is discriminatory, unfair, unclear, inconsistent with statute, or beyond the authority of the agency to enact, and the ~~conclusion~~ result of the litigation ~~and~~ or administrative proceedings;
 9. Estimated economic, small business, and consumer impact of the rule as compared to the economic, small business, and consumer impact statement prepared on the last making of the rule or, if no economic, small business, and consumer impact statement was prepared on the last making of the rule, an assessment of the actual economic, small business, and consumer impact of the rule; and
 10. Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if the agency determines it is necessary to amend; or repeal an existing rule, or to make a new rule.
- B.** If the information regarding any of the items listed in subsection (A) is identical for any group of rules, the agency shall discuss that information in its ~~5~~ five-year-review report only once for the group of rules.
- C.** An agency shall attach the following to each copy of a ~~5~~ five-year-review report:
1. Cover letter, signed by the agency head, that identifies a:
 - a. A person to contact for information regarding the report,
 - b. Any rule that is not reviewed with the intention that the rule will expire under A.R.S. § 41-1056(E), and
 - c. Any rule that is not reviewed because the Council rescheduled the review of the rule under A.R.S. § 41-1056(C), and
 2. Copy of the rules being reviewed, ~~and~~
 3. Copy of the general and specific authorizing statutes.
- D.** If an economic, small business, and consumer impact statement was prepared on the last making of ~~the rules~~ a rule being reviewed, an agency shall attach ~~4~~ one copy of the economic, small business, and consumer impact statement for the rule to the ~~5~~ five-year-review report.
- E.** After a ~~5~~ five-year-review report is placed on the Council agenda, Council staff shall review the report for compliance with the requirements of A.R.S. § 41-1056 and this Chapter and may suggest changes to the agency. After making any ~~changes~~ change, the agency shall submit to the Council office ~~1 original and 10 copies~~ one paper copy of the five-year-review report and one electronic copy of or a computer disk that includes the items listed in subsections (A) and (C) and the general and specific statutes authorizing the rules reviewed.
- F.** After a ~~5~~ five-year-review report is placed on the Council agenda, an agency may have the report moved to the agenda of a later meeting by having the agency head send a notice to the Chair that includes the date of the later meeting.

R1-6-113. Rescheduling a 5 Five-year-review Report

To request that a ~~5~~ five-year-review report be rescheduled under A.R.S. § 41-1056(C), an agency head shall submit a letter to the Chair not more than 90 days before the report is due that includes the following information; :

1. The Title, Chapter, and Article of the rules for which rescheduling is sought;
2. Whether the rules were initially made or substantially revised within the last ~~2~~ two years; and
 - a. If substantially revised:
 - i. A description of the revisions,
 - ii. Why the revisions are believed to be substantial, and
 - iii. The date on which the rules were published in the *Register* by the Office of the Secretary of State; or
 - b. If initially made, the date on which the rules were published in the *Register* by the Office of the Secretary of State.

ARTICLE 2. DELEGATION AGREEMENTS

R1-6-201. Appeal of a Delegation Agreement

- A.** Under A.R.S. § 41-1081(F), a person who appeals an agency decision to enter into a delegation agreement shall deliver to the Council office ~~4 one original and 8 copies of a~~ written request signed by the person submitting the appeal and either eight paper copies of the written request or one electronic copy of the request. The person submitting the appeal shall include the following in the request:
1. All written objections to the delegation agreement submitted to the delegating agency by the person filing the appeal;
 2. The name and address of each agency and each political subdivision entering into the delegation agreement;
 3. The name, address, and ~~facsimile fax~~ and telephone numbers of the person filing the appeal;
 4. The name of the person being represented by the person filing the appeal;
 5. The subject matter of the delegation agreement; and
 6. The reasons why the person is objecting to the delegation agreement and filing the appeal.

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- B. ~~An~~ The head of an agency whose delegation agreement is being appealed shall deliver to the Council office ~~+~~ one original of the following material and ~~either 8 eight paper copies or one electronic copy of the following:~~
1. A memorandum that lists the date the delegating agency gave written notice of the decision to enter into the delegation agreement and the dates of all public proceedings regarding the delegation agreement;
 2. The name, address, and ~~facsimile fax~~ and telephone numbers of each agency and each political subdivision contact person;
 3. The delegation agreement; and
 4. A written summary prepared by the agency, responding to all oral or written comments received by the agency regarding the delegation agreement.
- C. The Council shall notify the delegating agency head of an appeal of a delegation agreement by 5:00 p.m. of the business day following Council notification of the appeal. The agency head shall deliver to the Council office the information and documents listed in subsection (B) no later than 5:00 p.m. on the ~~3rd~~ third business day following notification of the appeal by the Council.
- D. ~~After~~ Within 14 calendar days after an appeal is filed with the Council, the Chair shall send written notice to the person filing the appeal and the delegating agency head stating whether ~~3~~ three Council members have requested that the appeal be considered at a Council meeting. If an appeal is to be considered at a Council meeting, the notice shall include the date and time of the Council meeting.
- E. After the Council approves or disapproves a delegation agreement that has been appealed, the Chair shall send a written letter to the delegating agency head and person filing the appeal that specifies the reasons for the approval or disapproval and the date of Council action.

ARTICLE 3. AGENCY PRACTICE OR SUBSTANTIVE POLICY STATEMENTS

R1-6-301. Petition for Council Rulemaking or Review

- A. A person may petition the Council under A.R.S. § 41-1033(A) for a:
1. Rulemaking action relating to a Council rule, including making a new rule or amending or repealing an existing rule; or
 2. Review of an existing Council practice or substantive policy statement alleged to constitute a rule.
- B. To act under A.R.S. § 41-1033(A) and this Section, a person shall submit to the Council office a written petition including the following information:
1. Name, address, telephone number, and ~~facsimile fax~~ number, if any, of the person submitting the petition;
 2. Name of any person represented by the person submitting the petition;
 3. If requesting a rulemaking action:
 - a. Statement of the rulemaking action sought, including the A.A.C. citation of all existing rules, and the specific language of a new rule or rule amendment; and
 - b. Reasons for the rulemaking action, including an explanation of why an existing rule is inadequate, unreasonable, unduly burdensome, or unlawful; ;
 4. If requesting a review of an existing practice or substantive policy statement:
 - a. Subject matter of the existing practice or substantive policy statement, and
 - b. Reasons why the existing practice or substantive policy statement constitutes a rule; ; and
 5. Dated signature of the person submitting the petition.
- C. A person may submit supporting information with a petition, including:
1. Statistical data; and
 2. A list of other persons likely to be affected by the rulemaking action or the review, with an explanation of the likely effects.
- D. The Council shall send the person submitting a petition a written response within 60 calendar days of the date the Council receives the petition.

R1-6-302. Appeal of an Existing Agency Practice or Substantive Policy Statement

- A. A person appealing an agency's final decision regarding a petition for review of an existing agency practice or substantive policy statement filed under A.R.S. § 41-1033(B) shall deliver to the Council office ~~+~~ one written original of the following and ~~9~~ either eight paper copies or one electronic copy of the following:
1. A ~~written~~ request signed by the person submitting the appeal that includes the following:
 - a. Name of the agency upon which the appeal is taken;
 - b. Name, address, telephone number, and ~~facsimile fax~~ number, if any, of the person filing the appeal;
 - c. Name of the person being represented by the person filing the appeal;
 - d. Subject matter of the existing agency practice or substantive policy statement being appealed; and
 - e. Reasons why the existing agency practice or substantive policy statement constitutes a rule.
 2. The petition requesting a review of the agency's existing practice or substantive policy statement; and

Notices of Proposed Rulemaking

3. The agency's written decision to ~~each petition submitted to the agency requesting a review of the agency's existing practice or substantive policy statement that is~~ being appealed.
- B. The Council shall notify the affected agency head of an appeal of an existing agency practice or a substantive policy statement by 5:00 p.m. of the business day following Council receipt of the appeal. The agency shall deliver to the Council office the information and documents listed in subsection (C) no later than 5:00 p.m. on the ~~3rd~~ third business day following notification by the Council of the appeal.
- C. ~~An~~ The head of an agency whose final decision is being appealed shall deliver to the Council office ~~+~~ one written original and ~~9~~ either eight paper copies or one electronic copy of the following:
 1. A memorandum that includes the following:
 - a. Date the agency gave written notice of its decision under A.R.S. § 41-1033(A);
 - b. Name, address, telephone number, and ~~facsimile fax~~ number, if any, of each agency contact person; and
 - c. Reasons why the agency believes that the existing agency practice or substantive policy statement does not constitute a rule.
 2. The existing agency practice or substantive policy statement being appealed; and
 3. ~~Each~~ If a petition ~~other than that of the appellant was~~ filed with the agency requesting a review of the ~~agency's same~~ existing practice or substantive policy statement being appealed; ~~and~~ ;
 - a. The other petition, and
 - ~~4.b.~~ The agency's written decision to ~~each the other~~ petition submitted to the agency requesting a review of the ~~agency's existing practice or substantive policy statement being~~ appealed.
- D. Within 14 calendar days after an appeal is filed with the Council, the Chair shall send written notice to the person filing the appeal and the affected agency head stating whether ~~3~~ three Council members have requested that the appeal be considered at a Council meeting. If the appeal is to be considered at a Council meeting, the notice shall include the date and time of the Council meeting.
- E. Within ~~7~~ seven calendar days after the Council decides whether the agency practice or substantive policy statement constitutes a rule, the Chair shall send a letter to the affected agency head and the person filing the appeal that specifies the decision and the reasons for and date of the Council decision.

ARTICLE 4. APPEALS OF ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENTS

R1-6-401. Appeal of an Economic, Small Business, and Consumer Impact Statement

- A. A person appealing an agency's final decision on whether to initiate a rulemaking under A.R.S. § 41-1056.01(D), shall deliver to the Council office ~~+~~ one written original and ~~9~~ either eight paper copies or one electronic copy of the following:
 1. The ~~written~~ request signed by the person submitting the appeal, citing the rule or rules being appealed and including the following:
 - a. Name of the agency upon which the appeal is taken;
 - b. Name, address, telephone number, and ~~facsimile fax~~ number, if any, of the person filing the appeal;
 - c. Name of the person being represented by the person filing the appeal, if applicable;
 - d. How the person filing the appeal is or may be affected by the agency's final decision made under A.R.S. § 41-1056.01(C); and
 - e. Why the person appealing believes either that:
 - i. Under A.R.S. § 41-1056.01(A)(1), the actual economic, small business, or consumer impact significantly exceeded the estimated impact; or
 - ii. Under A.R.S. § 41-1056.01(A)(2), the actual economic, small business, or consumer impact was not estimated on adoption of the rule; and the impact imposes a significant burden on persons subject to the rule.
 2. ~~The~~ A copy of the economic, small business, and consumer impact statement being addressed in the appeal; and
 3. The data used by the person appealing to support the reasons listed under subsection (A)(1)(e).
- B. The Council shall notify the affected agency head of an appeal of ~~the economic impact of a rule and its impact~~ by 5:00 p.m. of the business day following Council receipt of the appeal. The affected agency head shall deliver to the Council office the information and documents listed in subsection (C) no later than 5:00 p.m. on the ~~3rd~~ third business day following notification by the Council of the appeal.
- C. ~~An~~ The head of an agency whose final decision is being appealed shall deliver to the Council office ~~+~~ one written original and ~~9~~ either eight paper copies or one electronic copy of the following:
 1. A memorandum that includes the following:
 - a. Date of ~~the~~ publication of the agency's final decision under A.R.S. § 41-1056.01(C);
 - b. Name, address, telephone number, and ~~facsimile fax~~ number, if any, of each agency contact person;
 - c. ~~If appropriate, reasons~~ Reasons why the agency believes that:
 - i. The actual economic, small business, and consumer impact did not significantly exceed the estimated economic, small business, and consumer impact; or

Notices of Proposed Rulemaking

- ii. The actual economic, small business, and consumer impact was estimated on approval of the rule and the impact does not impose a significant burden on persons subject to the rule; and
- d. ~~Final~~ A copy of final judgments, if any, issued by a court of competent jurisdiction that are based on whether the contents of the rule's economic, small business, and consumer impact statement were insufficient or inaccurate.
- 2. ~~The~~ A copy of the rule being appealed; and
- 3. ~~The agency's written summary of comments received about the rule and its impact, the agency's response to those comments, and the agency's final decision on whether to make a new rule, or amend or repeal the existing rule prepared and published as required by A.R.S. § 41-1056.01(C).~~
- D. Within 14 calendar days after an appeal is filed with the Council, the Chair shall send written notice to the person filing the appeal and the affected agency head stating whether ~~3~~ three Council members have requested that the appeal be considered at a Council meeting. If the appeal is to be considered at a Council meeting, the notice shall include the date and time of the Council meeting.
- E. Within ~~7~~ seven calendar days after the Council decides whether either or both of the provisions in A.R.S. § 41-1056.01(A) are met, the Chair shall send a letter to the affected agency head and the person filing the appeal that specifies the decision, the reasons for and date of the Council decision, and the action, if any, required by the agency.

NOTICE OF PROPOSED RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 3. DEPARTMENT OF HEALTH SERVICES

CHILD CARE GROUP HOMES

PREAMBLE

1. Sections Affected

Rulemaking Action

Chapter 3	New Chapter
Article 1	New Article
R9-3-101	New Section
R9-3-102	New Section
Table 1	New Table
R9-3-103	New Section
R9-3-104	New Section
Article 2	New Article
R9-3-201	New Section
R9-3-202	New Section
R9-3-203	New Section
R9-3-204	New Section
R9-3-205	New Section
R9-3-206	New Section
R9-3-207	New Section
Article 3	New Article
R9-3-301	New Section
R9-3-302	New Section
R9-3-303	New Section
R9-3-304	New Section
R9-3-305	New Section
R9-3-306	New Section
R9-3-307	New Section
R9-3-308	New Section
R9-3-309	New Section
R9-3-310	New Section
R9-3-311	New Section
Table 2	New Table
R9-3-312	New Section
R9-3-313	New Section
R9-3-314	New Section
R9-3-315	New Section
Article 4	New Article
R9-3-401	New Section
R9-3-402	New Section
R9-3-403	New Section
R9-3-404	New Section
R9-3-405	New Section
R9-3-406	New Section
R9-3-407	New Section
R9-3-408	New Section
R9-3-409	New Section
R9-3-410	New Section
Table 3	New Table
Table 4	New Table
R9-3-411	New Section
R9-3-412	New Section
R9-3-413	New Section
Article 5	New Article
R9-3-501	New Section
R9-3-502	New Section
R9-3-503	New Section
R9-3-504	New Section

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R9-3-505	New Section
R9-3-506	New Section
R9-3-507	New Section
R9-3-508	New Section

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

Authorizing statutes: A.R.S. §§ 36-136(F), 36-897.01(F), 36-897.01(G), 36-897.02(A), and 36-897.03(D)

Implementing statutes: A.R.S. §§ 36-897.01 through 36-897.05

3. A list of all previous notices appearing in the Register addressing the proposed rules:

Notice of Rulemaking Docket Opening: 9 A.A.R. 1817, June 6, 2003

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

Name: Lourdes B. Ochoa, State Licensing Manager

Address: Arizona Department of Health Services
Division of Licensing Services
Office of Child Care Licensure
150 N. 18th Avenue, Suite 400
Phoenix, AZ 85007

Telephone: (602) 364-2539

Fax: (602) 364-4768

E-mail: lochoa@hs.state.az.us

or

Name: Kathleen Phillips, Rules Administrator

Address: Arizona Department of Health Services
Office of Administrative Rules
1740 W. Adams, Room 102
Phoenix, AZ 85007

Telephone: (602) 542-1264

Fax: (602) 364-1150

E-mail: kphilli@hs.state.az.us

5. An explanation of the rules, including the agency's reasons for initiating the rules:

The current rules for child care group homes are located in 9 A.A.C. 5, Articles 1 and 7 through 10. Chapter 5 also includes the rules for child care facilities. Having the rules for child care facilities and child care group homes in the same Chapter has resulted in confusion among stakeholders regarding the standards that apply to each. To alleviate this confusion, the Department, in a separate rulemaking, is repealing the rules for child care group homes in Chapter 5, Articles 7 through 10 and is amending Article 1 as necessary to remove language specific to child care group homes. In this rulemaking, the Department is adopting new rules for child care group homes in a new Chapter 3 entitled "Child Care Group Homes."

In addition to separating the rules for child care group homes from the rules for child care facilities, this rulemaking updates the standards for child care group homes, reorganizes the rules, clarifies the rules, and brings the rules into compliance with current rulemaking format and style requirements.

6. A reference to any study relevant to the rules that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rules or proposes not to rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

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

Not applicable

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

The Department currently certifies approximately 350 child care group homes across the state. In addition, the Department receives approximately 112 applications for initial certification of child care group homes each year. The Department estimates that 100% of the certified child care group homes are small businesses as defined in A.R.S. § 41-1001.

The costs of the rule changes will be borne by the Department, certificate holders or providers (who are generally the same individual), child care group home staff members, and applicants for certification. The benefits of the rule changes will be realized by the Department, certificate holders or providers, child care group home staff members, applicants for certification, children cared for in child care group homes, and the parents of children cared for in child care group homes. The Department does not anticipate that the rules will benefit or burden other persons.

As used in this summary, minimal means less than \$100, moderate means \$100 to \$999, and substantial means \$1000 or more. This summary describes only those rule changes that will result in the most significant economic impacts.

The rules require the Department to create new application forms. The Department will incur a moderate-to-substantial cost from producing new application forms, training Department staff on the new forms, and amending Department-provided training to reflect the new forms. The Department will also incur a moderate-to-substantial benefit from the new application forms because applicants should find it easier to apply and thus should have fewer questions and make fewer mistakes that require Department attention.

The rules require an applicant for certification to have and to submit to the Department a copy of a high school diploma or high school equivalency diploma. An applicant who has a high school diploma but needs to obtain a copy will incur a minimal cost as a result of this change. An applicant who does not have a high school diploma or a high school equivalency diploma will incur a minimal-to-substantial cost from this change, depending on whether the applicant desires to complete high school or prefers to obtain a high school equivalency diploma and how long it takes the applicant to obtain the necessary high school diploma or high school equivalency diploma.

The rules require a provider to use the residential building at the child care group home as the provider's principal place of habitation. For a certificate holder employing a provider who does not reside in the child care group home's residential building, or for a provider who does not reside in the child care group home's residential building, this change will result in a potentially substantial cost—either the provider will need to move into the residential building, or the certificate holder will need to find another provider who will move in. This change will result in a significant benefit to the Department, parents of enrolled children, and enrolled children because the requirement ensures that a child care group home is truly a residential setting instead of a facility operated in an otherwise-unoccupied house.

The rules also require a provider to have completed three credit hours at a college or university or 60 clock hours of training in certain areas or to be registered as a Level II-B with S*CCEEDS. The rules provide a five-year grace period for existing providers to come into compliance, but require immediate compliance for new providers. This change will result in a potentially moderate-to-substantial cost to an individual who wants to become a provider, because obtaining the credit hours or clock hours of training will take time and may cost money, although numerous free training seminars are available routinely throughout the state. This change will result in a significant benefit to the Department, enrolled children, and the parents of enrolled children because raising the level of education or training needed to be a provider should result in better quality child care services.

The rules require a provider (who is not the certificate holder) to have a valid fingerprint clearance card (rather than requiring merely that the provider has applied for a fingerprint clearance card). This change will result in a potentially substantial cost to an individual who wants to be a provider because the individual may have to wait as long as 20 weeks to obtain a fingerprint clearance card. This change will result in a significant benefit to the Department, enrolled children, and the parents of enrolled children because the rule prevents an individual who has not yet demonstrated a clean criminal record from being in charge of the daily operations of a child care group home.

The rules require a provider to designate in writing an assistant provider who is at least 21 years of age, who has a high school diploma or high school equivalency diploma; who has a valid fingerprint clearance card, and who has completed at least three credit hours at a college or university or 60 clock hours of training in certain areas or who is registered as a Level II-B with S*CCEEDS. This change will result in a potentially substantial cost to a current back-up staff member. Currently, a back-up staff member is only required to be at least 18 years of age and is not required to have a minimum number of college credit hours or training hours. Requiring that an assistant provider be at least 21 years of age could result in a change in employment for a back-up provider younger than 21 years of age, because the back-up provider is not qualified to serve as assistant provider, and the certificate holder or provider may not need a third staff member. Requiring that an assistant provider have a minimum number of college credit hours or training hours will result in a potentially moderate-to-substantial cost to an individual who wants to become an assistant provider because of the cost of obtaining the credit hours or training hours. However, these changes will result in a significant benefit to the Department, certificate holders, enrolled children, and parents of enrolled children because the rule is clearer, the increase in minimum age for an assistant provider should result in greater maturity and compliance, and the increased level of education or training should result in better quality child care services. The Department has found that rule violations are more common when the provider is not present at the child care group home and less qualified staff are left in charge.

The rules prohibit a provider from regularly engaging in outside employment during hours of operation. This change will result in a potentially substantial cost to a provider who wants to engage in regular outside employment, but also will result in a significant benefit to the Department, certificate holders, parents of enrolled children, and enrolled children. The Department has found that compliance with the rules is enhanced by the presence of a provider, and this

rule change helps to ensure that the provider will be present the majority of the time and will provide better quality child care services.

The rules require that tuberculosis testing be done using the Mantoux skin test or another tuberculosis test approved by the Centers for Disease Control or the tuberculosis control officer. This represents a minimal cost to certificate holders or staff members because some may still be using the Tine test, which is less expensive and also less accurate than the Mantoux test. The rules also change the tuberculosis testing requirement to eliminate the requirement for testing residents younger than 12 years of age. This should minimally benefit certificate holders, who will need to pay for fewer tuberculosis tests.

The rules expand the staff member annual training requirement to include at least two subject areas and to include 12 rather than nine clock hours of training, which may result in a minimal cost to certificate holders because staff members may need to attend additional seminars to meet the new requirement. A number of training seminars are available free of charge throughout the state, but a certificate holder may need to pay an extra staff member to ensure coverage while another staff member attends training. This change will result in a significant benefit to the Department, certificate holders, parents of enrolled children, and enrolled children because the increased level of training should result in better quality child care services.

The rules require that the provider or the assistant provider be present at all times when an enrolled child is at the child care group home. This change will result in a moderate-to-substantial cost to certificate holders because a provider or assistant provider can no longer leave a less qualified staff member in charge. The change should also result in a potentially significant benefit to the Department, parents of enrolled children, and enrolled children because it should enhance compliance. The Department has found that rule violations are more common when the provider is not present at the child care group home and less qualified staff are left in charge.

The rules eliminate the requirement for a third staff member when more than 10 children are in care. This change represents a potentially substantial benefit to certificate holders because fewer staff members are required. It is important to note, however, that the Department will still require certificate holders to ensure that enrolled children are adequately supervised.

The rules adopt specific standards for exclusion of an enrolled child, resident, or staff member from the child care group home for illness or infestation. This change will result in a minimal cost to certificate holders from the time spent training staff on the standards. This change will also result in a potentially minimal cost to parents of enrolled children because some children who might not otherwise have been taken to a health care provider may be taken to a health care provider to obtain instructions regarding the children's return to child care. This change will also result in a potentially minimal cost for staff members because some staff members who might not otherwise have gone to a health care provider may go to obtain instructions regarding the staff member's return to work. This change should also significantly benefit parents of enrolled children, staff members, and certificate holders because fewer children will be excluded unnecessarily, some secondary transmission of communicable disease should be prevented, and those children and staff members who seek medical attention might experience fewer complications from illness than if they had not sought medical attention.

The rules allow a prescription medication to be administered from a manufacturer's sample, if the sample is accompanied by written administration instructions from a physician, physician assistant, or registered nurse practitioner. This change will result in a minimal-to-moderate benefit to parents of enrolled children, because they will be able to take advantage of the manufacturer samples commonly provided by physicians, physician assistants, and registered nurse practitioners, particularly for expensive prescription medications.

The rules require that a child care group home have a weekly schedule and base its program on the weekly schedule. This change will result in a minimal cost to certificate holders from the time spent planning and creating a weekly schedule. This change will result in a potentially significant benefit to the Department, parents of enrolled children, and enrolled children because certificate holders will better plan activities, and the Department and parents of enrolled children will be better informed of the activities offered at a child care group home.

The rules require that a staff member who has completed American Red Cross Basic Water Rescue training be stationed at a swimming pool during swimming activities at the child care group home. This change will result in a minimal cost to certificate holders; Basic Water Rescue training costs approximately \$30 and takes five hours to complete. This change will also result in a potentially significant benefit to the Department, parents of enrolled children, and enrolled children because the risk of an enrolled child's drowning will be reduced.

The rules add provisions to enhance sudden infant death syndrome prevention, such as prohibiting the use of bumper pads and soft toys, pillows, or bedding items in a crib with an infant and requiring that an infant be placed to sleep on the infant's back unless the infant's physician, physician assistant, or registered nurse practitioner has instructed otherwise in writing. These changes will result in a minimal cost to certificate holders from the time spent training staff on the requirements, instructing parents on the requirements, and obtaining written instructions from some parents. These changes also will result in a potentially significant benefit to the Department, parents of enrolled children, and enrolled children because the risk of a child's being suffocated or succumbing to sudden infant death syndrome will be reduced.

Notices of Proposed Rulemaking

The rules change the square footage requirement for an outdoor activity area from at least 80 square feet per enrolled child to a total of at least 375 square feet, regardless of the number of enrolled children. This change will result in a potentially moderate-to-substantial benefit to applicants or certificate holders because it allows for a greater certified capacity and may enable some applicants to obtain certification who otherwise would not have been eligible to obtain certification because of the size of their outdoor activity areas.

The rules also require that an outdoor activity area directly border the residential building at the child care group home. This change will result in a potentially significant cost to certificate holders who use outdoor activity areas that do not directly border residential buildings, because they will have to relocate their outdoor activity areas. However, this change will result in a potentially significant benefit to the Department, enrolled children, and parents of enrolled children because the requirement makes it less likely that an enrolled child will suffer injury or be lost en route to the residential building or because of a lack of supervision in an outdoor activity area.

The rules eliminate grass as a resilient surfacing material for placement under and around climbing structures, swings, and slides and instead require use of six inches of fine loose sand or wood fiber product or the equivalent. This change will result in a moderate cost to certificate holders from obtaining and maintaining the resilient surfacing material, but a current certificate holder will be provided a one-year grace period to come into compliance, which should mitigate the burden. This change will also result in a potentially significant benefit to the Department, enrolled children, and the parents of enrolled children because the requirement will make it less likely that an enrolled child will suffer serious injury from a fall from playground equipment.

The rules require that only enrolled children, staff members, the provider's children, and child friends of the provider's children be permitted in an outdoor activity area during outdoor activities. This change will result in a potentially significant cost to certificate holders who do not have exclusive use of outdoor activity areas, from having to arrange use in compliance with the rules. This change will also result in a potentially significant benefit to the Department, enrolled children, and the parents of enrolled children because an enrolled child will be less likely to be harmed by a stranger or an unsupervised non-enrolled child in an outdoor activity area.

The rules require that a child care group home providing infant care have at least one fire evacuation crib and a sufficient number of fire evacuation cribs to evacuate all infants in care in one trip. This change will result in a minimal-to-moderate cost to certificate holders from purchasing one to several fire evacuation cribs. This change will also result in a potentially significant benefit to the Department, certificate holders, staff members, enrolled children, and parents of enrolled children because the requirement makes it less likely that an enrolled infant or staff member will be harmed in a fire.

The rules require that special needs children who cannot walk or who use wheelchairs and children younger than 5 years of age be cared for only on the ground floor of a child care group home's residential building. Previously, the rules allowed children younger than 7 years of age to be cared for on a floor above or below the ground floor if the floor level on which care was provided had an exit directly to the outside. This change will result in a potentially substantial cost to certificate holders currently caring for these children on a floor other than the ground floor because they will need to change space utilization to comply with the standard and may have a reduced certified capacity if the available indoor activity area is reduced. This change will also result in a potentially significant benefit to the Department, certificate holders, staff members, enrolled children, and parents of enrolled children because it makes it less likely that an enrolled child or staff member will be harmed in a fire due to inability to evacuate efficiently.

The rules prohibit a provider from providing care to children 5 years of age or older on a floor above or below the ground level unless the floor on which care is provided has an exit that provides access to the ground floor outside. The rules previously allowed a provider to care for children older than 7 years of age on any floor. This change will result in a potentially substantial cost to certificate holders currently caring for children 7 years of age or older on a floor other than the ground floor and from which there is no exit that provides access to the ground floor outside. Such certificate holders will need to change space utilization or install exits to comply with the standard and may have reduced certified capacities if the available indoor activity area square footage is reduced. This change will also result in a potentially significant benefit to the Department, staff members, enrolled children, and parents of enrolled children because the requirement makes it less likely that an enrolled child or staff member will be harmed in a fire due to inability to evacuate.

The rules require a staff member doing diaper changing to wear single-use disposable medical-grade gloves. This change will result in a moderate-to-substantial cost to certificate holders from purchasing disposable gloves. This change also will result in a potentially significant benefit to the Department, enrolled children, parents of enrolled children, and staff members because the requirement enhances infection control practices and makes it less likely that disease-causing agents transmitted via the fecal-oral route or via bodily fluids will be transmitted from child to child or from child to staff member.

Finally, the rules prohibit reptiles at the child care group home. This change will result in a potentially significant cost to certificate holders with pet reptiles at the child care group home because the pet reptiles will need to be removed from the premises. This change will also result in a significant benefit to the Department, enrolled children, and parents of enrolled children because reptiles carry salmonella, and the requirement can help to prevent disease.

Notices of Proposed Rulemaking

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Lourdes B. Ochoa, State Licensing Manager

Address: Arizona Department of Health Services
 Division of Licensing Services
 Office of Child Care Licensure
 150 N. 18th Avenue, Suite 400
 Phoenix, AZ 85007

Telephone: (602) 364-2539

Fax: (602) 364-4768

E-mail: lochoa@hs.state.az.us

or

Name: Kathleen Phillips, Rules Administrator

Address: Arizona Department of Health Services
 Office of Administrative Rules
 1740 W. Adams, Room 102
 Phoenix, AZ 85007

Telephone: (602) 542-1264

Fax: (602) 364-1150

E-mail: kphilli@hs.state.az.us

10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rules, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rules:

The Department has scheduled the following oral proceedings:

Date	September 15, 2003	September 16, 2003	September 17, 2003	September 18, 2003
Time	9:30 a.m.	10:00 a.m.	10:00 a.m.	12:00 noon
Location	1740 W. Adams Room 411 Phoenix, AZ 85007	400 W. Congress Room 5 Tucson, AZ 85701	1500 E. Cedar Ave. Suite 22 Flagstaff, AZ 86004	9500 S. Avenue 8E College Union Building Palo Verde Room Yuma, AZ 85365
Nature	Oral Proceeding	Oral Proceeding	Oral Proceeding	Oral Proceeding

Written comments on the proposed rulemaking or the preliminary economic, small business, and consumer impact summary may be submitted to either individual listed in items #4 and #9 until the close of record at 5:00 p.m., September 18, 2003.

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

Not applicable

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

None

13. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

**CHAPTER 3. ~~EXPIRED~~ DEPARTMENT OF HEALTH SERVICES
 CHILD CARE GROUP HOMES**

Notices of Proposed Rulemaking

ARTICLE 1. ~~EXPIRED~~ GENERAL

Section	
<u>R9-3-101.</u>	<u>Expired Definitions</u>
<u>R9-3-102.</u>	<u>Time-Frames</u>
<u>Table 1.</u>	<u>Time-Frames (in days)</u>
<u>R9-3-103.</u>	<u>Individuals to Act for Applicant or Certificate Holder</u>
<u>R9-3-104.</u>	<u>Counting Days</u>

ARTICLE 2. CERTIFICATION

Section	
<u>R9-3-201.</u>	<u>Application for a Certificate</u>
<u>R9-3-202.</u>	<u>Fingerprinting Requirements</u>
<u>R9-3-203.</u>	<u>Certificate Renewal</u>
<u>R9-3-204.</u>	<u>Changes Affecting a Certificate</u>
<u>R9-3-205.</u>	<u>Change in Provider</u>
<u>R9-3-206.</u>	<u>Inspections; Investigations</u>
<u>R9-3-207.</u>	<u>Denial, Revocation, or Suspension of a Certificate</u>

ARTICLE 3. ADMINISTRATION

Section	
<u>R9-3-301.</u>	<u>Certificate Holder Responsibilities</u>
<u>R9-3-302.</u>	<u>Provider Qualifications and Responsibilities</u>
<u>R9-3-303.</u>	<u>Staff Member Qualifications</u>
<u>R9-3-304.</u>	<u>Resident Qualifications</u>
<u>R9-3-305.</u>	<u>Recordkeeping Requirements</u>
<u>R9-3-306.</u>	<u>Staffing Levels</u>
<u>R9-3-307.</u>	<u>Enrollment of Children</u>
<u>R9-3-308.</u>	<u>Enrolled Child Immunization Requirements</u>
<u>R9-3-309.</u>	<u>Insurance Requirements</u>
<u>R9-3-310.</u>	<u>Admission and Release of Enrolled Children</u>
<u>R9-3-311.</u>	<u>Illness and Infestation</u>
<u>Table 2.</u>	<u>Exclusion of an Enrolled Child from the Child Care Group Home</u>
<u>R9-3-312.</u>	<u>Suspected Abuse or Neglect of an Enrolled Child</u>
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ARTICLE 4. PROGRAM AND EQUIPMENT STANDARDS

Section	
<u>R9-3-401.</u>	<u>General Program and Equipment Standards</u>
<u>R9-3-402.</u>	<u>Supplemental Standards for Resting or Sleeping</u>
<u>R9-3-403.</u>	<u>Supplemental Standards for Care of an Enrolled Infant or 1- or 2-Year-Old Child</u>
<u>R9-3-404.</u>	<u>Supplemental Standards for Care of an Enrolled 3-, 4-, or 5-Year-Old Child</u>
<u>R9-3-405.</u>	<u>Supplemental Standards for Care of an Enrolled School-Age Child</u>
<u>R9-3-406.</u>	<u>Supplemental Standards for Care of an Enrolled Special Needs Child</u>
<u>R9-3-407.</u>	<u>Supplemental Standards for Evening and Nighttime Care</u>
<u>R9-3-408.</u>	<u>Toilet Training</u>
<u>R9-3-409.</u>	<u>Discipline and Guidance</u>
<u>R9-3-410.</u>	<u>General Nutrition and Menu Standards</u>
<u>Table 3.</u>	<u>Meals and Snacks Required to Be Served to Enrolled Children</u>
<u>Table 4.</u>	<u>Meal Pattern for Children</u>
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<u>R9-3-412.</u>	<u>Transportation of Enrolled Children</u>
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ARTICLE 5. PHYSICAL ENVIRONMENT STANDARDS

Section

<u>R9-3-501.</u>	<u>General Physical Environment Standards</u>
<u>R9-3-502.</u>	<u>Outdoor Activity Area Standards</u>
<u>R9-3-503.</u>	<u>Swimming Pool Standards</u>
<u>R9-3-504.</u>	<u>Fire Safety Standards</u>
<u>R9-3-505.</u>	<u>General Safety Standards</u>
<u>R9-3-506.</u>	<u>General Cleaning and Sanitation Standards</u>
<u>R9-3-507.</u>	<u>Diaper-Changing Standards</u>
<u>R9-3-508.</u>	<u>Pet and Animal Standards</u>

ARTICLE 1. ~~EXPIRED~~ GENERAL

R9-3-101. ~~Expired~~ Definitions

In addition to the definitions in A.R.S. § 36-897, the following definitions apply in this Chapter, unless otherwise specified:

1. “Abuse” has the same meaning as in A.R.S. § 8-201.
2. “Accident” means an unexpected occurrence that:
 - a. Causes physical injury to an enrolled child, and
 - b. May or may not be an emergency.
3. “Accredited” means approved by the:
 - a. New England Association of Schools and Colleges,
 - b. Middle States Association of Colleges and Secondary Schools,
 - c. North Central Association of Colleges and Schools,
 - d. Northwest Association of Schools and Colleges,
 - e. Southern Association of Colleges and Schools, or
 - f. Western Association of Colleges and Schools.
4. “Activity” means an action planned by a certificate holder or staff member and performed by an enrolled child while supervised by a staff member.
5. “Activity area” means a specific indoor or outdoor space or room within a certified area of a child care group home that is designated by a certificate holder for use by enrolled children for activities.
6. “Adaptive device” means equipment used to augment an individual’s use of the individual’s arms, legs, sight, hearing, or other physical part or function.
7. “Adult” means an individual 18 years of age or older.
8. “Age-appropriate” means consistent with a child’s age and age-related stage of physical growth and mental development.
9. “Applicant” means an individual or business organization requesting one of the following:
 - a. An initial certificate under R9-3-201,
 - b. A renewal certificate under R9-3-203, or
 - c. Approval of a change affecting a certificate under R9-3-204.
10. “Application” means the documents that an applicant is required to submit to the Department to request a certificate or approval.
11. “Assistant provider” means a staff member who meets the qualifications of R9-3-302(B) and who acts on behalf of the provider in the provider’s absence.
12. “Association or cooperative” means a group of individuals other than a corporation, limited liability company, partnership, or joint venture who have joined together to operate a child care group home.
13. “Business organization” means an entity such as an association or cooperative, corporation, limited liability company, partnership, or governmental entity.
14. “Certificate” means the written authorization issued by the Department to operate a child care group home in Arizona.
15. “Certificate holder” means a person to whom the Department has issued written authorization to operate a child care group home in Arizona.
16. “Certified area” means that portion of the child care group home, including the property around the residential building, that has been inspected and approved by the Department to be used for child care.
17. “Certified capacity” means the maximum number of enrolled children for whom a certificate holder is authorized by the Department to provide child care services at a child care group home at any given time.
18. “Change in ownership” means a transfer of controlling legal or controlling equitable interest and authority in a child care group home resulting from a sale or merger of a child care group home.
19. “Child” means any individual younger than 13 years of age.
20. “Child care” means providing attention, supervision, and guidance to an enrolled child.

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21. “Child care services” means the range of activities and programs provided by a certificate holder to an enrolled child, including personal care, supervision, education, guidance, and transportation.
22. “Child Protective Services” means the Child Protective Services Program of the Arizona Department of Economic Security.
23. “Clean” means:
 - a. To remove dirt or debris by methods such as washing with soap and water, vacuuming, wiping, dusting, or sweeping; or
 - b. Free of dirt and debris.
24. “Clock hour” means a 60-minute period.
25. “Closely related field” means an area of study pertaining to the growth, development, physical or mental care, or education of children or to the management of a child care business.
26. “Communicable disease” has the same meaning as in A.A.C. R9-6-101.
27. “Compensation” means money or other consideration, including goods, services, vouchers, time, or another benefit, that is received by a certificate holder from any person as payment for child care services or that is received by a staff member from a certificate holder or provider as payment for working at a child care group home.
28. “Contiguous grounds” means real property that can be enclosed by a single unbroken boundary line that does not encompass property owned or leased by another person.
29. “Corporal punishment” means any physical action that inflicts pain to the body of a child or that may result in physical injury to a child.
30. “Corporation” means a legal entity:
 - a. Created under or subject to A.R.S. Title 10, Chapters 1 through 17;
 - b. Created under or subject to A.R.S. Title 10, Chapters 24 through 40; or
 - c. Created under the laws of another state and subject to A.R.S. Title 10, Chapter 15.
31. “CPR” means cardiopulmonary resuscitation.
32. “Credit hour” means an academic unit earned at an accredited college or university by attending a one-hour class session each week during a semester or equivalent shorter course term or completing equivalent practical work as part of a course.
33. “Crib” means a bed with enclosed sides that is designed and manufactured to be used as a sleeping area for an infant or 1- or 2-year-old child.
34. “Criminal History Affidavit” means the document required by A.R.S. § 36-897.03(B).
35. “Custody documents” means papers establishing who has the legal authority over and duty to care for a child.
36. “Days” means calendar days, adjusted according to R9-3-104.
37. “Department” means the Arizona Department of Health Services.
38. “Developmentally appropriate” means consistent with a child’s physical, emotional, social, cultural, and cognitive development, based on the child’s age and family background and the child’s personality, learning style, and pattern and timing of growth.
39. “Discipline” means to correct a child’s behavior that does not meet generally accepted levels of social behavior.
40. “Emergency” means a potentially life-threatening occurrence involving an enrolled child or staff member that requires an immediate response or medical treatment.
41. “Emergency contact” means an individual designated by an enrolled child’s parent on the Emergency Information and Immunization Record Card as an individual to be notified in the case of the enrolled child’s injury, illness, infestation, emergency, or serious injury if a parent cannot be located and notified.
42. “Endanger” means to expose an individual to a situation where physical or mental injury to the individual may occur.
43. “Enrolled child” means a child, other than a child of the provider, who is not a resident at the child care group home and who has been placed by a parent, including a staff member other than the provider, and accepted by the provider to receive child care services, regardless of whether compensation is being given for the child care services.
44. “Evening and nighttime care” means child care services provided between the hours of 8:00 p.m. and 5:00 a.m.
45. “Excess liability insurance” means general liability insurance coverage in addition to the maximum dollar amount of coverage for which an insurer issues a general liability insurance policy.
46. “Factory-built building” has the same meaning as in A.R.S. § 41-2142.
47. “Family style” means a method in which food is self-served from a communal cooking or serving receptacle accessible to the individuals dining.
48. “Fever” means an elevation of body temperature that is:
 - a. 101° F or higher, if taken by mouth or ear; or
 - b. 100° F or higher, if taken under the arm.
49. “Field trip” means travel to a location away from a certified area for an activity and participation in the activity.
50. “File” means a portable folder, binder, or other container that holds documents.
51. “Fire evacuation crib” means a movable crib sized to fit through all exits of a child care group home’s residential building and equipped with reinforced wheels.

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52. “Food” means a raw, cooked, or processed edible substance or ingredient used or intended for use in whole or in part for human consumption.
53. “Full-day care” means child care services provided for six or more hours per day between the hours of 5:00 a.m. and 8:00 p.m.
54. “General liability insurance” means a contract between two persons in which one person agrees to indemnify the other against responsibility and any obligation to pay for injuries to the person or property of a third party, and does not include homeowners insurance.
55. “Governmental entity” means a board, commission, department, office, or other administrative unit of the United States, the state, or a political subdivision of the state.
56. “Guidance” means the ongoing direction, counseling, teaching, or modeling of generally accepted social behavior through which a child learns to develop and maintain the self-control, self-reliance, and self-esteem necessary to assume responsibilities, make daily living decisions, and live according to generally accepted social behavior.
57. “Hazard” means a source of endangerment.
58. “Health care provider” means:
- a. A physician;
 - b. A physician assistant;
 - c. A registered nurse;
 - d. A registered nurse practitioner;
 - e. An individual who is:
 - i. Licensed to practice psychology under A.R.S. Title 32, Chapter 19.1; or
 - ii. Licensed as a psychologist under the laws of another state;
 - f. An individual who is:
 - i. Licensed to practice occupational therapy under A.R.S. Title 32, Chapter 34;
 - ii. Employed as an occupational therapist by the U.S. government or one of its agencies and exempt from licensure under A.R.S. § 32-3422(3); or
 - iii. Licensed or certified as an occupational therapist under the laws of another state;
 - g. An individual who is:
 - i. Licensed to practice physical therapy under A.R.S. Title 32, Chapter 19;
 - ii. Practicing as a physical therapist in the U.S. Armed Services, U.S. Public Health Services, or Veterans Administration and exempt from licensure under A.R.S. § 32-2021(D)(2); or
 - iii. Licensed or certified as a physical therapist under the laws of another state; or
 - h. An individual who is:
 - i. Licensed as a respiratory therapist under A.R.S. Title 32, Chapter 35;
 - ii. Employed as a respiratory therapist by the U.S. government or one of its agencies and exempt from licensure under A.R.S. § 32-3521(B)(6); or
 - iii. Licensed or certified as a respiratory therapist under the laws of another state.
59. “High school equivalency diploma” means:
- a. A document issued by the Arizona Department of Education under A.R.S. § 15-702 to an individual who passes a general educational development test or meets the requirements of A.R.S. § 15-702(B);
 - b. A document issued by another state to an individual who passes a general educational development test or meets the requirements of a state statute equivalent to A.R.S. § 15-702(B); or
 - c. A document issued by another country to an individual who has completed that country’s equivalent of a 12th grade education, as determined by the Department based upon information obtained from American or foreign consulates or embassies or other governmental entities.
60. “Hours of operation” means the specific time during a day for which a certificate holder is certified to provide child care services.
61. “Illness” means physical manifestation or signs of sickness such as pain, vomiting, rash, fever, discharge, or diarrhea.
62. “Inaccessible” means out of the reach of a child unless the child uses extreme means to gain access, such as by climbing onto a chair, counter, or ladder.
63. “Infant” means a child 12 months of age or younger.
64. “Infant care” means child care services provided to an infant.
65. “Infestation” means the presence of lice, pinworms, scabies, or other parasites.
66. “Inspection” means:
- a. On-site examination of a child care group home by the Department to determine compliance with A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter;
 - b. On-site review of child care group home records by the Department; or
 - c. On-site examination of a child care group home by another state or local governmental entity.
67. “Laboratory evidence of immunity” has the same meaning as in A.R.S. § 36-671.

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68. "Limited liability company" means a legal entity:
 - a. Created under and subject to A.R.S. Title 29, Chapter 4; or
 - b. Created under and characterized as a limited liability company by the laws of another state.
69. "Local" means under the jurisdiction of a city or county in Arizona.
70. "Local health agency" has the same meaning as "health agency" in A.R.S. § 36-671.
71. "Local health officer" means an individual having daily control and supervision of a local health agency, or that individual's designee.
72. "Locked" means secured with a key, including a magnetic key, or combination so that opening is not possible except by using the key or dialing the combination.
73. "Manufactured home" has the same meaning as in A.R.S. § 41-2142.
74. "Mat" means one of the following of sufficient size and thickness to accommodate the height, width, and weight of a reclining child's body:
 - a. A foam pad that has a waterproof cover, or
 - b. A foam pad that has a fabric cover and is machine-washable.
75. "Mechanical restraint" means a device, article, or garment attached or adjacent to a child's body that the child cannot easily remove and that restricts the child's freedom of movement or normal access to the child's body, but does not include a device, article, or garment:
 - a. Used for orthopedic purposes, or
 - b. Necessary to allow a child to heal from a medical condition.
76. "Medication" means a substance prescribed by a physician, physician assistant, or registered nurse practitioner or available without a prescription for the treatment or prevention of illness or infestation.
77. "Menu" means a written description of food that a child care group home provides and serves as a meal or snack.
78. "Mobile home" has the same meaning as in A.R.S. § 41-2142.
79. "Motor vehicle" has the same meaning as in A.R.S. § 28-101.
80. "Naptime" means any period during hours of operation, other than evening and nighttime hours, that is designated by a certificate holder for the rest or sleep of enrolled children.
81. "Neglect" has the same meaning as in A.R.S. § 8-201.
82. "1-year old" means a child who is at least 12 months of age but not yet 2 years of age.
83. "1-year-old-child care" means child care services provided to a 1-year old.
84. "Parent" means:
 - a. A natural or adoptive mother or father,
 - b. A legal guardian appointed by a court of competent jurisdiction, or
 - c. A "custodian" as defined in A.R.S. § 8-201.
85. "Part-day care" means child care services provided for fewer than six hours per day between the hours of 5:00 a.m. and 8:00 p.m.
86. "Partnership" means a joining of two or more individuals to conduct business, as governed by A.R.S. Title 29, Chapter 3 or 5 or the laws of another state.
87. "Perishable food" means food that becomes unfit for human consumption if not stored to prevent spoilage.
88. "Person" means an individual or a business organization.
89. "Personal items" means those articles of property that belong to an enrolled child and are brought to the child care group home for that enrolled child's exclusive use, such as clothing, a blanket, a sheet, a toothbrush, a hairbrush, a comb, a washcloth, or a towel.
90. "Physician" means an individual licensed as a doctor of:
 - a. Allopathic medicine under A.R.S. Title 32, Chapter 13;
 - b. Naturopathic medicine under A.R.S. Title 32, Chapter 14;
 - c. Osteopathic medicine under A.R.S. Title 32, Chapter 17;
 - d. Homeopathic medicine under A.R.S. Title 32, Chapter 29; or
 - e. Allopathic, naturopathic, osteopathic, or homeopathic medicine under the laws of another state.
91. "Physician assistant" means:
 - a. The same as in A.R.S. § 32-2501, or
 - b. An individual licensed as a physician assistant under the laws of another state.
92. "Playpen" means an enclosure designed and manufactured to be used as a contained recreational area for an infant or 1- or 2-year-old child.
93. "Premises" means a child care group home's residential building and its contiguous grounds, including any structures on those grounds.
94. "Program" means a variety of activities organized and conducted by a staff member.
95. "Proof of immunity" means documentation of immunization or evidence of immunity that complies with A.A.C. R9-6-704.

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96. “Reference” means an adult who is:
- a. Familiar with a staff member’s character due to observations made as a friend or acquaintance, or
 - b. Familiar with a staff member’s work abilities due to observations made as a superior or leader in a business, educational, church, or other organizational setting.
97. “Registered nurse” means:
- a. The same as in A.R.S. § 32-1601, or
 - b. An individual licensed as a registered nurse under the laws of another state.
98. “Registered nurse practitioner” means:
- a. The same as in A.R.S. § 32-1601, or
 - b. An individual licensed as a registered nurse practitioner under the laws of another state.
99. “Regular basis” means at recurring, fixed, or uniform intervals.
100. “Residence” means a residential building and its contiguous grounds, including any structures on those grounds, that are to be used as a child care group home.
101. “Resident” means an individual who uses a child care group home as the individual’s principal place of habitation for 30 days or more during the calendar year.
102. “Residential building” means a dwelling, such as a house, used for human habitation.
103. “Resilient surface” means a shock-absorbing layer of material placed to cushion a fall, such as a rubber unitary surfacing material manufactured for use in outdoor activity areas, fine loose sand, pea gravel, or wood fiber product.
104. “S*CCEEDS” means Statewide Child Care and Early Education Development System, an early childhood professional career registry funded by the Arizona Department of Economic Security.
105. “Sanitize” means to use heat, a chemical agent, or a germicidal solution to disinfect and reduce pathogen counts, including bacteria, viruses, mold, and fungi.
106. “School-age child” means a child who:
- a. Meets one of the following:
 - i. Is five years old on or before January 1 of the current school year, or
 - ii. Was five years old on or before January 1 of the most recently completed school year; and
 - b. Meets one of the following:
 - i. Attends kindergarten or a higher level program in a “school,” as defined in A.R.S. § 15-101, or “private school,” as defined in A.R.S. § 15-101, during the current school year;
 - ii. Attended kindergarten or a higher level program in a “school,” as defined in A.R.S. § 15-101, or “private school,” as defined in A.R.S. § 15-101, during the most recently completed school year;
 - iii. Is home schooled at a kindergarten or higher level during the current school year; or
 - iv. Was home schooled at a kindergarten or higher level during the most recently completed school year.
107. “School-age-child care” means child care services provided to a school-age child.
108. “Separate” means to exclude a child from and have the child physically move away from other children, while keeping the child within sight and sound.
109. “Serious injury” means trauma or damage to some part of the body that requires medical treatment.
110. “Service classification” means one of the following:
- a. Full-day care,
 - b. Part-day care,
 - c. Evening and nighttime care,
 - d. Infant care,
 - e. 1-year-old-child care, or
 - f. School-age-child care.
111. “Signed” means affixed with an individual’s signature or, if the individual is unable to write the individual’s name, with a symbol representing the individual’s signature.
112. “Sippy cup” means a lidded drinking container that is designed to be leakproof or leak-resistant and from which a child drinks through a spout or straw.
113. “Space utilization” means the designated use of specific areas within the certified area for specific child care services or activities.
114. “Special needs child” means:
- a. A child diagnosed with a physical or mental condition that substantially limits the child’s ability to provide self-care or perform age-appropriate manual tasks or substantially limits any of the child’s other major life functions such as walking, seeing, hearing, speaking, breathing, or learning;
 - b. A child with a “developmental disability” as defined in A.R.S. § 36-551; or
 - c. A “child with a disability” as defined in A.R.S. § 15-761.
115. “Staff member” means an individual who works at a child care group home providing child care, regardless of whether compensation is received by the individual in return for providing child care, and includes a provider.

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116. "Supervised" means:

- a. When used in reference to a non-staff-member individual or a staff member at the child care group home, directly visually observed;
- b. When used in reference to an enrolled child indoors, monitored and kept within sight or sound; and
- c. When used in reference to an enrolled child outdoors, monitored and kept within sight and sound.

117. "Swimming pool" has the same meaning as in A.A.C. R9-8-801.

118. "Training" means conferences, seminars, lectures, workshops, classes, courses, or instruction.

119. "Tuberculosis control officer" has the same meaning as in A.R.S. § 36-711.

120. "Wading pool" has the same meaning as in A.A.C. R9-8-801.

121. "Week" means a seven-day period beginning on Sunday at 12:00 a.m. and ending on Saturday at 11:59 p.m.

122. "Working day" means the period between 8:00 a.m. and 5:00 p.m. on a Monday, Tuesday, Wednesday, Thursday, or Friday that is not a state holiday.

R9-3-102. Time-Frames

A. The overall time-frame described in A.R.S. § 41-1072 for each type of approval granted by the Department under this Chapter is set forth in Table 1. The applicant and the Department may agree in writing to 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 25% of the overall time-frame.

B. The administrative completeness review time-frame described in A.R.S. § 41-1072 for each type of approval granted by the Department under this Chapter is set forth in Table 1 and begins on the date that the Department receives an application.

1. The Department shall send a notice of administrative completeness or deficiencies to the applicant within the administrative completeness review time-frame.

- a. A notice of deficiencies shall list each deficiency and the items needed to complete the application.
- b. The administrative completeness review time-frame and the overall time-frame are suspended from the date that the notice of deficiencies is sent until the date that the Department receives all of the missing items from the applicant.
- c. If an applicant fails to submit to the Department all of the items listed in the notice of deficiencies within 180 days after the date that the Department sent the notice of deficiencies, the Department shall consider the application withdrawn.

2. If the Department issues a certificate or other approval to the applicant during the administrative completeness review time-frame, the Department shall not issue a separate written notice of administrative completeness.

C. The substantive review time-frame described in A.R.S. § 41-1072 is set forth in Table 1 and begins on the date of the notice of administrative completeness.

1. As part of the substantive review for an application for an initial certificate or a certificate renewal, the Department shall conduct an inspection that may require more than one visit to the child care group home or residence.

2. As part of the substantive review for a request for approval of a change affecting a certificate that requires a change in the use of physical space at a child care group home, the Department shall conduct an inspection that may require more than one visit to the child care group home.

3. The Department shall send a certificate or a written notice of approval or denial of a certificate or other request for approval to an applicant within the substantive review time-frame.

4. During the substantive review time-frame, the Department may make one comprehensive written request for additional information, unless the Department and the applicant have agreed in writing to allow the Department to submit supplemental requests for information.

- a. If the Department determines that an applicant, a child care group home, or a residence is not in substantial compliance with A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter, the Department shall send a comprehensive written request for additional information that includes a written statement of deficiencies stating each statute and rule upon which noncompliance is based.
- b. An applicant shall submit to the Department all of the information requested in a comprehensive written request for additional information or a supplemental request for information, including, if applicable, written documentation of the corrections required in a statement of deficiencies, within 30 days after the date of the comprehensive written request for additional information or the supplemental request for information.
- c. The substantive review time-frame and the overall time-frame are suspended from the date that the Department sends a comprehensive written request for additional information or a supplemental request for information until the date that the Department receives all of the information requested, including, if applicable, documentation of corrections required in a statement of deficiencies.

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- d. If an applicant fails to submit to the Department all of the information requested in a comprehensive written request for additional information or a supplemental request for information, including, if applicable, documentation of corrections required in a statement of deficiencies, within the time prescribed in subsection (C)(4)(b), the Department shall deny the application.
5. The Department shall issue a certificate or approval if the Department determines that the applicant and the child care group home or residence are in substantial compliance with A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter, and the applicant submits documentation of corrections that is acceptable to the Department for any deficiencies.
6. If the Department determines that a certificate or approval is to be denied, the Department shall send to the applicant a written notice of denial setting forth the reasons for denial and all other information required by A.R.S. § 41-1076.

Table 1. Time-Frames (in days)

<u>Type of Approval</u>	<u>Statutory Authority</u>	<u>Overall Time-Frame</u>	<u>Administrative Completeness Review Time-Frame</u>	<u>Substantive Review Time-Frame</u>
<u>Initial Certificate under R9-3-201</u>	<u>A.R.S. § 36-897.01</u>	<u>150</u>	<u>30</u>	<u>120</u>
<u>Certificate Renewal under R9-3-203</u>	<u>A.R.S. § 36-897.01</u>	<u>150</u>	<u>30</u>	<u>120</u>
<u>Approval of Change Affecting Certificate under R9-3-204(B)</u>	<u>A.R.S. §§ 36-897.01, 36-897.02</u>	<u>75</u>	<u>30</u>	<u>45</u>

R9-3-103. Individuals to Act for Applicant or Certificate Holder

When an applicant or certificate holder is required by this Chapter to provide information on or sign an application form or other document, hold a fingerprint clearance card, or complete Department-provided instruction, the following shall satisfy the requirement on behalf of the applicant or certificate holder:

1. If the applicant or certificate holder is an individual, the individual;
2. If the applicant or certificate holder is a corporation, an officer of the corporation;
3. If the applicant or certificate holder is a partnership, two of the partners;
4. If the applicant or certificate holder is a limited liability company, a manager or, if the limited liability company does not have a manager, a member of the limited liability company;
5. If the applicant or certificate holder is an association or cooperative, two members of the governing board of the association or cooperative;
6. If the applicant or certificate holder is a joint venture, two of the individuals signing the joint venture agreement; and
7. If the applicant or certificate holder is a business organization type other than those described in subsections (2) through (6), two individuals who are members of the business organization.

R9-3-104. Counting Days

When counting the days in a time period included within this Chapter, the following apply:

1. The day of the act, event, or default from which the time period begins to run is not included; and
2. The last day of the time period is included unless it is a Saturday, Sunday, or state holiday, in which case the time period runs until the next day that is not a Saturday, Sunday, or state holiday.

ARTICLE 2. CERTIFICATION

R9-3-201. Application for a Certificate

A. To be eligible to obtain a certificate to operate a child care group home, an applicant for a certificate shall:

1. Be at least 21 years of age;
2. Possess a high school diploma or high school equivalency diploma;
3. Complete Department-provided instruction that includes the Department's role in certifying and regulating child care group homes under A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter;
4. Hold a valid fingerprint clearance card; and
5. Establish that operating a child care group home at the residence complies with the local jurisdiction's zoning requirements.

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- B.** To obtain a certificate to operate a child care group home, an applicant shall submit to the Department an application completed using a Department-provided form and including:
1. The name of the applicant;
 2. The name to be used for the child care group home, if any;
 3. The address of the residence;
 4. The mailing address of the applicant, if different than the address of the residence;
 5. The phone number of the residence;
 6. The phone number of the applicant, if different than the phone number of the residence;
 7. If the applicant is a business organization, the following:
 - a. The applicant's type of business organization;
 - b. The following information about an individual who is to serve as the primary contact for information regarding the application:
 - i. Name;
 - ii. Address;
 - iii. Phone number; and
 - iv. Fax number, if any;
 - c. The following information about the applicant's statutory agent or the individual designated by the applicant to accept service of process and subpoenas for the applicant:
 - i. Name;
 - ii. Address;
 - iii. Phone number; and
 - iv. Fax number, if any;
 - d. If the applicant is a corporation, the following documents:
 - i. A copy of the applicant's articles of incorporation;
 - ii. A list showing the name and address of each member of the applicant's board of directors;
 - iii. A list showing the name, address, and title of each of the applicant's officers; and
 - iv. A certificate of good standing issued to the applicant by the Arizona Corporation Commission and dated within six months before the date of application;
 - e. If the applicant is a partnership, the following documents:
 - i. A copy of the applicant's partnership documents, if any; and
 - ii. A list showing the name, address, and title of each of the applicant's partners;
 - f. If the applicant is a joint venture, the following documents:
 - i. A copy of the applicant's joint venture documents, if any; and
 - ii. A list showing the name, address, and title of each of the applicant's members;
 - g. If the applicant is a limited liability company, the following documents:
 - i. A copy of the applicant's articles of organization;
 - ii. If the applicant has managers, a list showing the name, address, and title of each of the applicant's managers;
 - iii. A list showing the name, address, and title of each of the applicant's members; and
 - iv. A certificate of good standing issued to the applicant by the Arizona Corporation Commission and dated within six months before the date of application;
 - h. If the applicant is an association or cooperative, the following documents:
 - i. A copy of the applicant's association or cooperative documents, if any; and
 - ii. A list showing the name, address, and title of each of the applicant's members; and
 - i. If the applicant is a business organization type other than those described in subsections (B)(7)(d) through (h), the following documents:
 - i. A copy of the applicant's organizational documents, if any; and
 - ii. A list showing the name, address, and title of each of the applicant's members;
 8. A list of the rooms to be used for child care services;
 9. A list of the service classifications to be offered at the child care group home;
 10. Whether the residential building to be used at the child care group home is a mobile home, manufactured home, or factory-built building;
 11. If the residential building to be used at the child care group home is a mobile home, manufactured home, or factory-built building, the following:
 - a. The year of manufacture for the mobile home, manufactured home, or factory-built building; and
 - b. Copies of the following documents:
 - i. The installation permit required by A.A.C. R4-34-801;
 - ii. If the residential building is a factory-built building, the certificate of occupancy required by A.A.C. R4-34-801; and

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- iii. If the mobile home is a rehabilitated mobile home, the rehabilitation permit required by A.A.C. R4-34-606 and the certificate of compliance issued under R4-34-606;
- 12. A floor plan of the residential building to be used at the child care group home, showing:
 - a. The location and dimensions of the outside walls of the residential building;
 - b. The location and dimensions of each room in the residential building, with designation of the rooms to be used and not to be used for child care services;
 - c. The location of each exit from the residential building;
 - d. The location of each sink and toilet to be used by enrolled children;
 - e. The location of each smoke or heat detector in the residential building;
 - f. The location of each fire extinguisher in the residential building; and
 - g. The location of each telephone in the residential building;
- 13. A site plan of the residence showing:
 - a. The location and dimensions of the outdoor activity area,
 - b. The height of the fence around the outdoor activity area,
 - c. The location of each exit from the outdoor activity area,
 - d. The location of the residential building,
 - e. The location of each swimming pool,
 - f. The location of the fence around each swimming pool,
 - g. The height of the fence around each swimming pool, and
 - h. The location and dimensions of any other building or structure at the residence;
- 14. A copy of documentation issued by the local jurisdiction establishing that operating a child care group home at the residence complies with the local jurisdiction's zoning requirements;
- 15. A copy of a certificate of completion issued by the Department showing that the applicant has completed the instruction required by subsection (A)(3);
- 16. A copy of the applicant's high school diploma or high school equivalency diploma;
- 17. The following information about the applicant; each individual who is to be a staff member at the child care group home, including the individual who is to serve as the provider; and each individual who resides in the residential building to be used at the child care group home:
 - a. Full name;
 - b. Social security number;
 - c. Birth date;
 - d. If a staff member, job title;
 - e. If a resident, relationship to the applicant or provider;
 - f. If a staff member, hire date; and
 - g. If an adult staff member or an adult resident, the following:
 - i. If a fingerprint clearance card has not yet been obtained, date that an application for a fingerprint clearance card was submitted to the Department of Public Safety;
 - ii. If a fingerprint clearance card has not yet been obtained, the Department of Public Safety application number;
 - iii. If a fingerprint clearance card has been obtained, expiration date of the fingerprint clearance card; and
 - iv. Date that a Criminal History Affidavit was completed;
- 18. A copy of the applicant's fingerprint clearance card;
- 19. A Criminal History Affidavit completed by the applicant;
- 20. The following information about the individual who is to serve as provider at the child care group home:
 - a. Full name;
 - b. Address;
 - c. Phone number;
 - d. Fax number, if any; and
 - e. A copy of a certificate of completion issued by the Department showing that the individual who is to serve as provider has completed the instruction required by subsection (A)(3);
- 21. A certified check, business check, or money order made payable to the Arizona Department of Health Services for the fee required by A.R.S. § 36-897.01; and
- 22. The notarized signature of the applicant affirming that:
 - a. The applicant agrees to allow the Department to submit to the applicant supplemental requests for additional information if the Department determines during the substantive review time-frame that the applicant has not provided sufficient information to determine substantial compliance with A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter;
 - b. The applicant has read and will comply with A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter;

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- c. The applicant has sufficient financial resources to comply with A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter; and
- d. The information provided in the application, including the information in the documents attached to the application form, is accurate and complete.

R9-3-202. Fingerprinting Requirements

- A.** A certificate holder shall hold a valid fingerprint clearance card issued under A.R.S. § 41-1758.03.
- B.** A certificate holder shall ensure that each adult staff member and each adult resident at a child care group home:
 - 1. Holds a valid fingerprint clearance card issued under A.R.S. § 41-1758.03; or
 - 2. Submits to the certificate holder a copy of a fingerprint clearance card application showing that the application was submitted to the fingerprint division of the Department of Public Safety under A.R.S. § 41-1758.02 within seven working days after becoming an adult staff member or adult resident.
- C.** If an adult staff member or adult resident holds a fingerprint clearance card that was issued before the staff member or resident became a staff member or resident at the child care group home, the certificate holder shall contact the Department of Public Safety within seven working days after the individual becomes a staff member or resident to determine whether the fingerprint clearance card is valid. The certificate holder shall make a record of this determination, including the name of the staff member or resident, the date of the contact with the Department of Public Safety, and whether the fingerprint clearance card is valid.
- D.** A certificate holder shall not allow an individual to be an adult staff member or adult resident if the individual has been denied a fingerprint clearance card under A.R.S. Title 41, Chapter 12, Article 3.1, and has not received an interim approval under A.R.S. § 41-619.55(H).
- E.** A certificate holder shall not allow an individual to be an adult staff member or adult resident if the individual receives an interim approval under A.R.S. § 41-619.55(H) but is then denied a good cause exception under A.R.S. § 41-619.55 and a fingerprint clearance card under A.R.S. Title 41, Chapter 12, Article 3.1.
- F.** A certificate holder shall ensure that each adult staff member and each adult resident submits to the certificate holder a Criminal History Affidavit, as required in A.R.S. § 36-897.03(B).

R9-3-203. Certificate Renewal

- A.** At least 45 days before the expiration of a current certificate, an applicant for renewal of a certificate shall submit to the Department an application that includes:
 - 1. A Department-provided form, including:
 - a. The applicant's name;
 - b. The child care group home's certificate number;
 - c. The child care group home's name, if applicable;
 - d. The child care group home's street address, mailing address, and telephone number;
 - e. The applicant's type of business organization, if applicable;
 - f. If the applicant is a business organization, whether there have been any changes to the organizational information submitted under R9-3-201(B)(7); and
 - g. The notarized signature of the applicant affirming that:
 - i. The applicant agrees to allow the Department to submit to the applicant supplemental requests for additional information if the Department determines during the substantive review time-frame that the applicant has not provided sufficient information to determine substantial compliance with A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter;
 - ii. The applicant has read and will comply with A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter;
 - iii. The applicant has sufficient financial resources to comply with A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter; and
 - iv. The information provided in the application, including the information in any documents attached to the application form, is accurate and complete;
 - 2. If there have been any changes to the organizational information submitted under R9-3-201(B)(7), the following attached to the application form:
 - a. A document describing the changes to the organizational information provided under R9-3-201(B)(7), and
 - b. A copy of each new organizational document and each organizational document changed since the document was provided under R9-3-201(B)(7); and
 - 3. A certified check, business check, or money order made payable to the Arizona Department of Health Services for the fee required by A.R.S. § 36-897.01.
- B.** An applicant that submits the items required by subsection (A) later than 45 days before the expiration of the current certificate shall submit to the Department the late filing fee required by A.R.S. § 36-897.01 in the form of a certified check, business check, or money order made payable to the Department.

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C. If an applicant submits to the Department the items required by subsection (A) and, if applicable, the fee required by subsection (B) before the expiration date of the current certificate, the current certificate does not expire until the date specified in A.R.S. § 41-1092.11(A).

R9-3-204. Changes Affecting a Certificate

A. At least 30 days before the date of a change in a child care group home's name, a certificate holder shall send the Department written notice of the name change. Within 30 days after the date of receipt of the notice, the Department shall issue an amended certificate that incorporates the name change but retains the expiration date of the current certificate.

B. At least 30 days before the date of an intended change in a child care group home's space utilization or certified capacity, a certificate holder shall submit a written request for approval of the change to the Department. The written request shall include:

1. The certificate holder's name;
2. The child care group home's name, if applicable;
3. The child care group home's street address, mailing address, and telephone number;
4. The name, telephone number, and fax number of a point of contact for the request;
5. The child care group home's certificate number;
6. The type of change intended:
 - a. Space utilization, or
 - b. Certified capacity;
7. A narrative description of the intended change;
8. If the intended change involves a modification of the residential building that requires a building permit, a copy of the building permit;
9. A floor plan of the residential building that complies with R9-3-201(B)(12) and shows the intended changes; and
10. The following additional information, as applicable:
 - a. If requesting a change in certified capacity, the square footage of the outdoor activity area and the square footage of the child care group home's indoor activity areas; and
 - b. If requesting a change in space utilization that affects individual rooms, the name and square footage of each affected room.

C. The Department shall review a request submitted under subsection (B) according to R9-3-102. If the child care group home will be in substantial compliance with A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter with the intended change, the Department shall send the certificate holder an approval of the request and, if necessary, an amended certificate that incorporates the change but retains the expiration date of the current certificate.

D. A certificate holder shall not implement any change described in subsection (B) until the Department approves the request and, if necessary, issues an amended certificate.

E. At least 30 days before the date of a change in service classification, a certificate holder shall send the Department written notice of the change.

F. At least 30 days before the date of a change in the ownership of a child care group home, a certificate holder shall send the Department written notice of the change. A new owner shall obtain a new certificate as prescribed in R9-3-201 before beginning operation of a child care group home.

G. A certificate holder changing a child care group home's location shall apply for a new certificate as prescribed in R9-3-201. A certificate holder shall obtain a new certificate from the Department before beginning operation of a child care group home at a new location.

H. Within 30 days after the date of a change in the organizational information provided under R9-3-201(B)(7), other than a change in ownership, a certificate holder that is a business organization shall send the Department written notice of the change.

R9-3-205. Change in Provider

A. Within 10 days after changing a child care group home's provider, the certificate holder shall notify the Department of the change in writing.

B. The written notice provided under subsection (A) shall include the following information about the individual that the certificate holder intends to have serve as provider:

1. The information required by R9-3-201(B)(17), and
2. The information required by R9-3-201(B)(20).

R9-3-206. Inspections; Investigations

A. The Department shall inspect a residence before issuing an initial certificate and a child care group home before issuing a renewal certificate and as often as necessary to determine compliance with A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter. An applicant, certificate holder, or provider shall allow the Department immediate access to all areas of the residence or child care group home that may affect the health, safety, or welfare of an enrolled child or to which an enrolled child may have access during hours of operation.

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- B.** During an inspection or investigation, an applicant or certificate holder shall demonstrate to the Department that the applicant or certificate holder and the residence or child care group home are in substantial compliance with A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter.
- C.** During an initial, annual, or renewal inspection, or upon request during an investigation, an applicant or certificate holder shall make the following available for Department review:
1. If the residence or child care group home has a gas-powered appliance or heating and cooling device, including a permanently installed gas-powered grill or a gas-powered swimming pool heater, a copy of a violation-free gas inspection conducted within 12 months before the date of inspection by a licensed plumber or an individual licensed by the state to inspect and repair gas lines and gas-powered heating and cooling devices;
 2. A certificate of general liability insurance or of combined general liability insurance and excess liability insurance, issued to the applicant or certificate holder, covering the child care group home, and including the following information about the insurance:
 - a. The effective and expiration dates,
 - b. The maximum liability limit,
 - c. The number of enrolled children covered, and
 - d. Whether the policy includes a waiver of coverage for physical or sexual abuse of an enrolled child; and
 3. If a staff member will or does transport enrolled children in a motor vehicle, the following information:
 - a. The year, make, and model of each motor vehicle used or to be used to transport enrolled children; and
 - b. An insurance policy showing that, for each motor vehicle used or to be used to transport enrolled children, the applicant or certificate holder has obtained motor vehicle insurance that has at least the following coverage limits:
 - i. \$15,000 for bodily injury to or death of one person in any one accident;
 - ii. \$30,000 for bodily injury to or death of two or more persons in any one accident; and
 - iii. \$10,000 for injury to or destruction of property of others in any one accident.
- D.** During an initial, annual, or renewal inspection, an applicant or certificate holder shall provide the Department a calendar showing each closure of the child care group home scheduled during the following 12 months.
- E.** During an initial inspection, an applicant shall make the following available at the residence for Department review:
1. If the residential building is a mobile home, manufactured home, or non-commercial factory-built building, the Insignia of Approval issued under A.A.C. R4-34-802; and
 2. If the residential building is a rehabilitated mobile home, the Insignia of Approval issued under A.A.C. R4-34-606.
- F.** If the Department receives written or verbal information alleging a violation of A.R.S. Title 36, Chapter 7.1, Article 4 or this Chapter, the Department shall conduct an investigation. A certificate holder or provider shall permit the Department to interview each staff member or enrolled child outside of the presence of others as part of an investigation.

R9-3-207. Denial, Revocation, or Suspension of a Certificate

- A.** The Department may deny, revoke, or suspend a certificate to operate a child care group home if an applicant or certificate holder:
1. Provides false or misleading information to the Department;
 2. Fails to submit to the Department all of the information requested in a comprehensive written request for additional information or a supplemental request for information within the time prescribed in R9-3-102(C)(4)(b);
 3. Fails to allow the Department to enter the child care group home during hours of operation or to inspect required records;
 4. Has been arrested or charged with an offense listed in A.R.S. § 41-1758.03(B), (C), (F), or (G);
 5. Has been denied a certificate or license to operate a child care group home or a certificate or license to operate a child care facility in any state, unless the denial was based on the applicant's or certificate holder's failure to complete the certification or licensing process according to a required time-frame;
 6. Has had a certificate or license to operate a child care group home or a child care facility revoked or suspended in any state;
 7. Has been denied a fingerprint clearance card or has had a fingerprint clearance card suspended or revoked under A.R.S. Title 41, Chapter 12, Article 3.1;
 8. Fails to substantially comply with any provision in A.R.S. Title 36, Chapter 7.1, Article 4 or this Chapter; or
 9. Substantially complies with A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter, but refuses to submit or implement a plan acceptable to the Department to eliminate any deficiencies.
- B.** In determining whether to deny, suspend, or revoke a certificate, the Department shall consider the threat to the health and safety of enrolled children at a child care group home based on factors such as those listed in A.R.S. § 36-897.06(B)(1) through (10).

ARTICLE 3. ADMINISTRATION

R9-3-301. Certificate Holder Responsibilities

- A.** The certificate holder for a child care group home shall designate in writing a provider who meets the qualifications of R9-3-302(A) to act on behalf of the certificate holder and to be responsible for the daily on-site operation of the child care group home. A certificate holder who is an individual may serve as the provider.
- B.** The certificate holder for a child care group home shall ensure that:
1. The provider meets the qualifications of R9-3-302(A) and complies with all applicable requirements of A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter;
 2. An assistant provider meets the qualifications of R9-3-302(B) and complies with all applicable requirements of A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter;
 3. Each staff member, including the provider or assistant provider, meets the qualifications of R9-3-303 and complies with all applicable requirements of A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter;
 4. Each non-staff-member resident meets the qualifications of R9-3-304 and complies with all applicable requirements of A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter; and
 5. The child care group home complies with all requirements of A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter.

R9-3-302. Provider Qualifications and Responsibilities

- A.** To be a provider, an individual shall:
1. Be at least 21 years of age;
 2. Satisfy one of the following:
 - a. Have a high school diploma or high school equivalency diploma and have completed at least:
 - i. Three credit hours in early education, child development, or a closely related field from an accredited college or university; or
 - ii. 60 clock hours of training in early education, child development, or a closely related field; or
 - b. Be registered as a Level II-B with S*CCEEDS;
 3. Use the residential building at the child care group home as the individual's principal place of habitation;
 4. Complete Department-provided instruction that includes the Department's role in certifying and regulating child care group homes under A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter;
 5. Hold a valid fingerprint clearance card; and
 6. Meet the qualifications for a staff member in R9-3-303.
- B.** To be an assistant provider, an individual shall:
1. Be at least 21 years of age;
 2. Satisfy one of the following:
 - a. Have a high school diploma or high school equivalency diploma and have completed at least:
 - i. Three credit hours in early education, child development, or a closely related field from an accredited college or university; or
 - ii. 60 clock hours of training in early education, child development, or a closely related field; or
 - b. Be registered as a Level II-B with S*CCEEDS;
 3. Hold a valid fingerprint clearance card; and
 4. Meet the qualifications for a staff member in R9-3-303.
- C.** The provider for a child care group home shall ensure that:
1. Each staff member, including the provider or assistant provider, meets the qualifications of R9-3-303 and complies with all applicable requirements of A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter;
 2. Each non-staff-member resident meets the qualifications of R9-3-304 and complies with all applicable requirements of A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter;
 3. The provider designates in writing a staff member who meets the qualifications of subsection (B) to act as the assistant provider, who assumes the responsibilities of the provider when the provider is absent;
 4. The assistant provider is present and actively involved at the child care group home at all times during hours of operation when the provider is absent;
 5. The provider does not engage in outside employment on a regular basis during hours of operation;
 6. Child care is provided only in certified areas;
 7. Each parent of an enrolled child is informed that the parent has immediate access to all certified areas during hours of operation;
 8. Each parent of an enrolled child is allowed immediate access to all certified areas during hours of operation;
 9. The following are allowed immediate access to the child care group home during hours of operation:
 - a. The Department.
 - b. The local health agency.
 - c. Child Protective Services.

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- d. The local fire department or Office of the State Fire Marshal, and
 - e. An inspector from the local jurisdiction verifying compliance with local codes and ordinances;
 - 10. The following information is posted in a location that can be viewed by individuals entering or leaving the child care group home:
 - a. The child care group home certificate;
 - b. The name of the provider;
 - c. The name of the assistant provider;
 - d. A sign stating:
 - i. That the child care group home is certified by the Department's Office of Child Care Licensure,
 - ii. That inspection reports for the child care group home are available for review at the child care group home,
 - iii. The address of the Office of Child Care Licensure, and
 - iv. The telephone number of the Office of Child Care Licensure;
 - e. The hours of operation for the child care group home; and
 - f. A weekly menu, if the child care group home serves meals or snacks;
 - 11. Each non-staff-member individual who is in a certified area of the child care group home where an enrolled child is present, including an outdoor activity area, is supervised by a staff member at all times;
 - 12. Each enrolled child is supervised by a staff member at all times;
 - 13. Each non-adult staff member or staff member who does not possess a high school diploma or high school equivalency diploma is supervised at all times by the provider or, in the provider's absence, by the assistant provider;
 - 14. Each staff member is able to communicate with each enrolled child who communicates verbally;
 - 15. At least one staff member with current certification in CPR specific to infants and children and pediatric first aid, including management of a blocked airway and rescue breathing, is at the child care group home at all times during hours of operation;
 - 16. The provider complies with all applicable requirements in 9 A.A.C. 6, Article 7;
 - 17. The provider posts a sign stating that the child care group home is closed whenever the child care group home is closed for one or more days, such as for illness or vacation;
 - 18. Child Protective Services or a local law enforcement agency and the Department are notified immediately of any suspected child abuse or neglect, as required by R9-3-312;
 - 19. The Department is notified orally within 24 hours and in writing within 72 hours after one of the following occurs:
 - a. An injury to an enrolled child at the child care group home that results in the child's needing medical attention;
 - b. The death of an enrolled child or other individual at the child care group home;
 - c. Damage to a building at the child care group home, to a vehicle used in transporting enrolled children, or to equipment used in providing child care that affects the provider's ability to provide child care services in compliance with this Chapter;
 - d. Loss of a utility at the child care group home, such as electricity or water, that affects the provider's ability to provide child care services in compliance with this Chapter;
 - e. Loss of an enrolled child for any period of time, for any reason;
 - f. Fire at the child care group home;
 - g. An incident requiring police response, fire response, or other emergency response at the child care group home;
or
 - h. The provider is notified that a staff member or adult resident:
 - i. Has had the staff member's or adult resident's fingerprint clearance card revoked or suspended; or
 - ii. Has been arrested for or charged with an offense listed in A.R.S. § 41-1758.03(B), (C), (F), or (G);
 - 20. A parent of each enrolled child is notified orally, or an attempt is made to notify a parent of each enrolled child orally, immediately and a parent of each enrolled child is notified in writing within 24 hours after an incident requiring police response, fire response, or other emergency response at the child care group home; and
 - 21. The provider submits to the Department a document containing the information described in R9-3-201(B)(17) once every 12 months after initial certification.
- D.** An individual who is serving as a provider when this rule becomes effective is required to have a high school diploma or a high school equivalency diploma, but is not required to comply with subsection (A)(2)(a)(i) or (ii) or subsection (A)(2)(b) until five years after the effective date of this Section.
- E.** An assistant provider is required to have a high school diploma or a high school equivalency diploma, but is not required to comply with subsection (B)(2)(a)(i) or (ii) or subsection (B)(2)(b) until five years after the effective date of this Section.

R9-3-303. Staff Member Qualifications

A. To be a staff member, an individual shall:

- 1. To be able to work with enrolled children only while supervised by the provider or assistant provider, be at least 16 years of age or registered as a Level I with S*CCEEDS;

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2. To be able to work with enrolled children without being supervised by the provider or assistant provider:
 - a. Be at least 18 years of age and have a high school diploma or high school equivalency diploma, or
 - b. Be registered as a Level II-A with S*CCEEDS;
 3. If an adult, comply with the fingerprinting requirements in R9-3-202;
 4. If an adult, submit to the certificate holder a Criminal History Affidavit completed by the staff member;
 5. Demonstrate freedom from infectious pulmonary tuberculosis by submitting one of the following to the certificate holder:
 - a. A report prepared by a physician, physician assistant, registered nurse practitioner, or registered nurse indicating that a Mantoux skin test administered to the staff member no earlier than 12 months before and no later than 12 hours after becoming a staff member was interpreted by the physician, physician assistant, registered nurse practitioner, or registered nurse to be negative at least 48 and no later than 72 hours after test administration;
 - b. A report prepared by a physician, physician assistant, registered nurse practitioner, or registered nurse indicating that another test for tuberculosis, recommended by the Centers for Disease Control and Prevention or the tuberculosis control officer, administered to the staff member no earlier than 12 months before and no later than 12 hours after becoming a staff member was interpreted by the physician, physician assistant, registered nurse practitioner, or registered nurse to be negative; or
 - c. If the staff member cannot comply with subsection (A)(5)(a) or (b), a statement dated no earlier than 12 months before becoming a staff member and written by a physician, physician assistant, registered nurse practitioner, or registered nurse indicating that the staff member is currently free from infectious pulmonary tuberculosis;
 6. Unless opposed to immunization for religious reasons as described in subsection (A)(7), demonstrate immunity to measles, rubella, diphtheria, and tetanus or establish a medical exemption from immunization:
 - a. By submitting to the certificate holder a copy of the staff member's proof of immunity or a written statement signed by the staff member attesting to immunity; and
 - b. For any of the diseases listed in subsection (A)(6) for which a staff member has not received immunization and cannot attest to immunity, by submitting to the certificate holder a written statement signed by a physician, physician assistant, registered nurse practitioner, or registered nurse stating that the immunization would endanger the staff member's health or medical condition;
 7. If opposed to immunization for religious reasons, submit to the certificate holder a written statement signed by the staff member attesting to the staff member's membership in a religion whose teachings are in opposition to immunization;
 8. Complete training in the following subject areas within 10 days after becoming a staff member:
 - a. The statutes and rules that govern child care group homes, including staff member responsibilities;
 - b. The names, ages, and needs of enrolled children;
 - c. Guiding and disciplining enrolled children;
 - d. Hand washing;
 - e. Diapering, if any enrolled children are in diapers;
 - f. Toileting;
 - g. Recognizing signs of illness and infestation;
 - h. Sudden infant death syndrome awareness, if infant care is provided at the child care group home;
 - i. Detecting and preventing child abuse or neglect and reporting suspected child abuse or neglect; and
 - j. Responding to accidents and emergencies; and
 9. Complete at least 12 clock hours of training in two or more of the following subject areas every 12 months after becoming a staff member:
 - a. Responding to accidents and emergencies;
 - b. Recognizing signs of illness and infestation;
 - c. Child growth and development;
 - d. Detecting and preventing child abuse or neglect and reporting suspected child abuse or neglect;
 - e. Guiding and disciplining children;
 - f. Nutrition and developmentally appropriate eating habits;
 - g. Availability of community services and resources, including those available to special needs children;
 - h. Involving and communicating with parents;
 - i. Developmentally appropriate child care activities;
 - j. Sun safety;
 - k. Outdoor activity area safety; and
 - l. Sudden infant death syndrome awareness.
- B.** A staff member who is not an adult or who does not have a high school diploma or high school equivalency diploma shall not be in the same area as an enrolled child at the child care group home unless the staff member is supervised by the provider or the assistant provider.

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R9-3-304. Resident Qualifications

A. A non-staff-member resident shall:

1. If an adult, comply with the fingerprinting requirements in R9-3-202;
2. If an adult, submit to the certificate holder a Criminal History Affidavit completed by the adult resident;
3. If 12 years of age or older, demonstrate freedom from infectious pulmonary tuberculosis by submitting one of the following to the certificate holder:
 - a. A report prepared by a physician, physician assistant, registered nurse practitioner, or registered nurse indicating that a Mantoux skin test administered to the resident no earlier than 12 months before and no later than 12 hours after becoming a resident 12 years of age or older was interpreted by the physician, physician assistant, registered nurse practitioner, or registered nurse to be negative at least 48 and no later than 72 hours after test administration;
 - b. A report prepared by a physician, physician assistant, registered nurse practitioner, or registered nurse indicating that another test for tuberculosis, recommended by the Centers for Disease Control and Prevention or the tuberculosis control officer, administered to the resident no earlier than 12 months before and no later than 12 hours after becoming a resident 12 years of age or older was interpreted by the physician, physician assistant, registered nurse practitioner, or registered nurse to be negative; or
 - c. If the resident cannot comply with subsection (A)(3)(a) or (b), a statement dated no earlier than 12 months before becoming a resident 12 years of age or older and written by a physician, physician assistant, registered nurse practitioner, or registered nurse indicating that the resident is currently free from infectious pulmonary tuberculosis;
4. Unless opposed to immunization for religious reasons as described in subsection (A)(5), demonstrate immunity to measles, rubella, diphtheria, and tetanus or establish a medical exemption from immunization as follows:
 - a. By submitting to the certificate holder a copy of the resident's proof of immunity or a written statement signed by the resident or, if the resident is a minor, the resident's parent attesting to the resident's immunity; and
 - b. For any of the diseases listed in subsection (A)(4) for which a resident has not received immunization and cannot attest to immunity, by submitting to the certificate holder a written statement signed by a physician, physician assistant, registered nurse practitioner, or registered nurse stating that the immunization would endanger the resident's health or medical condition; and
5. If opposed to immunization for religious reasons, submit to the certificate holder a written statement signed by the resident or, if the resident is a minor, the resident's parent attesting to the resident's membership in a religion whose teachings are in opposition to immunization.

B. A non-staff-member resident who is 13 years of age or older shall not provide child care and shall not be in the same area as an enrolled child unless the resident is supervised by the provider or the assistant provider.

R9-3-305. Recordkeeping Requirements

A. The provider for a child care group home shall maintain the following records at the child care group home:

1. A dated attendance record in which each staff member records the times of the staff member's arrivals and departures on each day that the staff member works;
2. A dated attendance record in which the times of each enrolled child's arrivals and departures on each day that the child attends the child care group home are recorded in compliance with the following:
 - a. The parent or other individual who brings a child to the child care group home, including a child who self-admits, records the time of arrival for the child and signs the attendance record; and
 - b. The parent or other individual who picks up a child from the child care group home, including a child who self-releases, records the time of departure for the child and signs the attendance record;
3. A file containing each weekly menu required under R9-3-410(F), each of which shall be kept until at least three months after the last date on the menu;
4. A written log of all smoke detector battery tests completed as required by R9-3-504(B);
5. A written log of all fire evacuation drills completed as required by R9-3-504(D);
6. A written log of all swimming pool water quality tests conducted as required by R9-3-503(C)(1);
7. A file containing documentation of each inspection conducted at the child care group home during the past three years, including:
 - a. An inspection checklist;
 - b. A statement of deficiencies, if applicable; and
 - c. Written documentation of corrections, if applicable;
8. A file for each staff member that includes:
 - a. The following information about the staff member:
 - i. Full name,
 - ii. Social security number,
 - iii. Birth date,
 - iv. Home address,

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- v. Home telephone number,
 - vi. Hire date, and
 - vii. Job title;
 - b. The staff member's first-aid or CPR certificate, if applicable;
 - c. If the staff member is an adult:
 - i. If the staff member holds a valid fingerprint clearance card issued according to A.R.S. § 41-1758.03, a copy of the staff member's valid fingerprint clearance card;
 - ii. If the staff member has not yet obtained a fingerprint clearance card, a copy of the staff member's fingerprint clearance card application;
 - iii. If the staff member holds a valid fingerprint clearance card that was issued before the staff member became a staff member at the child care group home, documentation of verification of the validity of the staff member's fingerprint clearance card, as required by R9-3-202(C);
 - iv. If the staff member has an interim approval under A.R.S. § 41-619.55(H), a copy of the staff member's interim approval; and
 - v. A Criminal History Affidavit completed by the staff member;
 - d. If the staff member is the provider:
 - i. A copy of the provider's certificate of completion issued by the Department for Department-provided instruction that included the Department's role in certifying and regulating child care group homes under A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter;
 - ii. A copy of the provider's high school diploma or high school equivalency diploma; and
 - iii. Unless the provider is exempt under R9-3-302(D), a copy of documentation establishing the provider's compliance with R9-3-302(A)(2)(a)(i) or (ii) or R9-3-302(A)(2)(b); and
 - e. If the staff member is the assistant provider:
 - i. A copy of the assistant provider's high school diploma or high school equivalency diploma, and
 - ii. Unless the assistant provider is exempt under R9-3-302(E), a copy of documentation establishing the assistant provider's compliance with R9-3-302(B)(2)(a)(i) or (ii) or R9-3-302(B)(2)(b);
 - f. Documentation showing freedom from infectious pulmonary tuberculosis, as required by R9-3-303(A)(5);
 - g. Documentation regarding immunity to measles, rubella, diphtheria, and tetanus, as required by R9-3-303(A)(6) or (7);
 - h. Documentation showing that the staff member completed the training required by R9-3-303(A)(8) within 10 days after becoming a staff member;
 - i. Documentation showing the staff member's compliance with the annual training requirement of R9-3-303(A)(9); and
 - j. Documentation of the provider's good faith efforts to contact previous employers of the staff member, as required by A.R.S. § 36-897.03(C), including the name of each employer, the date of the contact, and comments regarding the information obtained;
9. A file for each non-staff-member resident that includes:
- a. The following information about the resident:
 - i. Full name,
 - ii. Social security number,
 - iii. Birth date, and
 - iv. Relationship to the certificate holder or provider;
 - b. If the resident is an adult:
 - i. If the resident holds a valid fingerprint clearance card issued according to A.R.S. § 41-1758.03, a copy of the resident's valid fingerprint clearance card;
 - ii. If the resident has not yet obtained a fingerprint clearance card, a copy of the resident's fingerprint clearance card application;
 - iii. If the resident holds a valid fingerprint clearance card that was issued before the resident became a resident at the child care group home, documentation of verification of the validity of the resident's fingerprint clearance card, as required by R9-3-202(C);
 - iv. If the resident has an interim approval under A.R.S. § 41-619.55(H), a copy of the resident's interim approval; and
 - v. A Criminal History Affidavit completed by the resident;
 - c. If the resident is 12 years of age or older, documentation showing freedom from infectious pulmonary tuberculosis, as required by R9-3-304(A)(3); and
 - d. Documentation regarding immunity to measles, rubella, diphtheria, and tetanus, as required by R9-3-304(A)(4) or (5);

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10. A file that includes the Emergency Information and Immunization Record Card for each enrolled child and the following:
 - a. If a child has proof of immunity, a copy of the child's proof of immunity;
 - b. If a child has a statement for medical exemption as described in R9-3-308(C)(2), a copy of the statement; and
 - c. If a child has a statement for religious exemption as described in R9-3-308(A)(2), a copy of the statement;
 11. A file for each enrolled child that includes:
 - a. A copy of a modified diet prescribed for the child, if applicable;
 - b. A copy of written instructions for feeding the child, including as applicable:
 - i. Instructions for preparing, storing, and feeding formula, breast milk, or other food to an infant, as described in R9-3-403(5); and
 - ii. Instructions for feeding an infant or 1-year-old child cereal in a bottle, as described in R9-3-403(6);
 - c. A written record of notification of illness or infestation made under R9-3-311(B), if applicable;
 - d. Each written consent provided by the parent for bathing and bathing instructions, as required by R9-3-401(7);
 - e. Each written consent provided by the parent for swimming, as required by R9-3-401(8);
 - f. Records regarding administration of medication, including, as applicable:
 - i. Each written authorization for administration of medication to the enrolled child, as required by R9-3-313(B)(3);
 - ii. Each written authorization for the child to receive injections at the child care group home, as required by R9-3-313(C); and
 - iii. Documentation of all medications administered to the child at the child care group home, as required by R9-3-313(B)(4);
 - g. If the child is a special needs child, a copy of the child's individualized plan, as required by R9-3-406;
 - h. A copy of a toilet training plan for the child and documentation of its implementation, as required by R9-3-408;
 - i. Written authorization to transport the child in a motor vehicle as required by R9-3-412(A), if applicable; and
 - j. If there are custody documents pertaining to the child, a copy of the custody documents, as required under R9-3-307(C);
 12. A file containing documentation of each notification to the Department or a parent as required under R9-3-302(C)(19) or (20);
 13. A file containing documentation of each notification of communicable disease or infestation required under R9-3-311(D);
 14. A file containing documentation of each report of suspected abuse or neglect of an enrolled child, as required by R9-3-312, including documentation of each telephonic or in-person report and a copy of each written report provided to Child Protective Services or a local law enforcement agency;
 15. A file containing documentation of each emergency or serious injury notification to a parent or emergency contact as required under R9-3-315;
 16. If swimming is included in the program, a file containing documentation of a staff member's completion of American Red Cross Basic Water Rescue training;
 17. A file containing the service and repair records for each motor vehicle used by a staff member to transport enrolled children; and
 18. A file containing the field trip permission notices required by R9-3-413(A) and the field trip attendance records required by R9-3-413(B)(3).
- B.** A provider shall maintain the file for each enrolled child, staff member, or non-staff-member resident at the child care group home during the entire period that the child is enrolled, the staff member is working, or the resident lives at the child care group home and for at least 12 months after the date that the child is disenrolled from, the staff member stops working at, or the resident stops living at the child care group home.
- C.** Except as otherwise provided in subsections (A)(3) and (7) and (B), a provider shall maintain all records required to be maintained by this Section for at least 12 months after the date of the last event recorded in the record.
- D.** A provider shall ensure that all of the records required to be maintained by this Section either are written in English or, if written in a language other than English, include an English translation.
- E.** A provider shall ensure that all of the records required to be maintained by this Section are made available to the Department during an inspection.

R9-3-306. Staffing Levels

A provider shall ensure that:

1. The provider or the assistant provider is present and actively involved at the child care group home when one to five enrolled children are at the child care group home; and
2. At least one adult staff member in addition to the provider or the assistant provider is present and actively involved at the child care group home when six to 10 enrolled children are at the child care group home.

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R9-3-307. Enrollment of Children

- A.** A provider shall require that a child be enrolled by the child's parent or by an individual authorized in writing by the child's parent.
- B.** Before a child may attend a child care group home, the provider shall require the individual enrolling the child to submit:
1. An Emergency Information and Immunization Record Card including:
 - a. The child's name;
 - b. Unless the child resides in a shelter for victims of domestic violence, the child's home address;
 - c. If the child resides in a shelter for victims of domestic violence, the mailing address where mail can be sent to the child;
 - d. The child's home phone number;
 - e. The child's sex;
 - f. The child's date of birth;
 - g. The child's date of enrollment;
 - h. The names of the child's parents;
 - i. The work addresses for each of the child's parents;
 - j. Unless the child's parent resides in a shelter for victims of domestic violence, each parent's home address;
 - k. If the child's parent resides in a shelter for victims of domestic violence, the mailing address where mail can be sent to the parent;
 - l. The home and work telephone numbers for each of the child's parents;
 - m. The name of each parent's employer;
 - n. The name, address, and telephone number of the child's primary physician;
 - o. The name, address, and telephone number of the hospital that the child's parents would prefer that the child be taken to in the event of an emergency;
 - p. Instructions on which parent the provider is to call first if the child is injured or shows signs of illness or infestation;
 - q. A statement that the parent signing the Emergency Information and Immunization Record Card authorizes any hospital or physician to render immediate aid as may be required for the health and safety of the child and that the parent understands that the parent accepts responsibility for the expense of this aid;
 - r. The names, addresses, and telephone numbers of at least two emergency contacts;
 - s. Whether the child is allergic to food or another substance and, if so, the name of each substance and the procedure to follow if exposure occurs;
 - t. Whether the child is susceptible to infections and, if so, the precautions to take to avoid infection;
 - u. Whether the child is subject to convulsions and, if so, the procedure to follow if a convulsion occurs;
 - v. Whether the child has any physical condition of which the provider needs to be aware and, if so, instructions from the parent regarding the physical condition; and
 - w. The dated signature of the parent who supplied the information;
 2. A copy of a modified diet prescribed for the child, if applicable;
 3. The document regarding immunization required by R9-3-308(A);
 4. If the child is a special needs child, the document required by R9-3-406(A); and
 5. If there are custody documents pertaining to the child, a copy of the custody documents, as required under subsection (C).
- C.** If there are custody documents pertaining to an enrolled child, a provider shall:
1. Obtain a copy of the custody documents before the child attends the child care group home or within 14 days after the custody documents become effective; and
 2. Ensure that a note is made on the child's Emergency Information and Immunization Record card stating that the child care group home has a copy of custody documents pertaining to the child.

R9-3-308. Enrolled Child Immunization Requirements

- A.** A provider shall not permit an enrolled child to attend a child care group home until the provider receives one of the following:
1. A copy of the child's proof of immunity; or
 2. A statement signed by the child's parent that:
 - a. States that the child is being raised in a religion that prohibits immunization, and
 - b. Includes the child's name and date of birth.
- B.** A provider shall check a child's proof of immunity against the immunization requirements contained in 9 A.A.C. 6, Article 7 at the time of first attendance and at least every three months thereafter to determine whether the child has received each immunization that the child is required to have received.

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- C.** If an enrolled child has not received each immunization that the child is required to have received under 9 A.A.C. 6, Article 7, the provider shall notify the child's parent in writing that the child will be excluded from the child care group home 15 days after the date of notification unless the child's parent submits to the provider one of the following for each immunization that the child is required to have received but has not yet received:
 - 1. Proof of immunity showing that the child has received the immunization; or
 - 2. A dated statement signed by a doctor of allopathic, osteopathic, or homeopathic medicine certifying:
 - a. That the child has a medical condition, which is identified;
 - b. That as a result of the medical condition, the immunization may be detrimental to the child's health; and
 - c. The estimated duration of the medical condition.
- D.** A provider shall ensure that each time an enrolled child's parent provides proof of immunity, a statement for medical exemption, or a statement for religious exemption, a staff member attaches a copy of the document to the child's Emergency Information and Immunization Record Card.
- E.** A provider shall document on a child's Emergency Information and Immunization Record Card:
 - 1. Whether the child has a statement for medical exemption as described in subsection (C)(2) and, if so, its duration; and
 - 2. Whether the certificate holder has sent the child's parent notification of immunizations that the child needs and, if so, the date of each notification.

R9-3-309. Insurance Requirements

- A.** A certificate holder shall secure and maintain the following insurance coverage, issued to the certificate holder, for a child care group home:
 - 1. General liability insurance or a combination of general liability insurance and excess liability insurance with a maximum liability limit of at least \$300,000; and
 - 2. For each motor vehicle used by a staff member to transport enrolled children, motor vehicle insurance that has at least the following coverage limits:
 - a. \$15,000 for bodily injury to or death of one person in any one accident;
 - b. \$30,000 for bodily injury to or death of two or more persons in any one accident; and
 - c. \$10,000 for injury to or destruction of property of others in any one accident.
- B.** A certificate holder shall obtain a certificate of insurance for the insurance policy required by subsection (A)(1). A certificate holder shall ensure that the certificate of insurance complies with R9-3-206(C)(2).
- C.** Within 10 days after a certificate holder's insurance policy required under subsection (A)(1) or (2) expires, is canceled, or is changed, the certificate holder shall submit to the Department a copy of a new certificate of insurance or new insurance policy.
- D.** A certificate holder shall notify a parent of each enrolled child of the certificate holder's liability insurance coverage by:
 - 1. Posting as described in R9-3-302(C)(10) a current certificate of general liability insurance or of combined general liability insurance and excess liability insurance that complies with R9-3-206(C)(2); or
 - 2. Providing a parent of each enrolled child a copy of a current certificate of general liability insurance or of combined general liability insurance and excess liability insurance that complies with R9-3-206(C)(2) at the time of enrollment and each time the insurance policy expires, is canceled, or is changed.
- E.** If the general liability insurance policy or combination of general liability insurance and excess liability insurance for a child care group home includes a waiver of coverage for physical or sexual abuse of an enrolled child, the provider shall provide written notice of this waiver of coverage at the time of each child's enrollment to the parent or other individual enrolling the child.

R9-3-310. Admission and Release of Enrolled Children

- A.** A provider shall require that an enrolled child be signed into and signed out from the child care group home by:
 - 1. The child's parent;
 - 2. An individual authorized in writing or by telephone by the child's parent; or
 - 3. The child, if the child is a school-age child and the child's parent has submitted written permission for the child to self-admit or self-release.
- B.** If an enrolled child submits to the provider written permission for the child to self-admit or self-release, the provider shall ensure that a staff member verifies permission with a parent before the child is allowed to self-admit or self-release.
- C.** A provider shall ensure that the individual signing in or signing out an enrolled child completes the attendance record required by R9-3-305(A)(2).
- D.** A provider shall ensure that an enrolled child who self-admits or self-releases completes the attendance record required by R9-3-305(A)(2).
- E.** If an individual who is unknown to the staff member present comes to sign out an enrolled child, the staff member shall do the following before releasing the child to the individual:
 - 1. Review the child's file to verify that the child's parent has authorized the individual to sign out the child; and
 - 2. Review a driver license or other picture identification to verify the individual's identity.

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F. A provider shall not admit an enrolled child to the child care group home if the child's presence will cause the child care group home to violate R9-3-306 or exceed its certified capacity.

R9-3-311. Illness and Infestation

A. A provider shall exclude an enrolled child from the child care group home when:

1. The child's illness prevents the child from participating in program activities without experiencing discomfort or aggravation of symptoms;
2. The child's illness results in a greater need for care than staff members can provide without compromising the health or safety of other enrolled children;
3. The child's exclusion is required under 9 A.A.C. 6, Article 3; or
4. The child's exclusion is required by Table 2.

B. If an enrolled child exhibits signs of illness or infestation that require exclusion from the child care group home under subsection (A), a provider shall ensure that a staff member:

1. Immediately separates the child from other enrolled children;
2. Notifies the child's parent or, if a parent cannot be reached, an emergency contact by telephone or other expeditious means that the child needs to be picked up from the child care group home; and
3. Makes a written record of the notification and places it in the child's file.

C. A provider shall ensure that a staff member or resident who has signs or symptoms of illness or infestation is excluded when required under 9 A.A.C. 6, Article 3 or using the same criteria as required for an enrolled child under Table 2.

D. If a provider is notified that an enrolled child, staff member, or resident has an infestation or a communicable disease, other than human immunodeficiency virus or a sexually transmitted disease, the provider shall ensure that:

1. Written notice of potential exposure is provided to each staff member and to a parent of each enrolled child within 24 hours after the provider receives notice of the communicable disease or infestation;
2. Notice is provided to the local health agency if required under 9 A.A.C. 6, Article 2;
3. If the communicable disease is vaccine preventable, an enrolled child who lacks proof of immunity to the communicable disease is excluded from the child care group home until:
 - a. The child's parent submits proof of immunity to the provider; or
 - b. The time designated by 9 A.A.C. 6, Article 3 or by the local health agency;
4. If the communicable disease is vaccine preventable, a staff member or resident who lacks proof of immunity to the communicable disease, including a staff member or resident who is exempt from immunization under R9-3-303(A)(7) or R9-3-304(A)(5), is excluded from the child care group home if required by 9 A.A.C. 6, Article 3 or by the local health agency; and
5. An enrolled child, staff member, or resident with the communicable disease or infestation is excluded from the child care group home until the time designated under 9 A.A.C. 6, Article 3 or by the local health agency.

E. If subsection (A), (C), or (D) requires exclusion of a resident, the provider shall:

1. Exclude the resident until exclusion is no longer required, or
2. Close the child care group home until exclusion is no longer required.

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Table 2. Exclusion of an Enrolled Child from the Child Care Group Home

<u>Child's Condition</u>	<u>Exclusion Requirement</u>
<u>Diarrhea</u>	<u>Exclude until diarrhea has been absent for 24 hours without antidiarrheal medication or until a physician, physician assistant, or registered nurse practitioner or the local health agency has stated that the child is noninfectious</u>
<u>Eye discharge, consisting of thick mucus or pus draining from the eye</u>	<u>Exclude until a physician, physician assistant, or registered nurse practitioner or the local health agency has stated that the child is noninfectious or until the condition has resolved</u>
<u>Fever</u>	<u>Exclude until fever has been absent for 24 hours without fever-reducing medication or until a physician, physician assistant, or registered nurse practitioner or the local health agency has stated that the child is noninfectious</u>
<u>Impetigo</u>	<u>Exclude until 24 hours after initial treatment for impetigo</u>
<u>Rash with fever or behavioral change</u>	<u>Exclude until a physician, physician assistant, or registered nurse practitioner or the local health agency has stated that the child is noninfectious or until the condition has resolved</u>
<u>Severe, persistent coughing, such as where the child makes a high-pitched whooping sound after coughing or the coughing is not relieved by a drink of water or, for an asthmatic child, by asthma medication</u>	<u>Exclude until a physician, physician assistant, or registered nurse practitioner or the local health agency has stated that the child is noninfectious</u>
<u>Stools that contain blood or mucus</u>	<u>Exclude until a physician, physician assistant, or registered nurse practitioner or the local health agency has stated that the child is noninfectious</u>
<u>Vomiting two or more times in the previous 24 hours</u>	<u>Exclude until vomiting has been absent for 24 hours, unless a physician, physician assistant, or registered nurse practitioner or the local health agency has stated that the vomiting is caused by a noncommunicable condition and the child is not in danger of dehydration</u>
<u>Yellowish skin or eyes</u>	<u>Exclude until a physician, physician assistant, or registered nurse practitioner or the local health agency has stated that the child is noninfectious</u>

R9-3-312. Suspected Abuse or Neglect of an Enrolled Child

- A.** A provider or staff member shall immediately report suspected abuse or neglect of an enrolled child to Child Protective Services or to a local law enforcement agency, as required by A.R.S. § 13-3620, and to the Department.
- B.** A provider or staff member who reports suspected abuse or neglect shall:
 1. Provide the Department with a copy of the written report provided to Child Protective Services or a local law enforcement agency.
 2. Document each telephonic or in-person report of suspected child abuse or neglect made by the provider or staff member, and
 3. Retain a copy of each written report provided to Child Protective Services or a local law enforcement agency for at least 12 months after the date of the report.

R9-3-313. Administration of Medication

- A.** A provider shall ensure that a written policy statement is prepared, maintained, implemented, and provided to a parent of each enrolled child specifying whether prescription or nonprescription medication may be administered to an enrolled child by a staff member.
- B.** If prescription or nonprescription medication may be administered to an enrolled child by a staff member, the written policy statement shall contain provisions stating that:

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1. The provider or another staff member designated in writing by the provider is responsible for:
 - a. Administering medication at the child care group home.
 - b. Storing medication at the child care group home.
 - c. Supervising the ingestion of medication, and
 - d. Documenting the administration of medication;
 2. At any given time, only one designated staff member at the child care group home is responsible for the duties described in subsection (B)(1);
 3. The designated staff member shall not administer medication to an enrolled child unless the child's parent has submitted a completed Department-provided authorization form for each medication to be administered to the child, including:
 - a. The child's first and last names;
 - b. The name of the medication;
 - c. The prescription number, if any;
 - d. Instructions for administration specifying:
 - i. The dosage.
 - ii. The route of administration.
 - iii. The first and last dates that the medication is to be administered, and
 - iv. The frequency of administration;
 - e. The reason for the medication;
 - f. The signature of the child's parent or of a physician, physician assistant, or registered nurse practitioner; and
 - g. The date of signature;
 4. The designated staff member shall document each administration of medication to an enrolled child on the Department-provided authorization form described in subsection (B)(3), including:
 - a. The date and time of administration;
 - b. The name of the medication;
 - c. The prescription number, if any;
 - d. The dose of medication administered; and
 - e. The signature of the designated staff member who administered the medication to the child; and
 5. The designated staff member shall:
 - a. Measure liquid medication for oral ingestion using a measuring device designed and manufactured for measuring liquid medication;
 - b. Administer prescription medication to an enrolled child only:
 - i. From a container dispensed by a pharmacy and accompanied by a pharmacy-generated prescription label that includes the child's first and last names and administration instructions;
 - ii. From a container dispensed by a pharmacy and accompanied by administration instructions for the child to receive the medication written and signed by a physician, physician assistant, or registered nurse practitioner; or
 - iii. From a container prepackaged and labeled as a manufacturer's sample; labeled with the child's first and last names; and accompanied by administration instructions for the child to receive the medication written and signed by a physician, physician assistant, or registered nurse practitioner;
 - c. Administer nonprescription medication to an enrolled child only from a container prepackaged and labeled for use by the manufacturer and labeled with the child's first and last names; and
 - d. Not administer a medication that has been transferred from one container to another.
- C.** A provider shall allow an enrolled child to receive an injection at the child care group home only after obtaining written authorization from a physician, physician assistant, or registered nurse practitioner. An injection may be administered at a child care group home by an individual authorized by state law to give injections or, in an emergency, by any individual as permitted under A.R.S. §§ 32-1421(A)(1) and 32-1631(2).
- D.** A provider shall return unused prescription or nonprescription medication to a parent when the medication is no longer being administered to the enrolled child or when the medication has expired, whichever comes first. If a child is no longer enrolled at a child care group home, and the provider is unable to locate the child's parent, the provider shall dispose of the medication according to state and federal laws.
- E.** A provider shall ensure that all medication is stored in compliance with the following:
1. Medication belonging to enrolled children shall be stored in a locked, leakproof storage cabinet or container that is used only for storing medication belonging to enrolled children and that is inaccessible to enrolled children;
 2. Medication belonging to staff members and residents shall be stored in a locked, leakproof storage cabinet or container that is used only for storing medication belonging to staff members and residents and that is inaccessible to enrolled children; and
 3. Medication that requires refrigeration shall be stored in locked, leakproof containers in a refrigerator, with the medication for enrolled children stored separately from the medication for staff members and residents.

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E. A provider shall ensure that a child care group home does not stock a supply of prescription or nonprescription medication for administration to enrolled children.

R9-3-314. First-Aid Kit

A provider shall ensure that a child care group home has a first-aid kit that is located in an area accessible to staff members but inaccessible to enrolled children. The first-aid kit shall contain at least the following:

1. Adhesive bandages of assorted sizes,
2. Antiseptic solution or sealed antiseptic wipes,
3. Sterile gauze pads,
4. Disposable medical-grade gloves,
5. Disposable resealable plastic bags of at least one-gallon size,
6. Scissors, and
7. Medical tape.

R9-3-315. Accident, Emergency, or Serious Injury Procedure

If an enrolled child has an accident, emergency, or serious injury while at the child care group home, the provider shall:

1. Ensure that treatment is provided to the enrolled child, including CPR or first aid as needed;
2. Call 9-1-1 if urgent medical treatment is needed;
3. Within 30 minutes after the accident, emergency, or serious injury, notify a parent of the child or, if the provider is unable to locate and notify a parent of the child, an emergency contact; and
4. Document:
 - a. The date, time, location, and circumstances of the child's accident, emergency, or serious injury;
 - b. The method used to notify the parent or emergency contact; and
 - c. The time that the parent or emergency contact was notified.

ARTICLE 4. PROGRAM AND EQUIPMENT STANDARDS

R9-3-401. General Program and Equipment Standards

A provider shall ensure that:

1. The health, safety, or welfare of an enrolled child is not endangered;
2. An enrolled child is not subjected to abuse or neglect at the child care group home;
3. The child care group home's buildings, activity areas, and indoor and outdoor play equipment are maintained in good repair and free from hazards;
4. The child care group home has sufficient play materials and equipment to meet the needs of the enrolled children in attendance at the child care group home;
5. Each enrolled child is cleaned as necessary after a meal or activity;
6. The program at the child care group home is:
 - a. Structured to meet the following:
 - i. The age and developmental level of each enrolled child;
 - ii. The needs of each enrolled child; and
 - iii. The enrolled children's need for familiarity, consistency, and routine; and
 - b. Based upon a weekly schedule that includes:
 - i. Routines, such as meals and snacks and rest periods, that follow a familiar and consistent pattern;
 - ii. If weather and air quality permit, outdoor activities;
 - iii. Stories, music, dancing, singing, and reading;
 - iv. Listening and talking opportunities; and
 - v. Creative activities such as water play, cutting and pasting, painting, coloring, dramatic play, and playing with blocks;
7. An enrolled child is bathed at the child care group home only if the child's parent has provided written consent for bathing and bathing instructions;
8. If swimming is included in the program, the following requirements are met:
 - a. An enrolled child is allowed to swim at the child care group home only if the child's parent has provided written consent for swimming;
 - b. An individual who satisfies the following is stationed at the swimming pool in a location that enables the individual to see clearly all parts of the swimming pool, including the bottom, at all times while enrolled children are using the swimming pool:
 - i. The individual shall be the provider, the assistant provider, or an adult staff member with a high school diploma or high school equivalency diploma; and
 - ii. The individual shall have completed American Red Cross Basic Water Rescue training; and

9. Drinking water is available to enrolled infants and 1- or 2-year old children and is accessible to older enrolled children at all times.

R9-3-402. Supplemental Standards for Resting or Sleeping

A provider shall ensure that:

1. There is a separate bed, cot, mat, or crib for each enrolled child who needs to rest or sleep at the child care group home, and each enrolled child is allowed to sleep only on a bed or crib mattress or on a cot or mat;
2. A waterbed is not used by an enrolled child;
3. A bunk bed is not used by an enrolled child unless the enrolled child rests or sleeps on the bottom bunk;
4. No other individual lies down or otherwise is physically located on the same bed, cot, or mat or in the same crib with an enrolled child;
5. Each bed, cot, mat, or crib used by an enrolled child is stable, constructed so that it does not create a hazard, large enough to accommodate the size and weight of the child, clean, and in good repair;
6. Crib use meets the following requirements:
 - a. Each crib is commercially manufactured;
 - b. Each crib has sides that are made of:
 - i. A solid material, or
 - ii. Bars spaced no more than 2 3/8 inches apart;
 - c. A playpen is not used in place of a crib;
 - d. Stacked cribs are not used;
 - e. Each crib is used with a crib mattress that:
 - i. Leaves no more than a 1/2 inch gap between the mattress and each side of the crib, and
 - ii. Is commercially waterproofed or completely and tightly covered with a waterproof crib mattress cover;
 - f. Each crib and crib mattress is cleaned and sanitized when soiled;
 - g. When in use, the top surface of each crib mattress is completely covered with a clean, fitted sheet designed for the crib mattress size;
 - h. Each sheet used in a crib is laundered:
 - i. Before being used by an enrolled child,
 - ii. When it becomes soiled, and
 - iii. At least every 24 hours;
 - i. No mechanical restraint of any kind is used in a crib;
 - j. No bumper pads or soft toys, pillows, or bedding items are in a crib while an infant is in the crib;
 - k. An infant is placed to sleep on the infant's back, unless the infant's physician, physician assistant, or registered nurse practitioner has instructed otherwise in writing; and
 - l. An infant is not placed to sleep using a positioning device that restricts movement, unless the infant's physician, physician assistant, or registered nurse practitioner has instructed otherwise in writing;
7. Each mat used by an enrolled child is in good repair and free of rips and tears;
8. When in use, the top surface of each bed mattress, cot, or waterproof mat is completely covered with a clean sheet or similar covering; and
9. Each sheet or similar covering used on a bed mattress, cot, or waterproof mat or each machine-washable mat is laundered:
 - a. If used by only one enrolled child each week, at least weekly;
 - b. If used by more than one enrolled child each week, before being used by each child; and
 - c. Whenever it becomes soiled.

R9-3-403. Supplemental Standards for Care of an Enrolled Infant or 1- or 2-Year-Old Child

A provider caring for an enrolled infant or 1- or 2-year-old child shall ensure that:

1. Each infant or 1- or 2-year-old child is spoken to and held by staff members frequently throughout the day;
2. A staff member responds promptly to the distress signals of an infant or 1- or 2-year-old child;
3. An infant or 1- or 2-year-old child does not spend more than 30 consecutive minutes of time while awake in a crib, playpen, high chair, or other confining structure or piece of equipment;
4. Each infant or 1-year-old child is allowed to maintain an individual pattern of sleeping, waking, and eating, unless the infant's or child's parent has instructed otherwise;
5. An infant's formula, breast milk, or other food is prepared, stored, and fed according to written instructions from the infant's parent;
6. An infant or 1-year-old child is not fed cereal by bottle, unless the infant's or child's physician, physician assistant, or registered nurse practitioner has instructed otherwise in writing;
7. A staff member holds and feeds an infant younger than 6 months of age or an older infant who cannot hold a bottle for feeding;

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8. A staff member seats an infant who is no longer being held for feeding or a 1- or 2-year-old child in a high chair or at a table with a chair that allows the infant or child to reach food while sitting;
9. Each high chair is equipped with a safety strap that is secured while an infant or child is seated in the high chair;
10. Only water is provided in a naptime or bedtime bottle or sippy cup given to an infant or 1- or 2-year-old child;
11. A used bottle or sippy cup is promptly removed from a crib or bed, emptied, and cleaned;
12. A staff member frequently checks the diaper of each infant or 1- or 2-year-old child and changes a diaper as soon as it is wet or soiled;
13. Age-appropriate materials and equipment meeting the interests and needs of an infant or 1- or 2-year-old child, as applicable, are provided and are available at all times to the enrolled children at the child care group home, including:
 - a. Books, including some cloth books;
 - b. Medium-sized rubber or soft plastic balls;
 - c. Manipulative toys;
 - d. Blocks and block accessories;
 - e. Washable soft toys and dolls;
 - f. Large muscle equipment; and
 - g. Musical instruments;
14. Toys provided for an infant or 1- or 2-year-old child are too large to swallow; and
15. A child is not permitted to use a walker.

R9-3-404. Supplemental Standards for Care of an Enrolled 3-, 4-, or 5-Year-Old Child

A provider caring for an enrolled 3-, 4-, or 5-year-old child shall ensure that age-appropriate materials and equipment meeting the interests and needs of a 3-, 4-, or 5-year-old child, as applicable, are provided and are accessible at all times to the enrolled children at the child care group home, including:

1. Art supplies.
2. Blocks and block accessories.
3. Books.
4. A dramatic play area with toys and dress-up clothes.
5. Large muscle equipment.
6. Manipulatives.
7. Science materials, and
8. Musical instruments.

R9-3-405. Supplemental Standards for Care of an Enrolled School-Age Child

A provider caring for an enrolled school-age child shall ensure that age-appropriate materials and equipment meeting the interests and needs of a school-age child are provided and are accessible at all times to the enrolled children at the child care group home, including:

1. Art and craft supplies.
2. Games.
3. Sports equipment.
4. Books.
5. Science materials, and
6. Manipulatives.

R9-3-406. Supplemental Standards for Care of an Enrolled Special Needs Child

- A.** Before a special needs child first attends a child care group home, the provider shall obtain from the child's parent:
1. A copy of any existing individualized plan for the child that can be reviewed, adopted, and followed by the provider when caring for the child; or
 2. If there is no existing individualized plan available for a special needs child before first attendance, the child's parent's written instructions for providing care for the child.
- B.** If a provider does not receive an individualized plan before a special needs child's first attendance, the provider shall require that a written individualized plan be developed within 30 days after the child's first attendance by a team consisting of the provider, the child's parent, and at least one health care provider.
- C.** An individualized plan shall include the following, as applicable for the child:
1. A medication schedule;
 2. Nutrition and feeding instructions;
 3. A description of the training required for a staff member who feeds the child;
 4. Documentation of which staff members have completed the training required to feed the child;
 5. Instructions for medical equipment or adaptive devices used by the child;
 6. Emergency instructions;
 7. Toileting and personal hygiene instructions;

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8. Identification of specific child care services to be provided at the child care group home;
9. Information from health care providers, including the frequency and length of any prescribed medical treatment or therapy;
10. A description of the training required for a staff member who cares for the child;
11. Documentation of which staff members have received the training required to care for the child; and
12. Instructions for fire evacuation drills.

D. A provider shall ensure that:

1. An enrolled child's individualized plan is implemented;
2. An individualized plan is updated at least once every 12 months after the date of the initial plan and as changes occur;
3. A special needs child's parent is provided a copy of the individualized plan;
4. A staff member does not prepare formula for tube-feeding a special needs child;
5. All formula for tube-feeding a special needs child is commercially prepackaged in a ready-to-use state or brought by the child's parent in an unbreakable container;
6. A staff member feeds a special needs child using a feeding apparatus or clears a feeding apparatus only after receiving instruction from the child's parent or an individual designated by the child's parent;
7. A special needs child is provided with developmentally appropriate toys, materials, and equipment, which are accessible to the special needs child at all times;
8. A staff member assists a special needs child as necessary to enable the child to participate in activities at the child care group home;
9. A special needs child who uses a wheelchair or is not able to walk is cared for only on the ground floor of the child care group home;
10. When a staff member transports a special needs child in a wheelchair in a motor vehicle, the following requirements are met:
 - a. The child's wheelchair is secured in the motor vehicle using at least four anchorages attached to the motor vehicle floor and at least four securement devices, such as straps or webbing with buckles and fasteners, that attach the wheelchair to the anchorages;
 - b. The child is secured in the wheelchair by means of a wheelchair restraint that is a combination of pelvic and upper body belts intended to secure a passenger in a wheelchair; and
 - c. The child's wheelchair is placed in a position in the motor vehicle that does not prevent access to the child in the wheelchair or passage to the front and rear of the motor vehicle.

R9-3-407. Supplemental Standards for Evening and Nighttime Care

A provider who provides evening or nighttime care shall:

1. Provide each enrolled child receiving evening and nighttime care with a bed, cot, or crib that complies with the standards of R9-3-402;
2. Ensure that each staff member providing evening and nighttime care remains awake until all enrolled children are asleep; and
3. Ensure that each staff member providing evening and nighttime care is allowed to sleep only if the staff member maintains unobstructed access to and unimpaired hearing of sleeping enrolled children.

R9-3-408. Toilet Training

A. A provider shall consult with an enrolled child's parent to establish a mutual and developmentally appropriate plan for toilet training. The provider shall document the plan, implement the plan, and document the ongoing implementation of the plan.

B. A provider shall not force toilet training or allow toilet training to be forced on an enrolled child.

R9-3-409. Discipline and Guidance

A. A provider shall ensure that:

1. Each staff member establishes reasonable rules and limits for enrolled children's behavior and applies them consistently and teaches, models, and uses positive reinforcement to encourage orderly conduct, self-control, and age-appropriate behavior;
2. Each staff member does the following when disciplining an enrolled child:
 - a. Explains to the child why the particular behavior is not allowed,
 - b. Suggests an alternate behavior to the child, and
 - c. Assists the child to become engaged in an alternate activity;
3. If an enrolled child's behavior may result in harm to the child or to another, a staff member holds the child without undue force until the child regains self-control or composure; and
4. An enrolled child is disciplined only by a staff member.

B. A provider shall ensure that a staff member does not use or allow:

1. Discipline that could endanger a child;

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- 2. Corporal punishment; or
- 3. Discipline that involves:
 - a. Eating, napping, sleeping, or toileting;
 - b. Medication;
 - c. Mechanical restraint;
 - d. Humiliation; or
 - e. Fear.
- C. A staff member may separate an enrolled child older than 2 years of age from other children for unacceptable behavior according to the following:
 - 1. A separation period may not last longer than one minute for each year of the child's age, and
 - 2. A separation period may not last longer than 10 minutes.
- D. A staff member may not discipline the staff member's own child in a manner inconsistent with subsections (A) through (C) during hours of operation unless the child is not an enrolled child and the discipline is performed off the premises.

R9-3-410. General Nutrition and Menu Standards

- A. This Section does not apply to infants.
- B. A provider shall ensure that meals and snacks are served to enrolled children in compliance with Table 3.
- C. If a provider provides food for enrolled children, the provider shall ensure that:
 - 1. Each meal or snack is prepared and served according to the meal pattern requirements in Table 4;
 - 2. Second servings of food are served to each enrolled child at meal time and snack time, if requested by the child;
 - 3. The same food item, other than milk, is not served more than once in a single day;
 - 4. During each week, meals include a variety of foods from each food group in the meal pattern requirements in Table 4;
 - 5. Milk served to an enrolled child older than 2 years of age is 1% fat or skim milk;
 - 6. High fat or high sugar food items such as muffins, brownies, cakes, or cookies are served to satisfy a meal or snack category no more than twice each week; and
 - 7. High sugar cereal is served to satisfy a meal or snack category no more than twice each week.
- D. If a parent who provides food for the parent's enrolled child does not provide milk or juice for the child, the provider shall provide milk or juice to the child.
- E. A provider shall maintain a supply of food sufficient to serve the meals and snacks required by this Section to be served to each enrolled child attending the child care group home in a single day.
- F. A provider shall:
 - 1. Prepare a weekly menu specifying the foods to be served at each meal and snack on each day and identifying which food meets each category required in Table 4,
 - 2. Date each menu,
 - 3. Post each menu before the first meal or snack of the week on the menu, and
 - 4. Write food substitutions on a posted menu no later than the morning of the day of the meal or snack to which the substitution applies.

Table 3. Meals and Snacks Required to Be Served to Enrolled Children

<u>Times Enrolled Child Is at Child Care Group Home</u>	<u>Child Required to Be Served</u>
<u>Before 8:00 a.m.</u>	<u>Breakfast, if requested by parent or child</u>
<u>Between 8:00 a.m. and 11:00 a.m.</u>	<u>At least one snack</u>
<u>Between 11:00 a.m. and 1:00 p.m.</u>	<u>Lunch</u>
<u>Between 1:00 p.m. and 5:00 p.m.</u>	<u>At least one snack</u>
<u>Between 5:00 p.m. and 7:00 p.m., if staying beyond 7:00 p.m.</u>	<u>Dinner</u>
<u>Between 7:00 p.m. and 9:00 p.m., if staying beyond 9:00 p.m.</u>	<u>At least one snack</u>

Table 4. Meal Pattern for Children

<u>BREAKFAST</u> (Each breakfast shall include at least one serving from each category.)			
<u>Categories, denoted by ■</u>	<u>Ages 1 and 2</u>	<u>Ages 3 through 5</u>	<u>Ages 6 through 12</u>
■ Milk, fluid	1/2 cup	3/4 cup	1 cup
■ Vegetable, fruit, or 100% full-strength juice	1/4 cup	1/2 cup	1/2 cup
■ Grains/breads (whole grain or enriched)			
Bread; or	1/2 slice	1/2 slice	1 slice
Cornbread, rolls, muffins, or biscuits; or	1/2 serving	1/2 serving	1 serving
Cold dry cereal (served by volume or weight, whichever is less); or	1/4 cup, or 1/3 oz.	1/3 cup, or 1/2 oz.	3/4 cup, or 1 oz.
Cooked cereal, pasta, noodle products, or cereal grains	1/4 cup	1/4 cup	1/2 cup
<u>LUNCH OR DINNER</u> (Each lunch or dinner shall include at least one serving from each category.)			
<u>Categories, denoted by ■</u>	<u>Ages 1 and 2</u>	<u>Ages 3 through 5</u>	<u>Ages 6 through 12</u>
■ Milk, fluid	1/2 cup	3/4 cup	1 cup
■ Vegetable, fruit, or 100% full-strength juice (two or more)	1/4 cup total	1/2 cup total	3/4 cup total
■ Grains/breads (whole grain or enriched)			
Bread; or	1/2 slice	1/2 slice	1 slice
Cornbread, rolls, muffins, or biscuits; or	1/2 serving	1/2 serving	1 serving
Cooked cereal, pasta, noodle products, or cereal grains	1/4 cup	1/4 cup	1/2 cup
■ Meat and meat alternatives ¹			
Lean meat, fish, or poultry (edible portion as served); or	1 oz.	1 1/2 oz.	2 oz.
Cheese; ² or	1 oz.	1 1/2 oz.	2 oz.
Egg; or	1 egg	1 egg	1 egg
Cooked dry beans or peas; ³ or	1/4 cup	3/8 cup	1/2 cup
Yogurt (low fat or nonfat); or	1/2 cup, or 4 oz.	3/4 cup, or 6 oz.	1 cup, or 8 oz.
Peanut butter, soy nut butter, or other nut or seed butters; or	2 Tbsp.	3 Tbsp.	4 Tbsp.
Peanuts, soy nuts, tree nuts, or seeds; or	1/2 oz.	3/4 oz.	1 oz.
An equivalent quantity of any combination of the above meat and meat alternatives			
<u>SNACKS</u> (Each snack shall include at least one serving from each of two categories.) ⁴			

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Categories, denoted by ■	Ages 1 and 2	Ages 3 through 5	Ages 6 through 12
■ Milk, fluid	<u>1/2 cup</u>	<u>1/2 cup</u>	<u>1 cup</u>
■ Vegetable, fruit, or 100% full-strength juice	<u>1/2 cup</u>	<u>1/2 cup</u>	<u>3/4 cup</u>
■ Grains/breads (whole grain or enriched)			
<u>Bread; or</u>	<u>1/2 slice</u>	<u>1/2 slice</u>	<u>1 slice</u>
<u>Cornbread, rolls, muffins, or biscuits; or</u>	<u>1/2 serving</u>	<u>1/2 serving</u>	<u>1 serving</u>
<u>Cold dry cereal (served by volume or weight, whichever is less); or</u>	<u>1/4 cup, or 1/3 oz.</u>	<u>1/3 cup, or 1/2 oz.</u>	<u>3/4 cup, or 1 oz.</u>
<u>Cooked cereal, pasta, noodle products, or cereal grains</u>	<u>1/4 cup</u>	<u>1/4 cup</u>	<u>1/2 cup</u>
■ Meat and meat alternatives			
<u>Lean meat, fish, or poultry (edible portion as served); or</u>	<u>1/2 oz.</u>	<u>1/2 oz.</u>	<u>1 oz.</u>
<u>Cheese;² or</u>	<u>1/2 oz.</u>	<u>1/2 oz.</u>	<u>1 oz.</u>
<u>Egg; or</u>	<u>1/2 egg</u>	<u>1/2 egg</u>	<u>1 egg</u>
<u>Yogurt (low fat or nonfat); or</u>	<u>1/4 cup</u>	<u>1/4 cup</u>	<u>1/2 cup</u>
<u>Cooked dry beans or peas;⁶ or</u>	<u>1/8 cup</u>	<u>1/8 cup</u>	<u>1/4 cup</u>
<u>Peanut butter, soy nut butter, or other nut or seed butters; or</u>	<u>1 Tbsp.</u>	<u>1 Tbsp.</u>	<u>2 Tbsp.</u>
<u>Peanuts, soy nuts, tree nuts, or seeds; or</u>	<u>1/2 oz.</u>	<u>1/2 oz.</u>	<u>1 oz.</u>
<u>An equivalent quantity of any combination of the above meat and meat alternatives</u>			

¹ No more than 50% of the requirement may be met with nuts or seeds. If nuts or seeds are served, they are required to be combined with another meat or meal alternative to meet the requirement. For the purpose of determining combinations, one ounce of nuts or seeds is equal to one ounce of cooked lean meat, fish, or poultry.

² Only natural or processed cheese may be served.

³ Dried beans and dried peas may be used as a meat alternative or as a vegetable in the same meal service, but each can satisfy only one category requirement in each meal.

⁴ Juice may not be served when milk is the only other category served.

⁵ Only natural or processed cheese may be served.

⁶ Dried beans and dried peas may be used as a meat alternative or as a vegetable in the same meal service, but each can satisfy only one category requirement in each meal.

R9-3-411. General Food Service and Food Handling Standards

A. A provider shall ensure that:

1. Except as provided in subsection (B), each staff member washes the staff member's hands with soap and running water before handling food, between food handling tasks, and before serving food;
2. Except as provided in subsection (B), enrolled children, except infants and special needs children who cannot wash their own hands, wash their hands with soap and running water before handling or eating food;
3. A staff member washes with a washcloth or disposable wipes the hands of an infant or of a special needs child who cannot wash the child's own hands before the infant or special needs child handles or eats food and uses each washcloth or disposable wipe only once before it is laundered or discarded;
4. A staff member encourages, but never forces, an enrolled child to eat;
5. A staff member assists each enrolled child who needs assistance with eating;
6. A staff member teaches self-feeding skills to each enrolled child as necessary;
7. Food served to an enrolled child younger than 5 years of age is prepared so as not to present a choking hazard;
8. Each enrolled child is supplied with drinking and eating utensils for the child's own use;

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9. Each enrolled child's bottle or sippy cup is marked with at least the child's last name and first initial;
 10. An enrolled child is not allowed to drink from the bottle, sippy cup, cup, or glass of another child or another individual;
 11. An enrolled child is not allowed to eat food directly off of the floor, carpet, or ground;
 12. An enrolled child's parent is notified when the child consistently refuses to eat or exhibits unusual eating behavior;
 13. Each staff member is informed of a modified diet prescribed for an enrolled child by the child's parent, physician, physician assistant, or registered nurse practitioner;
 14. The food served to an enrolled child is consistent with a modified diet prescribed for the child by the child's parent, physician, physician assistant, or registered nurse practitioner;
 15. After each use, non-single-use utensils and equipment used in preparing, eating, or drinking food are:
 - a. Washed in an automatic dishwasher and air dried or heat dried; or
 - b. Washed in hot soapy water, rinsed in clean water, sanitized, and air dried or heat dried;
 16. Single-use utensils and equipment are disposed of after being used;
 17. Perishable foods, including perishable foods in sack lunches, are covered and stored in a refrigerator at a temperature of 45° F or below;
 18. A refrigerator at the child care group home maintains a temperature of 45° F or below, as shown by a thermometer kept in the refrigerator at all times;
 19. A freezer at the child care group home maintains a temperature of 32° F or below, as shown by a thermometer kept in the freezer at all times;
 20. Only pasteurized milk is served;
 21. Fresh milk is served undiluted directly from the original, commercially filled container, and unused portions of individual servings are not returned to the original container;
 22. Reconstituted dry milk is not served to meet the fluid milk requirement;
 23. Juice served to enrolled children for a meal or snack is pasteurized full-strength 100% vegetable or 100% fruit juice from an original, commercially filled container or reconstituted from a concentrate according to manufacturer directions;
 24. Fruit drinks that are not full-strength 100% fruit juice, such as juice cocktail, lemonade, fruit punch, or a drink made from a powder, syrup, or concentrate other than 100% juice concentrate, are pasteurized and are not served in place of full-strength 100% vegetable or 100% fruit juice;
 25. Foods are prepared as close as possible to serving time and, if prepared in advance, are either:
 - a. Cold held at a temperature of 45° F or below or hot held at a temperature of 130° F or above until served; or
 - b. Cold held at a temperature of 45° F or below and then reheated to a temperature of at least 165° F before being served;
 26. Food leftover from a meal served family style or from the provider's family meal is not served to an enrolled child;
 27. Foods are prepared in a manner that maintains nutrients, proper temperature, flavor, texture, and appearance; and
 28. A food is not served past its expiration date or after it has begun to spoil.
- B.** If soap and running water are not available at a location where food is served, such as on a field trip, disposable wipes followed by liquid alcohol-based hand sanitizer may be used as a substitute for washing hands with soap and running water.

R9-3-412. Transportation of Enrolled Children

- A.** A provider shall not transport or allow a staff member to transport an enrolled child in a motor vehicle without written authorization from the child's parent.
- B.** A provider shall ensure that:
1. A copy of the Emergency Information and Immunization Record Card for each enrolled child being transported is in the motor vehicle during transportation;
 2. The name, address, and telephone number of the child care group home is posted in a conspicuous location within the motor vehicle during transportation;
 3. Each motor vehicle used by a staff member to transport an enrolled child is maintained in a mechanically safe condition;
 4. The service and repair records for each motor vehicle used by a staff member to transport an enrolled child are maintained at the child care group home as required by R9-3-305;
 5. Each motor vehicle used by a staff member to transport an enrolled child is:
 - a. Currently registered in Arizona as required under A.R.S. § 28-2153; and
 - b. Insured under a motor vehicle insurance policy that complies with R9-3-309(A)(2);
 6. Except as permitted under R9-3-413(C), an individual who transports an enrolled child in a motor vehicle:
 - a. Is a staff member;
 - b. Is an adult;
 - c. Possesses a current and valid Arizona driver license;
 - d. Carries identification while transporting enrolled children;

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- e. Has current certification in pediatric first aid, including management of a blocked airway; and
- f. Has current certification in CPR specific to infants and children;
- 7. An enrolled child is not transported in a trailer attached to a motor vehicle, a truck bed, or a camper;
- 8. Each enrolled child younger than 5 years of age is secured in a child passenger restraint system while transported in a motor vehicle, as required under A.R.S. § 28-907;
- 9. Each enrolled child who is 5 years of age or older is secured with an adjustable lap belt or an integrated lap and shoulder belt while transported in a motor vehicle;
- 10. An enrolled child is not transported in the front seat of a motor vehicle equipped with a passenger-side airbag unless the passenger-side airbag has been disarmed;
- 11. A staff member is not permitted to stand or sit on the floor of a motor vehicle while the motor vehicle is in motion;
- 12. Each motor vehicle used to transport enrolled children is equipped with:
 - a. An operational heating system;
 - b. An operational air-conditioning system;
 - c. A first-aid kit that meets the requirements of R9-3-314;
 - d. Two clean towels or blankets; and
 - e. Drinking water in an amount sufficient to meet the needs of each enrolled child in the motor vehicle and sufficient cups or other drinking receptacles so that each individual in the motor vehicle could drink from a different cup or receptacle;
- 13. An enrolled child is not allowed to open or close the door of a motor vehicle used to transport an enrolled child;
- 14. The driver of a motor vehicle used to transport an enrolled child does not wear headphones or earphones or use a wireless telephone while transporting an enrolled child;
- 15. An enrolled child is loaded and unloaded in a safe area located away from any hazard;
- 16. Each door of a motor vehicle used to transport an enrolled child is locked while the motor vehicle is in motion;
- 17. An enrolled child is never left unattended in a motor vehicle;
- 18. The driver of a motor vehicle used to transport an enrolled child removes the ignition key and sets the emergency brake before exiting the motor vehicle; and
- 19. The Department is notified by telephone or other equally expeditious means within 24 hours after a motor vehicle accident that involves a motor vehicle transporting an enrolled child.

R9-3-413. Field Trips

- A.** A provider shall not take an enrolled child on a field trip unless, before the field trip, the provider has obtained the dated signature of the child's parent on a written permission notice that includes:
 - 1. The child's name;
 - 2. The purpose of the field trip;
 - 3. The name of the field trip destination;
 - 4. The street address and, if available, the telephone number of the field trip destination;
 - 5. The date of the field trip;
 - 6. The projected time of departure from the child care group home; and
 - 7. The projected time of arrival back at the child care group home.
- B.** A provider shall ensure that:
 - 1. A copy of the Emergency Information and Immunization Record Card for each enrolled child participating in a field trip is taken on the field trip;
 - 2. A list stating the full name of each enrolled child participating in a field trip is taken on the field trip;
 - 3. A staff member ensures that each enrolled child on the list required under subsection (B)(2) is accounted for at all times on a field trip and makes a record of each child's presence at the following times by documenting the time and placing a checkmark on the list next to the name of each child accounted for:
 - a. Immediately before leaving for the field trip or when boarding a motor vehicle;
 - b. Upon arrival at the field trip destination;
 - c. During each hour while at the field trip destination;
 - d. When preparing to leave the field trip destination or when boarding a motor vehicle to return to the child care group home; and
 - e. Upon returning to the child care group home at the end of the field trip;
 - 4. Drinking water in an amount sufficient to meet the needs of each individual participating in a field trip and sufficient cups or other drinking receptacles so that each individual on a field trip can drink from a different cup or receptacle are taken on a field trip;
 - 5. Each enrolled child participating in a field trip wears in plain view written identification stating the name, address, and telephone number of the child care group home; and
 - 6. Each enrolled child participating in a field trip wears out of view written identification stating the full name of the child.

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- C.** A parent who is not a staff member may transport enrolled children in the parent's motor vehicle on a field trip if the provider ensures that:
1. The parent:
 - a. Is an adult.
 - b. Possesses a current and valid Arizona driver license, and
 - c. Carries identification while transporting enrolled children; and
 2. The parent's motor vehicle is:
 - a. Currently registered in Arizona as required under A.R.S. § 28-2153; and
 - b. Insured under an insurance policy that names the parent as a driver and has at least the following liability coverage limits:
 - i. \$15,000 for bodily injury to or death of one person in any one accident,
 - ii. \$30,000 for bodily injury to or death of two or more persons in any one accident, and
 - iii. \$10,000 for injury to or destruction of property of others in any one accident.

ARTICLE 5. PHYSICAL ENVIRONMENT STANDARDS

R9-3-501. General Physical Environment Standards

- A.** A child care group home shall have:
1. At least 30 square feet of floor space in indoor certified areas for each enrolled child, not including the following:
 - a. A kitchen,
 - b. A bathroom,
 - c. A laundry room,
 - d. A workshop room,
 - e. A hallway, or
 - f. A garage that has not been converted into living space;
 2. Indoor bathroom facilities with at least one working toilet and one working sink available for each 10 enrolled children at the child care group home, excluding enrolled children who are in diapers;
 3. At least two unobstructed, usable exits to the outside that are available for enrolled children to use; and
 4. An outdoor activity area that complies with R9-3-502.
- B.** A provider shall ensure that each indoor certified area is maintained at a temperature between 68° F and 82° F during hours of operation.
- C.** A provider shall ensure that the lighting in each indoor certified area is sufficient to enable a staff member to see each enrolled child in the certified area.

R9-3-502. Outdoor Activity Area Standards

- A.** A child care group home shall have an outdoor activity area that:
1. Is at least 375 square feet in size;
 2. Directly borders the residential building;
 3. Provides easy access to indoor activity areas and to bathroom facilities;
 4. Includes shaded areas large enough to accommodate all enrolled children occupying the outdoor activity area at any time;
 5. Is accessible by a safe route;
 6. Has a resilient surface under and around each climbing structure, swing, and slide that consists of:
 - a. Six inches of fine loose sand or wood fiber product, or
 - b. A nonhazardous material documented in laboratory resiliency testing by the manufacturer to provide resiliency equivalent to the resiliency of six inches of fine loose sand or wood fiber product;
 7. If it contains play equipment, has play equipment that:
 - a. Is arranged to eliminate hazards and minimize conflict; and
 - b. If taller than 48 inches, is anchored securely with anchors that pose no hazard to children and that are installed below the ground and under resilient surface material; and
 8. Unless subsection (C) applies, is totally enclosed by a fence that:
 - a. Is at least four feet high;
 - b. Is constructed so that it is strong and stable;
 - c. Is secured to the ground;
 - d. Does not have any vertical or horizontal open space that exceeds four inches at any point, including any space on a gate; and
 - e. Has a gate that is kept closed and latched while enrolled children are in the outdoor activity area.
- B.** A provider shall ensure that:
1. Only enrolled children, staff members, the provider's children, and child friends of the provider's children are permitted in an outdoor activity area during outdoor activities;

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2. If fine loose sand, wood fiber product, or another loose material is used to provide a resilient surface in an outdoor activity area, the loose material is maintained to retain resiliency; and
3. If foam or rubber mats are used to provide a resilient surface in an outdoor activity area, the foam or rubber mats are not placed directly on top of cement, asphalt, or concrete.
- C.** If the property adjoining an outdoor activity area has a swimming pool that is not enclosed by a fence that complies with the requirements of R9-3-503(B), the fence around the outdoor activity area shall comply with the requirements of R9-3-503(B) and be kept locked during hours of operation unless prohibited by the local fire code.
- D.** A certificate holder whose child care group home was certified before the effective date of this Section is required to have a resilient surface under and around each climbing structure, swing, and slide in an outdoor activity area, but is not required to comply with subsection (A)(6)(a) or (b) until one year after the effective date of this Section.

R9-3-503. Swimming Pool Standards

- A.** A provider shall ensure that a swimming pool used by an enrolled child at a child care group home:
1. Conforms to manufacturer's specifications for installation and operation and to all applicable local ordinances;
 2. Contains water that meets one of the following chemical disinfection standards:
 - a. A free chlorine residual between 1.0 and 3.0 ppm as measured by the N, N-Diethyl-p-phenylenediamine test,
 - b. A free bromine residual between 2.0 and 4.0 ppm as measured by the N, N-Diethyl-p-phenylenediamine test, or
 - c. An oxidation-reduction potential equal to or greater than 650 millivolts; and
 3. Is equipped with the following:
 - a. An operational water circulation system that clarifies and disinfects the swimming pool water continuously and that includes at least:
 - i. A removable strainer,
 - ii. Two swimming pool inlets located on opposite sides of the swimming pool, and
 - iii. A drain located at the swimming pool's lowest point and covered by a grating that cannot be removed without using tools;
 - b. An operational vacuum cleaning system; and
 - c. The following items, which shall be accessible whenever the swimming pool is in use:
 - i. A ring buoy attached to a 1/2 inch diameter rope at least 25 feet in length, and
 - ii. A shepherd's crook.
- B.** A provider shall ensure that a swimming pool at the child care group home is totally enclosed by a fence that:
1. Separates the swimming pool from all other outdoor areas;
 2. Is secured to the ground;
 3. Is constructed so that it is strong and stable;
 4. Is at least five feet high;
 5. Has a self-closing, self-latching, lockable gate; and
 6. Does not have any vertical or horizontal open space that exceeds four inches at any point, including any space on a gate.
- C.** A provider shall ensure that:
1. During periods of use, a swimming pool's water quality is tested at least once each day for compliance with subsection (A)(2), and the results of the water quality tests are documented in a log that includes each testing date and test result and is maintained as required in R9-3-305;
 2. A swimming pool is not used by an enrolled child if a water quality test shows that the swimming pool water does not comply with subsection (A)(2);
 3. Each gate on a fence around a swimming pool on the premises is locked whenever the swimming pool is not in use;
 4. Swimming pool chemicals are kept in a locked storage area that is inaccessible to enrolled children; and
 5. Swimming pool machinery, including a vacuum cleaning system, is inaccessible to enrolled children.
- D.** A provider shall not allow an enrolled child to use or have access to a wading pool.

R9-3-504. Fire Safety Standards

- A.** A provider shall ensure that:
1. The house number of the child care group home's residential building is painted or posted on the premises so that it is clearly visible from the street;
 2. A smoke detector is installed in each indoor activity area used by enrolled children and in each hallway of the child care group home's residential building;
 3. Each smoke detector required under subsection (A)(2):
 - a. Is maintained in an operable condition; and
 - b. Is either battery operated or, if hard-wired into the electrical system of the child care group home's residential building, has a back-up battery;

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4. The child care group home's residential building has at least two portable fire extinguishers that are labeled as rated at least 2A-10-BC by the Underwriters Laboratories, one of which is mounted and maintained in the kitchen;
 5. Each rechargeable fire extinguisher in the child care group home's residential building is inspected and, if necessary, maintained each year and has a current inspection tag attached;
 6. Each disposable fire extinguisher in the child care group home's residential building is checked monthly and is discarded when its indicator reaches the red zone;
 7. Each electrical outlet in a certified area is covered with a safety plug cover or insert when not in use;
 8. If infant care is provided at the child care group home, the child care group home has at least one fire evacuation crib and a sufficient number of fire evacuation cribs to transport each infant in care out of the residential building in one trip;
 9. No appliance, light, or other device with a frayed or spliced electrical cord is used at the child care group home;
 10. No extension cord is used in place of permanent wiring at the child care group home;
 11. No electrical cord is run under a rug or carpeting, over a nail, or from one room to another at the child care group home;
 12. Each electrical, cable, or telephone outlet at the child care group home is covered with a face plate;
 13. Each natural gas line at the child care group home is inspected and repaired as needed and at least annually by a licensed plumber or an individual licensed by the state to inspect and repair gas lines and gas-powered heating and cooling devices;
 14. Each unused natural gas outlet at the child care group home has its valves removed by and is capped at the wall or floor by a licensed plumber or an individual licensed by the state to inspect and repair gas lines and gas-powered heating and cooling devices;
 15. Heating and cooling equipment at the child care group home, such as a wood-burning stove, fireplace, or chimenea, is inaccessible to enrolled children;
 16. No unvented space heater, open-flame space heater, or electric portable heater is used in the child care group home's residential building during hours of operation;
 17. Each fireplace in a certified area is screened;
 18. No candle or incense is burned in the child care group home's residential building during hours of operation;
 19. No smoking is allowed on the premises during hours of operation; and
 20. If the child care group home's residential building is a mobile home, a manufactured home, or a factory-built building, it meets the following requirements:
 - a. The manufactured home or factory-built building was built after 1976, as documented by a certificate issued by the U.S. Department of Housing and Urban Development and permanently attached to the manufactured home or factory-built building, or has been inspected and approved by a structural engineer;
 - b. The mobile home is a rehabilitated mobile home, as documented by an Insignia of Approval issued under A.A.C. R4-34-606;
 - c. The skirting around the mobile home, manufactured home, or factory-built building is permanently attached and surrounds the entire perimeter of the residential building;
 - d. Each stairway or ramp to the mobile home, manufactured home, or factory-built building:
 - i. Is constructed so that it is strong and stable,
 - ii. Is usable, and
 - iii. Has railings; and
 - e. A gas water heater located inside the mobile home, manufactured home, or factory-built building is surrounded by sheet rock.
- B.** A provider shall test the battery for each smoke detector required under subsection (A)(2) each month and shall make a record of each test performed in a smoke detector battery test log. A provider shall replace a smoke detector battery that is no longer charged.
- C.** A provider shall prepare a fire evacuation plan and post the fire evacuation plan in an activity area accessible to staff members. The fire evacuation plan shall include a floor plan of the child care group home's residential building on which lines have been drawn showing the evacuation path.
- D.** A provider shall ensure that an unannounced fire evacuation drill is conducted at least once each month as follows:
1. During a fire evacuation drill, each staff member and enrolled child at the child care group home shall be evacuated from the child care group home according to the fire evacuation plan;
 2. Each fire evacuation drill shall be conducted at a different time of day than the last fire evacuation drill; and
 3. The provider shall make a record of each fire evacuation drill in a fire evacuation drill log, including:
 - a. The date of the fire evacuation drill,
 - b. The time of the fire evacuation drill, and
 - c. The amount of time that it took to evacuate each staff member and enrolled child at the child care group home.

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R9-3-505. General Safety Standards

- A.** A provider shall ensure that enrolled infants and children younger than 5 years of age are cared for only on the ground floor of the child care group home's residential building.
- B.** Except as provided in R9-3-406(D)(9), a provider may care for enrolled children 5 years of age or older on a floor above or below the ground floor of the child care group home's residential building if the floor on which care is provided has an exit that provides access to the ground level outside.
- C.** A provider shall ensure that:
1. A stairway that leads to a floor or room outside of the certified area is separated from the certified area by either a door or gate that is kept closed during hours of operation;
 2. A glass window that is located lower than 36 inches above the floor, a sliding glass door, or another type of glass partition that is located lower than 36 inches above the floor either is made of tempered glass or has conspicuous markings located at a child's eye level;
 3. Firearms and ammunition kept at the child care group home are stored in separate locked areas, locked cabinets, or locked containers inaccessible to and out of the view of enrolled children;
 4. The child care group home has at least one operable telephone readily available in a certified area, as follows:
 - a. If local landline telephone service is not available at the child care group home, as established by documentation, the telephone may be a wireless telephone; and
 - b. If local landline telephone service is available at the child care group home, the child care group home shall have at least one telephone that does not require electricity to operate;
 5. A list of emergency information is posted on or next to the telephone described in subsection (C)(4) and includes:
 - a. The child care group home's address and telephone number,
 - b. 9-1-1, and
 - c. The telephone numbers for the following:
 - i. A poison control center,
 - ii. The local police department, and
 - iii. The local fire department;
 6. Each hazardous material at the child care group home, other than a flammable liquid, is stored in its original or another clearly labeled container and is kept in an area, cabinet, or container that is locked;
 7. Each flammable liquid at the child care group home is stored:
 - a. In its original container;
 - b. In a locked area inaccessible to enrolled children; and
 - c. Away from any heat-producing appliance or equipment, such as a water heater or furnace;
 8. No cord at the child care group home, including an electrical cord, window blind cord, or curtain cord, is accessible to an enrolled child;
 9. Each fan in a certified area is inaccessible to enrolled children and is permanently mounted;
 10. Each poisonous plant in a certified area at the child care group home is inaccessible to enrolled children;
 11. Each irrigation ditch, abandoned mine, or well in the outdoor activity area of the child care group home is inaccessible to enrolled children; and
 12. An enrolled child does not have access to a hot tub, spa, pond, fountain, or portable wading pool or to any other body of water more than one-inch deep that is on the premises.

R9-3-506. General Cleaning and Sanitation Standards

A provider shall ensure that:

1. All certified areas of the child care group home and the furnishings, equipment, supplies, materials, utensils, and toys in those certified areas are kept clean and free of insects and vermin;
2. Each of the child care group home's residential building's direct openings to the outside is screened for insect control;
3. All equipment, materials, and toys used by or accessible to enrolled children are cleaned and disinfected as often as necessary to maintain them in a clean and disinfected condition and, for items used by infants or 1- or 2-year olds, at least once every 24 hours;
4. Each enrolled child's personal items are labeled with at least the child's last name and first initial and, except for diapering products, are stored separately from the personal items of other enrolled children and residents;
5. An enrolled child's wet or soiled clothing is:
 - a. If the clothing is soiled with feces, emptied into a flush toilet without rinsing;
 - b. Placed in a plastic bag labeled with at least the child's first initial and last name;
 - c. Stored in a waterproof container that is tightly covered, lined with a plastic bag, and inaccessible to enrolled children; and
 - d. Sent home with the child;
6. All plumbing fixtures at the child care group home are maintained in operating condition;

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7. The plumbing at the child care group home supplies sufficient water pressure to meet the child care group home's cleaning needs;
8. Each bathroom used by enrolled children at the child care group home has the following within the reach of enrolled children:
 - a. Mounted toilet tissue,
 - b. Dispensed soap, and
 - c. Singly dispensed paper towels;
9. A staff member washes the staff member's hands with soap and running water after toileting;
10. An enrolled child other than a special needs child who cannot wash the child's own hands washes the enrolled child's hands with soap and running water after toileting;
11. After a special needs child who cannot wash the child's own hands uses the toilet, a staff member washes the child's hands with a washcloth or disposable wipes, using each washcloth or disposable wipe on only one child and only one time before it is laundered or discarded;
12. Each toilet bowl, lavatory, bathtub, shower, drinking fountain, bathroom floor, activity area floor, and kitchen floor in a certified area is cleaned and disinfected daily or, if necessary, more often;
13. A bathtub is cleaned and disinfected before being used to bathe an enrolled child and, if used to bathe more than one enrolled child in one day, between each use;
14. Food waste at the child care group home is stored in a waterproof container that is tightly covered and lined with a plastic bag;
15. Food waste and other refuse is removed from the child care group home daily or, if necessary, more often to maintain a clean environment free from odor; and
16. The child care group home has outdoor garbage and trash containers in sufficient quantities to accommodate all waste products of the child care group home.

R9-3-507. Diaper-Changing Standards

- A.** A staff member shall change diapers only in a certified area that is not a kitchen or eating area and that offers access to running water and dispensed soap.
- B.** A provider shall ensure that:
1. A diaper-changing surface is safe and waterproof;
 2. A staff member cleans, sanitizes, and dries a diaper-changing surface before and after each diaper change;
 3. A staff member doing diaper changing washes the staff member's hands with soap and running water before and after each diaper change;
 4. A staff member doing diaper changing wears single-use disposable medical-grade gloves during each diaper change;
 5. A staff member doing diaper changing washes an enrolled child's hands with soap and running water or with a washcloth or disposable wipe after the enrolled child's diaper is changed and uses each washcloth on only one child and only one time before it is laundered and each disposable wipe on only one child and only one time before it is discarded;
 6. Soiled cloth diapers or plastic pants are:
 - a. If soiled with feces, emptied into a flush toilet without rinsing;
 - b. Placed in a plastic bag labeled with at least the child's first initial and last name;
 - c. Stored in a waterproof container that is tightly covered, lined with a plastic bag, and inaccessible to enrolled children; and
 - d. Sent home with the child; and
 7. Soiled disposable diapers and disposable training pants are:
 - a. Stored in a waterproof container that is tightly covered, lined with a plastic bag, and inaccessible to enrolled children; and
 - b. Removed from the diaper-changing area and discarded in an outside waste receptacle once daily or, if necessary, more often to maintain a clean environment free from odor.

R9-3-508. Pet and Animal Standards

A provider shall ensure that:

1. Each dog, cat, or ferret at the child care group home has a current vaccination against rabies;
2. All pet and animal habitats at the child care group home are kept clean;
3. A reptile is not kept at the child care group home;
4. When kept in a certified area of the child care group home, a bird kept at the child care group home is:
 - a. Kept in a cage during hours of operation, and
 - b. Not kept in the kitchen or an eating area of the child care group home;
5. Pets and animals are controlled so that the cleanliness of the child care group home is maintained and no enrolled child, staff member, or other individual at the child care group home is endangered;

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6. All pets and other animals, except cats and dogs, are kept in enclosures that are inaccessible to enrolled children except as an activity;
7. A pet dish is not left on the floor or ground within a certified area, within the reach of enrolled children, or in a kitchen or eating area;
8. Receptacles for pet feces and urine, such as litter boxes, are inaccessible to enrolled children;
9. Pet feces in an outdoor activity area is cleaned up before enrolled children are permitted in the outdoor activity area;
and
10. Enrolled children and staff members are required to wash their hands with soap and running water after an activity involving animals.

NOTICE OF PROPOSED RULEMAKING

TITLE 9. HEALTH SERVICES

**CHAPTER 5. DEPARTMENT OF HEALTH SERVICES
CHILD CARE FACILITIES**

PREAMBLE

1. Sections Affected

Rulemaking Action

R9-5-101	Amend
R9-5-102	Amend
Article 7	Repeal
R9-5-701	Repeal
R9-5-702	Repeal
Table 2	Repeal
R9-5-703	Repeal
R9-5-704	Repeal
R9-5-705	Repeal
R9-5-706	Repeal
R9-5-707	Repeal
R9-5-708	Repeal
Article 8	Repeal
R9-5-801	Repeal
R9-5-802	Repeal
R9-5-803	Repeal
R9-5-804	Repeal
R9-5-805	Repeal
R9-5-806	Repeal
R9-5-807	Repeal
R9-5-808	Repeal
R9-5-809	Repeal
Article 9	Repeal
R9-5-901	Repeal
R9-5-902	Repeal
R9-5-903	Repeal
R9-5-904	Repeal
R9-5-905	Repeal
R9-5-906	Repeal
R9-5-907	Repeal
R9-5-908	Repeal
R9-5-909	Repeal
R9-5-910	Repeal
R9-5-911	Repeal
R9-5-912	Repeal
Article 10	Repeal
R9-5-1001	Repeal
R9-5-1002	Repeal
R9-5-1003	Repeal
R9-5-1004	Repeal
R9-5-1005	Repeal
R9-5-1006	Repeal

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

Authorizing statutes: A.R.S. §§ 36-136(F), 36-883, 36-897.01, and 36-897.02

Implementing statutes: A.R.S. §§ 36-883, 36-897.01, and 36-897.02

3. A list of all previous notices appearing in the Register addressing the proposed rules:

Notice of Rulemaking Docket Opening: 9 A.A.R. 1818, June 6, 2003

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

Name: Lourdes B. Ochoa, State Licensing Manager

Address: Arizona Department of Health Services
Division of Licensing Services
Office of Child Care Licensure
150 N. 18th Avenue, Suite 400
Phoenix, AZ 85007

Telephone: (602) 364-2539

Fax: (602) 364-4768

E-mail: lochoa@hs.state.az.us

or

Name: Kathleen Phillips, Rules Administrator

Address: Arizona Department of Health Services
Office of Administrative Rules
1740 W. Adams, Room 102
Phoenix, AZ 85007

Telephone: (602) 542-1264

Fax: (602) 364-1150

E-mail: kphilli@hs.state.az.us

5. An explanation of the rules, including the agency's reasons for initiating the rules:

This rulemaking amends the rules in 9 A.A.C. 5, Article 1 to remove references specific to child care group homes and, in Articles 7 through 10, repeals all of the rules specific to child care group homes. In a separate rulemaking, proceeding simultaneously with this rulemaking, the Department intends to make new rules for child care group homes in a new Chapter 3 entitled "Child Care Group Homes." The Department is moving the rules for child care group homes to a separate Chapter to make them easier to find and use and to alleviate any confusion caused by their being in the same Chapter with the rules for child care facilities.

6. A reference to any study relevant to the rules that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rules or proposes not to rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

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

Not applicable

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

This rulemaking will minimally benefit the Department and the public because this rulemaking makes it possible for the rules for child care group homes to be adopted in a new Chapter specific to child care group homes. In addition, the Department will incur minimal-to-moderate costs resulting from the rulemaking process. The Department does not anticipate that this rulemaking will have any other economic impacts.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Lourdes B. Ochoa, State Licensing Manager

Address: Arizona Department of Health Services
Division of Licensing Services
Office of Child Care Licensure
150 N. 18th Avenue, Suite 400
Phoenix, AZ 85007

Telephone: (602) 364-2539

Fax: (602) 364-4768

E-mail: lochoa@hs.state.az.us

or

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Name: Kathleen Phillips, Rules Administrator
 Address: Arizona Department of Health Services
 Office of Administrative Rules
 1740 W. Adams, Room 102
 Phoenix, AZ 85007
 Telephone: (602) 542-1264
 Fax: (602) 364-1150
 E-mail: kphilli@hs.state.az.us

10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rules, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rules:

The Department has scheduled the following oral proceedings:

Date	September 15, 2003	September 16, 2003	September 17, 2003	September 18, 2003
Time	9:30 a.m.	10:00 a.m.	10:00 a.m.	12:00 noon
Location	1740 W. Adams Room 411 Phoenix, AZ 85007	400 W. Congress Room 5 Tucson, AZ 85701	1500 E. Cedar Ave. Suite 22 Flagstaff, AZ 86004	9500 S. Avenue 8E College Union Building Palo Verde Room Yuma, AZ 85365
Nature	Oral Proceeding	Oral Proceeding	Oral Proceeding	Oral Proceeding

Written comments on the proposed rulemaking or the preliminary economic, small business, and consumer impact summary may be submitted to the individuals listed in items #4 and #9 until the close of record at 5:00 p.m., September 18, 2003.

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

Not applicable

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

None

13. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

**CHAPTER 5. DEPARTMENT OF HEALTH SERVICES
CHILD CARE FACILITIES**

ARTICLE 1. GENERAL

Section

R9-5-101. Definitions

R9-5-102. Individuals to Act for Applicant, or Licensee, or Certificate Holder Regarding Document, Fingerprinting, and Department-Provided Training Requirements

ARTICLE 7. CHILD CARE GROUP HOME CERTIFICATION REPEALED

Section

R9-5-701. ~~Application for a Certificate~~ Repealed

R9-5-702. ~~Time frames~~ Repealed

Table 2. ~~Time frames (in days)~~ Repealed

R9-5-703. ~~Fingerprinting Requirements~~ Repealed

R9-5-704. ~~Certificate Renewal~~ Repealed

R9-5-705. ~~Changes Affecting a Certificate~~ Repealed

R9-5-706. ~~Change in Provider~~ Repealed

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- R9-5-707. ~~Inspections; Investigations~~ Repealed
- R9-5-708. ~~Denial, Revocation, or Suspension of Certificate~~ Repealed

ARTICLE 8. CHILD CARE GROUP HOME ADMINISTRATION REPEALED

Section

- R9-5-801. ~~Provider Standards and Responsibilities~~ Repealed
- R9-5-802. ~~Personnel Standards and Responsibilities~~ Repealed
- R9-5-803. ~~Facility Staffing~~ Repealed
- R9-5-804. ~~Inspection Reports~~ Repealed
- R9-5-805. ~~Personnel Records and Reports~~ Repealed
- R9-5-806. ~~Children's Records and Reports~~ Repealed
- R9-5-807. ~~Attendance Records; Admission and Release of Children~~ Repealed
- R9-5-808. ~~Insurance~~ Repealed
- R9-5-809. ~~Other Businesses on Facility Premises~~ Repealed

ARTICLE 9. PROGRAM AND EQUIPMENT FOR CHILD CARE GROUP HOMES REPEALED

Section

- R9-5-901. ~~General Program and Equipment Standards~~ Repealed
- R9-5-902. ~~Supplemental Program and Equipment Standards for Infants and Children 2 Years of Age and Younger~~ Repealed
- R9-5-903. ~~Supplemental Equipment Standards for School-age Children~~ Repealed
- R9-5-904. ~~Supplemental Program and Equipment Standards for Special Needs Children~~ Repealed
- R9-5-905. ~~Supplemental Program and Equipment Standards for Night Care~~ Repealed
- R9-5-906. ~~Illness and Infestation~~ Repealed
- R9-5-907. ~~Emergency Medical Care~~ Repealed
- R9-5-908. ~~Medications~~ Repealed
- R9-5-909. ~~Discipline and Guidance~~ Repealed
- R9-5-910. ~~Nutrition and Meals~~ Repealed
- R9-5-911. ~~General Food Service and Food Handling Standards~~ Repealed
- R9-5-912. ~~Transportation of Children and Field Trips~~ Repealed

ARTICLE 10. ACTIVITY AREAS AND PHYSICAL FACILITY STANDARDS FOR CHILD CARE GROUP HOMES REPEALED

Section

- R9-5-1001. ~~Child Care Group Home Activity Areas~~ Repealed
- R9-5-1002. ~~Swimming Pools~~ Repealed
- R9-5-1003. ~~Fire and Safety~~ Repealed
- R9-5-1004. ~~Sanitation~~ Repealed
- R9-5-1005. ~~Diaper Changing~~ Repealed
- R9-5-1006. ~~Pets and Animals Kept on the Premises~~ Repealed

ARTICLE 1. GENERAL

R9-5-101. Definitions

In this Chapter, unless otherwise specified:

1. No change
2. No change
3. No change
4. No change
5. "Activity" means an action planned by a licensee, ~~certificate holder, or provider~~ and performed by a child while supervised by a staff member.
6. "Activity area" means a specific indoor or outdoor space or room of a licensed facility ~~or certified child care group home~~ that is designated by a licensee ~~or certificate holder~~ for use by enrolled children for activities.
7. No change
8. No change
9. No change
10. No change

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11. "Applicant" means an individual or business organization requesting one of the following:
 - a. An initial or renewal license, ~~or~~
 - b. ~~An initial or renewal certificate,~~
 - e. Approval of a change affecting a license under R9-5-206, ~~or~~
 - d. ~~Approval of a change affecting a certificate under R9-5-705.~~
12. "Application" means the documents that an applicant is required to submit to the Department for licensure, ~~certification,~~ or approval of a request for a change affecting a license ~~or a certificate.~~
13. No change
14. "Association or cooperative" means a group of individuals other than a corporation, limited liability company, partnership, joint venture, or public school who have established a governing board and bylaws to operate a facility ~~or a child care group home.~~
15. No change
16. No change
17. No change
18. No change
19. No change
20. "Certificate" means the written authorization issued by the Department to operate a child care group home in Arizona.
21. "Certificate holder" means a person to whom the Department has issued a certificate to operate a child care group home in Arizona.
22. "Certified capacity" means the maximum number of children for whom a certificate holder is authorized by the Department to provide child care services at a child care group home at any given time.
- 23-20. "Change in ownership" means a transfer of controlling legal or controlling equitable interest and authority in a facility ~~or child care group home~~ resulting from a sale or merger of a facility ~~or child care group home.~~
- 24-21. No change
- 25-22. "Child" means:
 - a. ~~For a child care facility,~~ the same as in A.R.S. § 36-881; ~~and~~
 - b. ~~For a child care group home,~~ any individual less than 13 years of age.
- 26-23. No change
- 27-24. No change
28. "Child care group home" has the same meaning as in A.R.S. § 36-897.
- 29-25. "Child care services" means the range of activities and programs provided by a licensee ~~or certificate holder~~ to a child, including personal care, supervision, education, guidance, and transportation.
- 30-26. No change
- 31-27. No change
- 32-28. No change
- 33-29. No change
- 34-30. No change
- 35-31. "Compensation" means money or other consideration, including goods, services, vouchers, time, or another benefit, that is received by a licensee ~~or certificate holder~~ from any individual as payment for child care services or that is received by a staff member from a licensee ~~or certificate holder~~ as payment for working in a child care facility ~~or child care group home.~~
- 36-32. No change
- 37-33. No change
- 38-34. No change
- 39-35. No change
- 40-36. No change
- 41-37. No change
- 42-38. No change
- 43-39. No change
- 44-40. No change
- 45-41. No change
- 46-42. No change
- 47-43. "Enrolled" means placed by a parent and accepted by a licensee ~~or certificate holder~~ for child care services.
- 48-44. No change
- 49-45. "Facility" means:
 - a. ~~In Articles 2 through 6,~~ "child care facility" as defined in A.R.S. § 36-881; ~~and~~
 - b. ~~In Articles 7 through 10,~~ "child care group home." ~~.~~
- 50-46. No change

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~~51-47.~~ “Facility premises” means property that is:

- a. Designated on an application for a license ~~or certificate~~ by the applicant, and
- b. Licensed ~~or certified~~ for child care services by the Department under A.R.S. § Title 36, Chapter 7.1, Article 1 ~~or 4~~ and these rules.

~~52-48.~~ No change

~~53-49.~~ No change

~~54-50.~~ No change

~~55-51.~~ No change

~~56-52.~~ No change

~~57-53.~~ No change

~~58-54.~~ No change

~~59-55.~~ No change

~~60-56.~~ No change

~~61-57.~~ “Hours of operation” means the specific time during a day for which a licensee ~~or certificate holder~~ is licensed ~~or certified~~ to provide child care services.

~~62-58.~~ No change

~~63-59.~~ No change

~~64-60.~~ No change

~~65-61.~~ No change

~~66-62.~~ “Inspection” means:

- a. Onsite examination of a facility by the Department to determine compliance with A.R.S. Title 36, Chapter 7.1, Article 1 and these rules;
- b. ~~Onsite examination of a child care group home by the Department to determine compliance with A.R.S. Title 36, Chapter 7.1, Article 4 and these rules;~~
- e.b. Onsite review of facility ~~or child care group home~~ records or reports by the Department; or
- ~~d.c.~~ Onsite examination of a facility ~~or a child care group home~~ by a local governmental entity.

~~67-63.~~ No change

~~68-64.~~ No change

~~69-65.~~ No change

~~70-66.~~ No change

~~71-67.~~ No change

~~72-68.~~ No change

~~73-69.~~ No change

~~74-70.~~ “Menu” means:

- a. A written description of the food that a facility ~~or child care group home~~ provides and serves as a meal or snack, or
- b. The combination of food that a facility ~~or child care group home~~ provides and serves as a meal or snack.

~~75-71.~~ No change

~~76-72.~~ No change

~~77-73.~~ No change

~~78-74.~~ No change

~~79-75.~~ No change

~~80-76.~~ No change

~~81-77.~~ No change

~~82-78.~~ No change

~~83-79.~~ No change

~~84-80.~~ No change

~~85-81.~~ No change

~~86-82.~~ No change

~~87-83.~~ “Personal reference” means an adult who is familiar with a director’s, ~~a provider’s,~~ or a staff member’s character due to observations made as a friend or acquaintance.

~~88-84.~~ “Physical plant” means a building that houses a facility ~~or a child care group home,~~ or licensed ~~or certified~~ areas within a building that houses a facility ~~or a child care group home,~~ including the architectural, structural, mechanical, electrical, plumbing, and fire protection elements of the building.

~~89-85.~~ No change

~~90-86.~~ No change

~~91-87.~~ No change

~~92-88.~~ No change

~~93-89.~~ No change

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~~94-90.~~“Professional reference” means an adult who is familiar with a director’s, ~~a provider’s,~~ or a staff member’s work abilities due to observations made as a supervisor or leader in a business, school, church, or other organizational setting.

~~95-91.~~No change

~~96.~~“Provider” means the certificate holder or a person the certificate holder designates in writing who, pursuant to applicable statutes and rules, is to be responsible for direct daily supervision, operation and maintenance of the child care group home.

~~97-92.~~No change

~~98-93.~~No change

~~99-94.~~No change

~~100-95.~~No change

~~101-96.~~“Resident” means:

- a. In reference to residency in a child care facility ~~or child care group home,~~ an individual who does not work in the child care facility ~~or child care group home,~~ but who uses the child care facility ~~or child care group home~~ as the individual’s principal place of habitation for 30 days or more during the calendar year; and
- b. In reference to residency in Arizona, the same as in A.R.S. § 43-104.

~~102-97.~~No change

~~103-98.~~No change

~~104-99.~~No change

~~105-100.~~No change

~~106-101.~~No change

~~107-102.~~No change

~~108-103.~~No change

~~109-104.~~No change

~~110-105.~~“Space utilization” means the designated use of an area within a facility ~~or a child care group home~~ for specific child care services or activities.

~~111-106.~~“Staff” or “staff member” or “child care personnel” means an individual who works in a facility ~~or a child care group home,~~ regardless of whether compensation is received by the individual.

~~112-107.~~No change

~~113-108.~~No change

~~114-109.~~“Substantial compliance” means:

- a. ~~For a child care facility,~~ that the nature or number of violations revealed by any type of inspection or investigation of an applicant for licensure or a licensed child care facility does not pose a direct risk to the life, health, or safety of children; ~~and~~
- b. ~~For a child care group home, that the nature or number of violations revealed by any type of inspection or investigation of an applicant for certification as a child care group home or a certified child care group home does not pose a direct risk to the life, health, or safety of children.~~

~~115-110.~~“Supervision” means:

- a. The physical presence of a facility director, ~~provider,~~ or staff member who has responsibility for and is within sight and sound of an enrolled child, or
- b. The physical presence of a facility director, ~~provider,~~ or teacher-caregiver who is providing direction to and is within sight and sound of a staff member or student-aide.

~~116-111.~~No change

~~117-112.~~No change

~~118-113.~~“Training” means child care-related conferences, seminars, lectures, workshops, classes, courses, or instruction required by the Department of a licensee, ~~certificate holder,~~ or staff member.

~~119-114.~~No change

R9-5-102. Individuals to Act for Applicant, ~~or Licensee, or Certificate Holder~~ Regarding Document, Fingerprinting, and Department-Provided Training Requirements

When an applicant, ~~or licensee, or certificate holder~~ is required by this Chapter to provide information on or sign documents, possess a class one or two fingerprint clearance card, or complete Department-provided training, the following shall satisfy the requirement on behalf of the applicant, ~~or licensee, or certificate holder~~:

1. If the applicant, ~~or licensee, or certificate holder~~ is an individual, the individual;
2. If the applicant, ~~or licensee, or certificate holder~~ is a corporation, an officer of the corporation;
3. If the applicant, ~~or licensee, or certificate holder~~ is a partnership, two of the partners;
4. If the applicant, ~~or licensee, or certificate holder~~ is a limited liability company, a manager or, if the limited liability company does not have a manager, a member of the limited liability company;

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5. If the applicant, ~~or licensee, or certificate holder~~ is an association or cooperative, two members of the governing board of the association or cooperative;
6. If the applicant, ~~or licensee, or certificate holder~~ is a joint venture, two of the individuals signing the joint venture agreement;
7. If the applicant, ~~or licensee, or certificate holder~~ is a public school, an individual designated in writing as signatory for the public school by the school governing board or school district superintendent;
8. If the applicant, ~~or licensee, or certificate holder~~ is a charter school, the person approved to operate the charter school by the district governing board, the Arizona Board of Education, or the Arizona Board for Charter Schools;
9. If the applicant, ~~or licensee, or certificate holder~~ is a governmental agency, the individual in the senior leadership position with the agency or an individual designated in writing by that individual; and
10. If the applicant, ~~or licensee, or certificate holder~~ is a business organization type other than those described in subsections (2) through (9), two individuals who are members of the business organization.

ARTICLE 7. ~~CHILD CARE GROUP HOME CERTIFICATION~~ REPEALED

R9-5-701. Application for a Certificate Repealed

An applicant for a certificate shall:

1. Be at least 21 years of age; and
2. Submit to the Department an application including:
 - a. ~~A notarized application form signed by the applicant stating:~~
 - i. ~~The applicant's name;~~
 - ii. ~~The child care group home's name, if applicable;~~
 - iii. ~~The child care group home's street address, mailing address, and telephone number;~~
 - iv. ~~The applicant's type of business organization;~~
 - v. ~~Whether the applicant agrees to allow the Department to submit supplemental requests for information; and~~
 - vi. ~~That the applicant has read and will comply with these rules; has the financial resources to comply with A.R.S. Title 36, Chapter 7.1, Article 4 and these rules; and declares that the information provided in the application is accurate and complete;~~
 - b. ~~If the applicant is a business organization, an Attachment to Application including the following organizational information about the business organization:~~
 - i. ~~The address of the business organization;~~
 - ii. ~~The name, title, and address of the business organization's statutory agent or of the individual designated by the business organization to accept service of process and subpoenas;~~
 - iii. ~~The name, title, and address of each officer and board member or trustee; and~~
 - iv. ~~A copy of the business organization's articles of incorporation, partnership or joint venture documents, or limited liability documents, if applicable;~~
 - c. ~~A Child Care Information Sheet, including:~~
 - i. ~~The applicant's name and telephone number;~~
 - ii. ~~The child care group home's name, street address, mailing address, and telephone number;~~
 - iii. ~~A list of the rooms in the child care group home indicating which rooms will be used for child care;~~
 - iv. ~~A list of the child care service classifications to be provided in the child care group home; and~~
 - v. ~~The applicant's signature and the date signed;~~
 - d. ~~A copy of the applicant's valid class one or class two fingerprint clearance card issued according to A.R.S. § 41-1758.03;~~
 - e. ~~A Criminal History Affidavit Class I or Class II completed by the applicant and including the information required by A.R.S. § 36-897.03;~~
 - f. ~~A certificate issued by the Department showing that the applicant has completed at least four hours of Department provided training that included the Department's role in certifying and regulating child care group homes under A.R.S. Title 36, Chapter 7.1, Article 4 and these rules;~~
 - g. ~~The following physical plant documents:~~
 - i. ~~A floor plan of the child care group home showing the dimensions of the outside walls of the child care group home; the dimensions of each room to be used for child care; the location of each exit from the child care group home; the location of each sink and toilet to be used by enrolled children; and the location of each smoke or heat detector, fire extinguisher, and telephone in the child care group home;~~
 - ii. ~~A site plan of the child care group home's outdoor activity area showing the dimensions of the outdoor activity area, the height of the fence around the outdoor activity area, the location of each exit from the outdoor activity area, the location of the house, the location of the shaded area required by R9-5-604(F), the location of a swimming pool, the height of the fence around the swimming pool, and the location of any other building or structure in the outdoor activity area;~~

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- iii. A copy of a violation-free fire inspection conducted within 90 days before the date of application by the local fire department or the Office of the State Fire Marshal; and
- iv. If the child care group home has gas-powered appliances or heating and cooling devices, a copy of a violation-free gas inspection conducted within 90 days before the date of application by a state-licensed plumber or an individual licensed by the state to conduct inspection and repairs of gas lines and gas-fired heating and cooling devices;
- h. An Applicant, Staff, and Resident Report Form, including the applicant's name and address; a statement that the information on the form is accurate and complete; the dated signature of the applicant; and the following information about the applicant, each staff member, and each resident:
 - i. Name;
 - ii. Social security number or identification number issued by the U.S. Immigration and Naturalization Service;
 - iii. Birth date;
 - iv. Hire date, if applicable;
 - v. Job title, if a staff member, or relationship to certificate holder or provider, if a resident;
 - vi. Date of high school diploma or high school equivalency diploma, if applicable; and
 - vii. Information demonstrating each individual's compliance with A.R.S. § 36-897.03;
- i. A Provider Qualifications Form completed by the individual that the applicant intends to have serve as provider, including:
 - i. The name of the individual;
 - ii. The child care group home's name, if applicable;
 - iii. The child care group home's street address and telephone number;
 - iv. A statement that the individual is at least 21 years of age, will accept the primary responsibility for the daily administration and operation of the child care group home, and possesses the minimum qualifications required by R9-5-801;
 - v. A copy of the individual's high school diploma or high school equivalency diploma;
 - vi. A description of any additional education completed by the individual;
 - vii. A statement that the individual has on file at the child care group home the names, addresses, and telephone numbers of two professional references and two personal references for the individual;
 - viii. A statement that the information in the Provider Qualifications Form is accurate and complete; and
 - ix. The dated signature of the individual;
- j. At least one written professional reference and one written personal reference for the individual that the applicant intends to have serve as provider;
- k. Copies of certificates of general liability insurance and motor vehicle insurance that comply with R9-5-808; and
- l. The fee required by A.R.S. § 36-897.01.

R9-5-702. Time frames Repealed

- A.** The overall time frame described in A.R.S. § 41-1072 for each type of approval granted by the Department under this Article is listed in Table 2. The applicant and the Department may agree in writing to 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 25% of the overall time frame.
- B.** The administrative completeness review time frame described in A.R.S. § 41-1072 for each type of approval granted by the Department under this Article is listed in Table 2 and begins on the date that the Department receives an application.
 - 1. The Department shall send a notice of administrative completeness or deficiencies to the applicant within the administrative completeness review time frame.
 - a. A notice of deficiencies shall list each deficiency and the items needed to complete the application.
 - b. The administrative completeness review time frame and the overall time frame are suspended from the date that the notice of deficiencies is issued until the date that the Department receives all of the missing items from the applicant.
 - c. If an applicant for an initial certificate, a renewal certificate, or an approval of a change affecting a certificate fails to submit to the Department all of the items listed in the notice of deficiencies within 180 days after the date that the Department sent the notice of deficiencies, the Department shall consider the application withdrawn.
 - 2. If the Department issues a certificate or other approval to the applicant during the administrative completeness review time frame, the Department shall not issue a separate written notice of administrative completeness.
- C.** The substantive review time frame described in A.R.S. § 41-1072 is listed in Table 2 and begins on the date of the notice of administrative completeness.
 - 1. As part of the substantive review for an initial certificate application or a certificate renewal application, the Department shall conduct an inspection that may require more than one visit to the child care group home.
 - 2. As part of the substantive review for a request for approval of a change affecting a certificate that requires a change in the use of physical space at the child care group home, the Department shall conduct an inspection that may require

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- more than one visit to the child care group home.
3. The Department shall send a certificate or a written notice of approval or denial of a certificate or other request for approval to an applicant within the substantive review time frame.
 4. During the substantive review time frame, the Department may make one comprehensive written request for additional information, unless the Department and the applicant have agreed in writing to allow the Department to submit supplemental requests for information.
 - a. If the Department determines that an applicant or a child care group home is not in substantial compliance with A.R.S. Title 36, Chapter 7.1, Article 4 and these rules, the Department shall send a comprehensive written request for additional information that includes a written statement of deficiencies stating each statute and rule upon which noncompliance is based.
 - b. An applicant shall submit to the Department all of the information requested in the comprehensive written request for additional information and written documentation of the corrections required in the statement of deficiencies, if applicable:
 - i. Within 120 days after the date of the comprehensive written request for additional information, if applying for an initial certificate or for approval of a change affecting a certificate; or
 - ii. Within 10 days after the date of the comprehensive written request for additional information, if applying for a certificate renewal.
 - c. The substantive review time frame and the overall time frame are suspended from the date that the Department issues a comprehensive written request for additional information or a supplemental request for information until the date that the Department receives all of the information requested, including documentation of corrections required in a statement of deficiencies, if applicable.
 - d. If an applicant fails to submit to the Department all of the information requested in a comprehensive written request for additional information or a supplemental request for information, including documentation of corrections required in a statement of deficiencies, if applicable, within the time prescribed in subsection (C)(4)(b), the Department shall deny the application.
 5. The Department shall issue a certificate or approval if the Department determines that the applicant and child care group home are in substantial compliance with A.R.S. Title 36, Chapter 7.1, Article 4 and these rules, and the applicant submits documentation of corrections that is acceptable to the Department for any deficiencies.
 6. If the Department determines that a certificate or approval is to be denied, the Department shall send to the applicant a written notice of denial stating the reasons for denial and all other information required by A.R.S. § 41-1076.

Table 2. Time-frames (in days) Repealed

Type of Approval	Statutory Authority	Overall Time-Frame	Administrative-Completeness-Review Time-Frame	Substantive Review-Time-Frame
Initial Certificate under R9-5-701	A.R.S. § 36-897.01	120	30	90
Certificate Renewal under R9-5-704	A.R.S. § 36-897.01	90	30	60
Approval of Change-Affecting Certificate under R9-5-705	A.R.S. §§ 36-897.01, 36-897.02	75	30	45

R9-5-703. Fingerprinting Requirements Repealed

- A.** A certificate holder shall ensure that each staff member and each adult resident at a child care group home:
 1. Possesses a valid class one or class two fingerprint clearance card issued under A.R.S. § 41-1758.03, or
 2. Submits to the certificate holder a fingerprint clearance card application showing that the application was submitted to the fingerprint division of the Department of Public Safety under A.R.S. § 41-1758.02 within seven working days after becoming a staff member or adult resident.
- B.** If a staff member or adult resident possesses a class one or class two fingerprint clearance card that was issued before the staff member or adult resident became a staff member or adult resident at the child care group home, the certificate holder shall contact the Department of Public Safety within seven working days after the individual becomes a staff member or adult resident to determine whether the class one or class two fingerprint clearance card is valid. The certificate holder shall make a record of this determination, including the name of the staff member or adult resident, the date of the contact with the Department of Public Safety, and whether the class one or class two fingerprint clearance card is valid.

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- ~~C.~~ A certificate holder shall not allow an individual to be a staff member or adult resident if the individual has been denied a class two fingerprint clearance card under A.R.S. Title 41, Chapter 12, Article 3.1 and has not received an interim approval under A.R.S. § 41-619.55(H).
- ~~D.~~ A certificate holder shall not allow an individual to be a staff member or adult resident if the individual receives an interim approval under A.R.S. § 41-619.55(H) but is then denied a good cause exception under A.R.S. § 41-619.55 and a class two fingerprint clearance card under A.R.S. Title 41, Chapter 12, Article 3.1.
- ~~E.~~ A certificate holder shall ensure that each staff member and each adult resident submits to the certificate holder the form required in A.R.S. § 36-897.03(B).
- ~~F.~~ A certificate holder shall maintain documentation of each staff member's or adult resident's compliance with this Section in each staff member's or adult resident's file throughout the time the individual is a staff member or adult resident and for 12 months after the individual ceases to be a staff member or adult resident.

R9-5-704. Certificate Renewal Repealed

- ~~A.~~ At least 45 days before the expiration of a current certificate, an applicant for renewal of a certificate shall submit to the Department an application including:
 - 1. A notarized application form signed by the applicant that includes:
 - a. The applicant's name;
 - b. The child care group home's name, if applicable;
 - c. The child care group home's street address, mailing address, and telephone number;
 - d. The applicant's type of business organization; and
 - e. A statement that the applicant has read and will comply with these rules; has the financial resources to comply with A.R.S. Title 36, Chapter 7.1, Article 4 and these rules; and declares that the information provided in the application is accurate and complete;
 - 2. An Attachment to Application including any changes to the information previously submitted as prescribed in R9-5-701(2); and
 - 3. The fee required by A.R.S. § 36-897.01.
- ~~B.~~ An applicant that submits the items required by subsection (A) later than 45 days before the expiration date of the current certificate shall pay to the Department the late filing fee required by A.R.S. § 36-897.01.
- ~~C.~~ If an applicant submits the items required by subsection (A) and the fee required by subsection (B), if applicable, before the expiration date of the current certificate, the current certificate does not expire until the date specified in A.R.S. § 41-1092.11(A).

R9-5-705. Changes Affecting a Certificate Repealed

- ~~A.~~ At least 30 days before the date of a change in a child care group home's name, a certificate holder shall send the Department written notice of the name change. Within 30 days after the date of receipt of the notice, the Department shall issue an amended certificate that incorporates the name change but retains the expiration date of the current certificate.
- ~~B.~~ At least 30 days before the date of an intended change in a child care group home's space utilization or certified capacity, a certificate holder shall submit a written request for approval of the change to the Department. The written request shall include:
 - 1. The certificate holder's name;
 - 2. The child care group home's name, if applicable;
 - 3. The child care group home's street address, mailing address, and telephone number;
 - 4. The name, telephone number, and fax number of a point of contact for the request;
 - 5. The child care group home's certificate number;
 - 6. The type of change:
 - a. Space utilization, or
 - b. Certified capacity;
 - 7. A narrative description of the intended change; and
 - 8. The following additional information, as applicable:
 - a. If requesting a change in certified capacity, the square footage of the outdoor activity area and the square footage of the child care group home's indoor activity areas; and
 - b. If requesting a change in space utilization that affects individual rooms, the name and square footage of each affected room.
- ~~C.~~ The Department shall review a request submitted under subsection (B) according to R9-5-702. If the child care group home will be in substantial compliance with A.R.S. Title 36, Chapter 7.1, Article 4 and these rules with the intended change, the Department shall send the certificate holder an amended certificate that incorporates the change but retains the expiration date of the current certificate.
- ~~D.~~ A certificate holder shall not implement any change described under subsection (B) until the Department issues an amended certificate.

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- ~~E.~~ At least 30 days before the date of a change in service classification, a certificate holder shall send the Department written notice of the change.
- ~~F.~~ At least 30 days before the date of a change in the ownership of a child care group home, a certificate holder shall send the Department written notice of the change. A new owner shall obtain a new certificate as prescribed in R9-5-701 before the new owner begins operating the child care group home.
- ~~G.~~ A certificate holder changing a child care group home's location shall apply for a new certificate as prescribed in R9-5-701.
- ~~H.~~ Within 30 days after the date of a change in any corporate or company officer or statutory agent, a certificate holder that is a corporation or a limited liability company shall send the Department written notice of the change.
- ~~I.~~ Within 30 days after the date of a change in the membership of a partnership or joint venture or in the individual designated in writing to accept service of process and subpoenas, a certificate holder that is a partnership or joint venture shall send the Department written notice of the change.
- ~~J.~~ Within 30 days after the date of a change in the officers of an association or cooperative or in the statutory agent or other individual designated in writing to accept service of process and subpoenas, a certificate holder that is an association or cooperative shall send the Department written notice of the change.

R9-5-706. Change in Provider Repealed

~~At least 30 days before changing a child care group home's provider, a certificate holder shall send the Department written notice of the change. The written notice shall include a Provider Qualifications Form completed as required by R9-5-701(2)(i).~~

R9-5-707. Inspections; Investigations Repealed

- ~~A.~~ The Department shall inspect each child care group home before issuing an initial certificate or a renewal certificate and as often as necessary to determine compliance with A.R.S. Title 36, Chapter 7.1, Article 4 and these rules. A certificate holder shall allow access to all areas of the child care group home affecting the health, safety, or welfare of an enrolled child or to which an enrolled child has access during hours of operation.
- ~~B.~~ If the Department receives written or verbal information alleging a violation of A.R.S. Title 36, Chapter 7.1, Article 4 or these rules, the Department shall conduct an investigation. A certificate holder shall permit the Department to interview staff members, residents, and enrolled children as part of an investigation.

R9-5-708. Denial, Revocation, or Suspension of Certificate Repealed

- ~~A.~~ The Department may deny, revoke, or suspend a certificate to operate a child care group home if an applicant or certificate holder:
 - 1. Provides false or misleading information to the Department;
 - 2. Has been denied a certificate or license to operate a child care group home or a certificate or license to operate a child care facility in any state, unless the denial was based on the applicant's failure to complete the certification or licensing process according to a required time frame;
 - 3. Has had a certificate or license to operate a child care group home or a certificate or license to operate a child care facility revoked or suspended in any state;
 - 4. Has been denied a fingerprint clearance card or has had a fingerprint clearance card revoked under A.R.S. Title 41, Chapter 12, Article 3.1;
 - 5. Fails to substantially comply with any provision in A.R.S. Title 36, Chapter 7.1, Article 4 or these rules; or
 - 6. Substantially complies with A.R.S. Title 36, Chapter 7.1, Article 4 and these rules, but refuses to carry out a plan acceptable to the Department to eliminate any deficiencies.
- ~~B.~~ In determining whether to deny, suspend, or revoke a certificate, the Department shall consider the threat to the health and safety of children in a child care group home based on such factors as:
 - 1. Repeated violations of statutes or rules;
 - 2. A pattern of non-compliance;
 - 3. The type of violation;
 - 4. The severity of the violation; and
 - 5. The number of violations.

ARTICLE 8. CHILD CARE GROUP HOME ADMINISTRATION REPEALED

R9-5-801. Provider Standards and Responsibilities Repealed

- ~~A.~~ The provider shall:
 - 1. Be 21 years of age or older;
 - 2. Have a high school diploma or its equivalent;
 - 3. Have current certification in child care first aid and infant/child cardiopulmonary resuscitation through a course approved by the Department; and
 - 4. Have a certificate issued by the Department showing that the provider has completed at least four hours of Department-provided training that included the Department's role in certifying and regulating child care group homes under

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A.R.S. Title 36, Chapter 7.1, Article 4 and these rules and records of attendance from all courses, workshops, seminars and training events attended.

B. The provider shall:

1. Orient each of the facility's personnel and each household member to the statutes and rules governing child care group homes and to the facility's policies and procedures;
2. Ensure that the facility is operated in full compliance with statutes and rules governing child care group homes;
3. Ensure that each enrolled child is supervised by child care personnel at all times and that any other duties or activities of personnel shall not interfere with the supervision and care given to children;
4. Ensure that all visitors who are present in the facility or grounds, during hours of operation, are supervised and accompanied by the child care group home personnel;
5. Notify parents and guardians of their right to enter the child care group home, during hours of operation, while their child is present;
6. Maintain a written daily log of all accidents, injuries, behavior problems, or other unusual incidents at the facility. This record shall be kept at the facility for one calendar year following the year in which the incident occurred;
7. Report any unusual incident which has occurred at the facility to the parent/guardian of each enrolled child, including the following:
 - a. Illness, injury, or death of a child or other person in the child care group home;
 - b. Damage to the facility, vehicles, and equipment involved in the provision of child care;
 - c. The presence of any individual in the facility who has, or is suspected of having, a contagious or infectious disease transmitted by the fecal oral route, the airborne route, or through close personal contact;
 - d. An enrolled child who has run away or is missing from the facility;
 - e. Any fire at the facility; or
 - f. Any occurrence at the facility which required police, fire, ambulance, or other emergency response;
8. Immediately report unusual incidents listed in subsection (B)(7) of this Section to the Department by telephone after they have occurred and shall submit a written report of the incident to the Department within 72 hours of its occurrence;
9. Notify Child Protective Services and the local police immediately if any incident of suspected child abuse is observed, pursuant to A.R.S. § 13-3620;
10. Ensure that back-up personnel, registered with the Department, are available within 15 minutes during hours of operation to assure compliance with staffing requirements specified in R9-5-803. The name, address, and telephone number of all available back-up personnel shall be posted by the facility telephone.
11. Develop a written plan and instructions for facility personnel and household members to use in case of emergency. Each of the facility's personnel and household members who are 18 years of age or older shall have read and be able to demonstrate that they can implement the plan.
12. Prior to hiring, make good faith efforts to obtain three personal and three past employer references for facility personnel including household members engaged in child care. These references shall include at least one written personal reference and one written reference from the most recent employer regarding the individual's fitness to provide child care. Documents shall be maintained in the facility which reflect the reference information received.
13. Comply with requirements of R9-5-802(A) and (B).

R9-5-802. Personnel Standards and Responsibilities Repealed

A. Personnel providing child care for enrolled children, without direct supervision from the provider, shall:

1. Be 18 years of age or older; and
2. Have a high school diploma or its equivalent.

B. Personnel shall:

1. Be oriented to the statutes and rules governing child care group homes and to facility policies and procedures before providing care for enrolled children;
2. Have the physical and emotional health necessary to perform the duties and responsibilities required by the statutes and rules governing child care group homes; and
3. Not use any tobacco products, alcohol, or illegal drugs, or be under the influence of alcohol or illegal drugs while providing child care. When personnel must take medications at the facility, the medications shall be:
 - a. Prescribed by a physician in the original container and which do not interfere with the provision of child care; and
 - b. Nonprescription medications sold over the counter, used as directed and which do not interfere with the provision of child care;
4. Take all reasonable precautions to protect children from hazards;
5. Not cause or permit a child to be abused;
6. Attend nine hours of training each year, which shall include the following:
 - a. Orientation of all new employees to the child care group home and its policies and procedures;

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- b. On-the-job training for all new personnel who need training in specific areas to meet their job responsibilities;
 - e. Personnel responsibilities in complying with these statutes and rules;
 - d. Child health and safety procedures including recognition of illness and disease and training in basic disease control techniques;
 - e. Child growth and development;
 - f. Child abuse prevention, detection, and reporting;
 - g. Positive guidance and discipline;
 - h. Nutrition and good eating habits;
 - i. Availability of community services;
 - j. Family involvement and communication with families; and
 - k. Program planning and development; and
7. ~~Be excluded from the facility if there is evidence that their presence would not be conducive to, or would be detrimental to, the welfare of the children.~~

R9-5-803. Facility Staffing Repealed

- ~~A. One adult personnel member shall be present when one to five children are in care.~~
- ~~B. Two adult personnel staff members shall be present when six to 10 children are in care.~~
- ~~C. One additional personnel member shall be present when more than 10 children are in care. The personnel member may be a person who is 16 or 17 years old and is directly supervised by the provider.~~

R9-5-804. Inspection Reports Repealed

- ~~A. A chronological file of all reports of inspections conducted at the child care group home and documentation that required corrections have been timely made shall be kept current and maintained at the facility.~~
- ~~B. The file of inspection reports shall include all reports issued to the facility by the Department, the Department of Education Child Care Food Program, the Department of Economic Security, any county health department, any fire authority, any department of zoning, inspections conducted by the provider, and any other report issued to the facility by a governmental agency.~~
- ~~C. The file of inspection reports shall be presented to the parent or guardian of each child prior to enrollment at the facility and at any time when requested by the parent or guardian of an enrolled child.~~

R9-5-805. Personnel Records and Reports Repealed

- ~~A. The provider shall retain and keep current the following information about child care personnel and all household members:
 - 1. Name, home address, and telephone number;
 - 2. First-aid and CPR certificates, if applicable;
 - 3. Verification of compliance with A.R.S. § 36-897.03;
 - 4. Date of employment or volunteer assignment;
 - 5. Proof of negative tuberculin skin test or chest x-ray for all personnel and household members; and
 - 6. A written statement by the staff member or volunteer, on Department approved forms, testifying to immunity to measles, rubella, diphtheria, tetanus and polio. Individuals who were born before January 1, 1957, shall be considered immune to measles and therefore exempt from the measles immunization.~~
- ~~B. Personnel records and reports shall be made immediately available by the provider for inspection by the Department for a period of one calendar year following termination of employment, volunteer work or household membership.~~

R9-5-806. Children's Records and Reports Repealed

- ~~A. A child care group home shall maintain at the facility an individual file for each enrolled child separate from household or personal records. The file shall be made immediately available for inspection by the Department and shall contain the following:
 - 1. Child's name, address, sex, and date of birth;
 - 2. Names of the child's parent or guardian, home and work addresses, and telephone numbers;
 - 3. Name, address, and telephone number of individuals to be notified in the event that the parents or guardian cannot be located. A minimum of two emergency contacts shall be available for each enrolled child prior to acceptance to the facility;
 - 4. Name and telephone number of child's primary source of medical care;
 - 5. Authorization and instructions for emergency medical care of the child when the parent or guardian cannot be contacted;
 - 6. Written instructions of the parent, guardian, or attending physician for any special dietary needs;
 - 7. A record completed by the parent, guardian, or physician noting the child's susceptibility to any illness and special needs;
 - 8. Immunization record or exemption affidavit which includes:~~

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- a. A verifiable record provided by the child's health care provider, parent or guardian which states that the child has received current, Department recommended, age appropriate immunizations for Haemophilus Influenza, Type B (Hib), measles, mumps, rubella, diphtheria, pertussis, tetanus and polio; or
 - b. An affidavit signed by the child's health care provider that the child has a medical condition such that required immunizations would seriously endanger the child's health; or
 - e. An affidavit signed by the child's parent or guardian that the child is being raised in a religion which prohibits immunization;
9. Documentation that the provider has given written notice at least quarterly to the parent or guardian of each child who is 24 months of age or younger of all immunizations for that child which will become due during the upcoming quarter;
10. Documentation that the provider has given written notice at least annually, to the parent or guardian of each child who is 25 months or older of all immunizations for that child which will become due during the coming year;
11. Ensure that no child continues enrollment at the child care group home for more than 15 days after receiving notification of necessary immunizations until proof of immunizations or exemption from immunizations is provided;
12. Documentation that the child's parent or guardian was notified immediately of an accident or injury to the child which required police, fire, ambulance or other emergency response;
13. Legal documentation of sole legal guardianship, if the custodial parent or guardian requests that the center not allow the non-custodial parent to interact with the child at the center;
14. Written permission allowing phone authorizations for release of the child signed by the parent or legal guardian;
15. If an enrolled child is to be released to any individuals other than the custodial parent or guardian, authorization for such release shall be obtained when the child is enrolled and shall be updated as changes occur;
16. Name, home and work addresses, and telephone numbers of individuals other than parent or guardian to whom the child may be released; and
17. Written instructions, if any, from the parent or guardian regarding:
- a. Special dietary needs or formula preparation;
 - b. Toilet training;
 - e. Needs of special children;
 - d. Medications routinely taken by the child;
 - e. If applicable, permission for the child to participate in water activities; and
 - f. If the child is of school age, the name and address of the school attended by the child, the hours of attendance, and a plan for how the child is to go to, and return from, school.
- B.** Records included in each enrolled child's file shall be written legibly and in English, or if written in another language shall contain an English translation, and shall be retained at least three calendar years after the child is no longer enrolled. Duplicate records may be maintained in the file in another language.

R9-5-807. Attendance Records; Admission and Release of Children Repealed

- A.** The facility shall keep attendance records, on Department approved forms, indicating the time of arrival and departure for child care personnel on each day of work. The attendance record shall be co-signed weekly by the provider and the child care personnel.
- B.** The provider shall require that the parent or guardian sign an attendance record on Department approved forms indicating the time of arrival and departure for each enrolled child on each day present. The provider shall also maintain a record of the days and hours that non-enrolled children are present at the facility during hours of operation. All attendance records shall be maintained in the facility for a period of two calendar years.
- C.** The provider shall require that the parent or guardian designate in writing those individuals 15 years of age and older who are authorized to admit or pick up the child. No child shall be released to a person younger than 15 years of age.
- D.** The provider shall require that all authorized individuals, other than the parent or guardian, present picture identification prior to releasing the child from the child care group home.
- E.** A child shall not be admitted to the facility if the child's presence will cause the facility to exceed its certified capacity pursuant to A.R.S. § 36-897(1).
- F.** A child shall not be allowed to admit or release herself from a child care group home unless the child is of school age and written authorization is provided by the child's parent or guardian when the child is enrolled. If written authorization is brought to the facility by the child, the authorization shall be verified with the parent or guardian upon receipt.

R9-5-808. Insurance Repealed

- A.** The applicant or the certificate holder shall secure and maintain general liability insurance covering the enrolled children with minimum limit of \$100,000. Providers who obtain commercial insurance coverage shall be required to have a Certificate of Insurance. If the liability insurance coverage includes a waiver of coverage for physical or sexual abuse, the parents shall be notified at the time of enrollment.
- B.** The certificate holder shall obtain and maintain motor vehicle insurance coverage in accordance with A.R.S. § 28-1101 et

seq., Uniform Motor Vehicle Safety Responsibility Act, for vehicles used to transport enrolled children.

R9-5-809. Other Businesses on Facility Premises Repealed

No other business shall be conducted at the facility or on the grounds of the facility designated for use by enrolled children during the hours of operation.

ARTICLE 9. PROGRAM AND EQUIPMENT FOR CHILD CARE GROUP HOMES REPEALED

R9-5-901. General Program and Equipment Standards Repealed

- A.** A child care group home shall maintain a safe and healthful environment, free from disease and illness.
 - 1. Personnel shall not at any time endanger the health or safety of the children under their care; and
 - 2. Personnel shall ensure that each child is clean and groomed as necessary after meals and activities.
- B.** A child care group home shall provide a program that includes a balance of daily activities that meet the age interests and developmental needs of each child including:
 - 1. Indoor/outdoor activities;
 - 2. Quiet/active activities;
 - 3. Supervised free choice/adult directed activities;
 - 4. Individual, small group, and large group activities;
 - 5. Small/large muscle development activities; and
 - 6. Meals and snacks.
- C.** Daily routine activities for each child, including diapering, toileting, eating, dressing, resting, and sleeping shall be incorporated into the program based upon developmental needs of the child.
- D.** The program shall be adjusted to the needs of children, to cope with illness, changes in weather or other situations.
- E.** If swimming is offered as a part of the facility's program, child care personnel shall be stationed at the pool when the pool is being used by children. At least one of the child care personnel present at the pool shall be able to swim, and one of the personnel present at the pool shall be currently certified in cardiopulmonary resuscitation. Personnel shall be able to see clearly all parts of the pool including the bottom.
- F.** Each child care group home shall have sufficient play materials and equipment so that, at any one time, each child who is present can be individually involved in the activities outlined in the activity plan.
- G.** In addition to requirements specified in this rule, a child care group home providing care for 3-, 4-, and 5-year old children shall provide the following play materials and supplies:
 - 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.
- H.** The facility shall make the following provisions for sleeping children:
 - 1. There shall be a separate bed, cot, floor mat, or crib for each child who needs to nap or rest. Bunked beds are not permitted unless the child sleeps on the bottom bed. No other individual shall nap or rest on the bed, cot, mat, or crib which is being used by an enrolled child;
 - 2. An enrolled child shall not nap or sleep on a bed of a household member;
 - 3. Beds, cots, and cribs shall be of sound construction, of sufficient size to comfortably accommodate the size and weight of the child, and shall be kept clean and in good repair;
 - 4. Mats shall be covered with waterproof material and used only in rooms where close contact with the floor will not bring the sleeping child in contact with draft or dust;
 - 5. Rugs, carpet, blankets, and towels shall not be used as mats;
 - 6. Each bed, cot, or floor mat shall be completely covered with a clean sheet or similar covering which shall be laundered weekly or more frequently as needed. Coverings shall be freshly laundered before use by another child.
- I.** No enrolled child shall be locked out of the facility with any locking device.
- J.** An enrolled child shall never be placed on a waterbed.

R9-5-902. Supplemental Program and Equipment Standards for Infants and Children 2 Years of Age and Younger Repealed

- A facility which provides child care to enrolled infants and children 2 years of age or younger shall comply with the following:
- 1. Child care personnel shall talk to and hold children 2 years of age and younger frequently throughout the day;
 - 2. Child care personnel shall respond promptly to the infant's and child's distress signals and need for comfort;
 - 3. Infants and children shall spend no more than one hour of consecutive time during waking hours confined in a crib,

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- playpen, high chair or other confining structure or piece of equipment;
4. Each infant and child shall be allowed to maintain individual pattern of sleeping, waking and eating, unless instructed by the parent or guardian in writing to the contrary;
 5. Formulas prepared by the provider shall be prepared and stored in accordance with written instructions of the infant's parent or guardian;
 6. Infants six months of age or younger, or children who cannot hold their own bottles, shall be held by child care personnel while being fed. Bottles shall never be propped;
 7. Bottles shall be individually labeled and properly stored;
 8. Plastic bottle liners shall not be reused. Used bottles shall be promptly removed from cribs or beds, emptied and cleaned;
 9. Only water shall be used in bedtime or nap-time bottles;
 10. Children shall not be fed cereal by bottle;
 11. Each infant's or child's diaper shall be checked frequently and changed as soon as wet or soiled;
 12. The provider shall consult with the parent or guardian to establish a mutual plan regarding individual toilet training and shall not force toilet training on any child;
 13. A sturdy adult size chair shall be provided in the infant room for personnel to use when holding and feeding infants;
 14. Highchairs shall be equipped with a safety strap and constructed so that the chair will not topple. A safety strap is not required if the design and construction of the chair is such that a safety strap is not necessary. All surfaces shall be smooth, free of cracks, and shall be sanitized prior to each use;
 15. A crib of sturdy construction with bars spaced no more than 2 3/8 inches apart shall be available for each infant. Stacked cribs are not permitted;
 16. Crib mattresses shall be completely and tightly covered with waterproof material. If plastic materials are used, they shall be durable and safe for children. Plastic bags shall not be used for mattress covers;
 17. There shall be no restraining devices of any type used in cribs;
 18. Each crib shall have clean, crib-size bedding, including sheets and a blanket which is in good repair;
 19. Each crib and mattress shall be cleaned and bedding changed daily, or more often if necessary, and always before use by another child;
 20. Materials and equipment meeting the interests and needs of infants and one- and two-year olds shall include:
 - a. Books, including some cloth books;
 - b. Medium size rubber or soft plastic balls;
 - c. Manipulative toys;
 - d. Blocks and block accessories;
 - e. Washable soft toys, stuffed animals and dolls;
 - f. Large muscle equipment; and
 - g. Musical instruments; and
 21. Toys to be used by one- and two-year old children shall be durable, clean, movable, nontoxic, too large to swallow, and have no sharp pieces, edges or points. Toys shall be inspected frequently and regularly to ensure they are not hazardous.

R9-5-903. Supplemental Equipment Standards for School-age Children Repealed

In addition to materials and supplies specified in R9-5-901(G), a child care group home shall provide play materials and equipment that meet the interests and developmental needs of children including:

1. Arts and crafts;
2. Games;
3. Sports equipment;
4. Books;
5. Science materials, and
6. Manipulative toys.

R9-5-904. Supplemental Program and Equipment Standards for Special Needs Children Repealed

- A:** The provider may enroll special needs children when the following conditions are met prior to the child's attendance:
1. Documented training or consultation is obtained to enhance the ability of the personnel to meet the individual needs of enrolled special needs children;
 2. Activities and equipment substitutions are available or necessary activity and equipment adaptations are made to meet the requirements of enrolled special needs children;
 3. Modifications are made to the home environment which accommodate the individual needs of special needs children;
 4. The Department may require a higher number of adults to supervise special needs children than is specified in R9-5-803 in order to meet their needs; and
 5. Prior to the child's enrollment, a conference shall be held between the parent or guardian and the provider, to deter-

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mine and document the needs of the special needs child. When necessary, and with prior written authorization from the parent or guardian, the provider shall also consult with other qualified individuals regarding the care to be provided to the special needs child.

- ~~B.~~ Personnel should be familiar with appropriate community resource referral services and shall inform the parent or guardian of them.
- ~~C.~~ Special needs children shall be integrated into the daily activities of the child care group home whenever possible within the least restrictive environment that meets the individual needs of special needs children in attendance.

R9-5-905. Supplemental Program and Equipment Standards for Night Care Repealed

After consultation with the parent or guardian to establish a written plan regarding night home care, a child care group home providing night home care shall comply with the following:

- ~~1.~~ The facility shall provide each infant with a crib which meets the requirements of R9-5-902(A)(15) through (19), and each child with an individual, comfortable bed that is not less than a sturdy cot;
- ~~2.~~ Enrolled children shall be bathed or showered at the facility only with written permission of parent or guardian;
- ~~3.~~ If enrolled children are bathed at the facility, the bathtub or shower shall be sanitized between uses;
- ~~4.~~ Facility personnel who provide evening and night child care for enrolled children shall remain awake until all children are asleep;
- ~~5.~~ During night home care, personnel may sleep only if they maintain unobstructed access to the sleeping enrolled children and unimpaired hearing of them. Personnel or household members shall not share the same bed with an enrolled child;
- ~~6.~~ An enrolled child shall not sleep in a bed used at other times of the day or night by household members.

R9-5-906. Illness and Infestation Repealed

- ~~A.~~ Each child shall be observed daily by personnel for signs of illness and infestation upon entry to the facility.
- ~~B.~~ The provider shall not accept or allow a child to remain at the child care group home if the child shows symptoms of inflammation, fever, rash, diarrhea, vomiting, pinworms, lice, or is suspected of having a contagious or infectious disease or infestation.
- ~~C.~~ If the child develops symptoms of illness or infestation while at the child care group home, personnel shall isolate the child from others upon discovery and shall immediately notify the child's parent or guardian to arrange for prompt removal of the child.
- ~~D.~~ The provider shall notify the parent or guardian in writing within 24 hours if the child has been exposed to a contagious disease or infestation. In addition, the facility shall notify the local health department of all contagious diseases within 24 hours.

R9-5-907. Emergency Medical Care Repealed

- ~~A.~~ The provider shall immediately notify the child's parent or guardian or the person specified by the parent or guardian to be notified in case of an emergency or serious injury to the child which requires medical attention.
- ~~B.~~ A first aid kit shall be maintained in the child care group home that is accessible to all personnel but out of the reach of children. The first aid kit shall contain at a minimum:
 - ~~1.~~ Adhesive bandages;
 - ~~2.~~ Antiseptic solution;
 - ~~3.~~ Sterile bandages;
 - ~~4.~~ Scissors;
 - ~~5.~~ Medical tape;
 - ~~6.~~ Cotton swabs; and
 - ~~7.~~ Syrup of ipecac within expiration limits.

R9-5-908. Medications Repealed

- ~~A.~~ The provider shall develop a medication policy and notify parents or guardians of the policy.
- ~~B.~~ Before medications are administered, the provider shall develop procedures which adhere to the following:
 - ~~1.~~ Staff designated by the provider in writing shall be responsible for the administration of medication including the storage, recordkeeping, handling, and overseeing the child's ingestion or application of medication. Only one staff member in the child care group home at any given time shall be designated for administration of medication;
 - ~~2.~~ Staff shall not administer medications to a child without specific written authorization from the child's parent or guardian. Such authorizations shall contain at least the following information:
 - ~~a.~~ The name of the child;
 - ~~b.~~ The name and prescription number of the medication to be given;
 - ~~c.~~ Specific instructions for administering the medication including the dosage, method of administration, the dates and time of day medication is to be given;
 - ~~d.~~ Reason the medication is being given;

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- e. Signature of parent or guardian; and
- f. Date of authorization; and
- 3. Injections shall be administered only by individuals licensed to do so by the state;
- 4. The provider shall maintain a record of all medications administered to each child by child care group home staff. The record shall contain:
 - a. The name of the child;
 - b. The name and prescription number of the medication;
 - c. The date and time, dosage, and method by which the medication was administered; and
 - d. The signature of the staff member who administered the medication;
- 5. The provider shall administer only medications that are provided by the parent or guardian in the original container and are labeled with the individual child's full name;
- 6. Medications which have expired or are no longer to be administered shall be returned to the child's parent or guardian within 24 hours;
- 7. All prescription and nonprescription medications shall be kept in a locked storage cabinet or in a locked container which is located out of the reach of children;
- 8. Medications requiring refrigeration shall be kept in a locked, leakproof container in the refrigerator;
- 9. The provider shall not keep stock supplies of any prescription or nonprescription medication.
- C.** Medication records shall be maintained for three years and shall be available in the facility for immediate inspection by the Department.

R9-5-909. Discipline and Guidance Repealed

- A.** Disciplinary measures shall meet the child's age, intellectual development, and emotional needs. All discipline shall be used to teach a child acceptable behavior, not as punishment or retribution.
- B.** Facility personnel shall define and maintain consistent, reasonable rules and set limits for children and shall model and encourage acceptable positive behavior.
- C.** A child whose behavior is uncontrolled may be restrained by being firmly held by child care personnel only when all of the following conditions apply:
 - 1. It is necessary to prevent harm to the child or others;
 - 2. It occurs simultaneously with the uncontrolled behavior;
 - 3. It does not impair the child's breathing, and
 - 4. Personnel shall use only the amount of restraint necessary to bring the behavior under control.
- D.** A child may be isolated from other children for unacceptable behavior but shall be kept in full view of child care personnel for periods not longer than three minutes after the child regains composure. Under no circumstances shall a child be isolated for more than ten minutes. No child may be isolated or locked into any closet, laundry room, garage, shed, structure, or room.
- E.** Disciplinary and guidance techniques and methods shall not be used which are:
 - 1. Detrimental to the health or emotional needs of the child;
 - 2. Humiliating or frightening to a child;
 - 3. Corporal punishment;
 - 4. Associated with eating, napping, or toileting;
 - 5. Medications or mechanical restraints and devices, or
 - 6. Administered or performed by other children.
- F.** If the children of the provider or facility personnel receive discipline inconsistent with that specified above, the discipline may not be performed in the presence or hearing of the enrolled children.
- G.** Only child care group home personnel shall be allowed to discipline an enrolled child.

R9-5-910. Nutrition and Meals Repealed

- A.** The provider shall serve foods which meet the nutrition standards specified in this Article.
- B.** A varied menu of foods from within each food group shall be served.
- C.** The provider shall maintain at the facility a one-day supply of perishables and a three-day supply of staples.
- D.** The provider shall maintain records showing that quantities of food purchased, prepared, and served meet minimum nutritional requirements. Acceptable records include the federal Child Care Food Program production sheets, food receipts, and purchasing logs.
- E.** Second servings of foods shall be made available to children in addition to the required daily minimum.
- F.** Minimum meal components and serving sizes to meet calorie and nutrient requirements for various ages of children, as established by the National Research Council Recommended Daily Allowances (RDA), shall be as prescribed in the following table:

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TABLE OF MEAL PATTERN REQUIREMENTS FOR CHILDREN

Food Component	Ages 1-3	Ages 3-6	Ages 6-15
Breakfast			
1. Milk (fluid)	1/2 cup (4 oz)	3/4 cup (6 oz)	1 cup (8 oz)
2. Vegetables/fruits or juice (full strength)	1/4 cup 1/4 cup (2 oz)	1/2 cup 1/2 cup (4 oz)	1/2 cup 1/2 cup (4 oz)
3. Bread or biscuits, rolls, muffins, etc., or cold dry cereal or cooked cereal or grains or cooked pasta or noodle products	1/2 slice 1/2 serving 1/4 cup 1/4 cup 1/4 cup	1/2 slice 1/2 serving 1/3 cup 1/4 cup 1/4 cup	1 slice 1 serving 3/4 cup 1/2 cup 1/2 cup
Lunch/Supper			
1. Milk (fluid)	1/2 cup (4 oz)	3/4 cup (6 oz)	1 cup (8 oz)
2. and 3. Vegetable(s) and/or fruit(s) (from two sources)	1/4 cup	1/2 cup	3/4 cup
4. Bread or biscuits, rolls, muffins, etc. or cooked pasta or noodle products or cooked cereal or grains	1/2 slice 1/2 serving 1/4 cup 1/4 cup	1/2 slice 1/2 serving 1/4 cup 1/4 cup	1 slice 1 serving 1/2 cup 1/2 cup
5. Meat (lean) or poultry or fish or eggs or cooked dry beans, peas lentils or peanut butter or cheese	1 oz 1 oz 1/4 cup 2 T 1 oz	1 1/2 oz 1 1/2 oz 3/8 cup 3 T 1 1/2 oz	2 oz 2 oz 1/2 cup 4 T 2 oz
Snacks			
Select 2 of the following 4 components			
1. Milk (fluid)	1/2 cup (4 oz)	1/2 cup (4 oz)	1 cup (8 oz)
2. Vegetables/fruits or juice (full strength) (except with milk)	1/2 cup	1/2 cup	3/4 cup
3. Bread or biscuits, rolls, muffins, etc. or cold dry cereal or cooked cereal or grains or cooked pasta or noodle products	1/2 slice 1/2 serving 1/4 cup 1/4 cup	1/2 slice 1/2 serving 1/3 cup 1/4 cup	1 slice 1 serving 3/4 cup 1/2 cup
4. Meat (lean) or poultry or fish or cheese or eggs or cooked dry beans, peas lentils or peanut butter or peanuts	1/2 oz 1/2 oz 1/2 oz 1/2 egg 1/8 cup 1 T 1/3 cup	1/2 oz 1/2 oz 1/2 oz 1/2 egg 1/8 cup 1 T 1/3 cup	1 oz 1 oz 1 oz 1 egg 1/4 cup 2 T 2/3 cup

R9-5-911. General Food Service and Food Handling Standards Repealed

- A.** Children and staff shall wash hands with soap and warm running water before handling, serving or eating food. Hand-washing with washcloths shall be restricted to infants and special needs children.
- B.** Children shall be encouraged but not forced to eat.
- C.** Children shall be given necessary assistance in feeding and taught self-feeding skills.
- D.** The provider shall supply individual drinking and eating utensils and food for each child. Each child shall have an individual, marked bottle, cup or glass and shall not be allowed to drink from bottles, cups or glasses of children or other individuals.

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- ~~E.~~ All utensils or equipment used for eating, drinking and food preparation shall be washed in hot water and sanitized either by hand or in an automatic dishwasher after each use or single-use disposable tableware shall be used.
- ~~F.~~ All perishable foods including those in sack lunches shall be covered and stored in a refrigerator at temperatures of 45 degrees F. or less.
- ~~G.~~ Children shall not be allowed to eat food directly off the floor, carpet or ground.
- ~~H.~~ The child's parent or guardian shall be notified when a child consistently refuses to eat or exhibits unusual eating behavior.
- ~~I.~~ Meals prepared by the provider or individual sack lunches supplied by the parent or guardian shall be served to children at customary meal times.
- ~~J.~~ The provider shall not serve the same menu twice in the same day.
- ~~K.~~ Fresh milk shall be served directly from the original, commercially filled container. Unused portions of individual servings shall not be returned to the original container or stored for future consumption.
- ~~L.~~ Reconstituted dry milk shall not be served to enrolled children to meet the fluid milk requirement.
- ~~M.~~ Foods shall be prepared as close to serving time as possible to protect children and personnel from food-borne illnesses.
- ~~N.~~ Foods shall be prepared in a manner to maintain nutrients, proper temperature, flavor, texture, and appearance.
- ~~O.~~ No spoiled food shall be served but shall be discarded as organic waste in the manner specified in these rules.
- ~~P.~~ The provider shall serve milk or full-strength unsweetened juice to children whose sack lunches do not include these items.
- ~~Q.~~ Juices served to children for meals and snacks shall be full-strength vegetable or fruit juice from a can, carton or concentrate. Imitation, powdered, syrup, or concentrated drinks, ades or punches shall not be used in place of full-strength juices.
- ~~R.~~ Menus shall specify foods to be served and shall be planned at least one week in advance, dated and posted prior to the day of service.
- ~~S.~~ Menu substitutions shall be written on the posted menu no later than the morning of the meal service.
- ~~T.~~ When a child requires a modified diet prescribed by the parent, guardian or physician, the provider shall inform personnel of the diet restrictions and serve food that complies with the prescribed dietary regimen.
- ~~U.~~ Children shall receive the following meals or snacks when at the facility for the time periods specified below:
 - ~~1.~~ For two to four hours, one or more snacks shall be served unless the child is at the facility during a regular meal time, in which case the child shall be served meals which meet the requirements outlined in R9-5-910;
 - ~~2.~~ For four to eight hours, a meal and one or more snacks shall be served;
 - ~~3.~~ For nine or more hours, two snacks and one or two appropriate meals shall be served;
 - ~~4.~~ A snack shall be served before bedtime;
 - ~~5.~~ Breakfast shall be available to children who are scheduled to be in attendance at the facility before 8:00 a.m.;
 - ~~6.~~ Lunch shall be served to children who are at the facility between 11:00 a.m. and 1:00 p.m.; or
 - ~~7.~~ Dinner shall be available to children who are at the facility from 5:00 p.m. to 7:00 p.m., or upon parent or guardian request.

R9-5-912. Transportation of Children and Field Trips Repealed

- ~~A.~~ Prior to transporting enrolled children for any reason, the provider shall obtain written authorization from the child's parent or guardian.
- ~~B.~~ Vehicle and driver requirements:
 - ~~1.~~ The vehicle shall be maintained in a mechanically safe condition which shall be verified by the provider's vehicle maintenance records;
 - ~~2.~~ Vehicle drivers for enrolled children shall be 18 years of age or older, hold a current and valid Arizona driver's license, and a current first-aid and cardiopulmonary resuscitation certificate;
 - ~~3.~~ Persons with a suspended driver's license or with a record of arrest or conviction for DWI within the past three years shall not transport enrolled children;
 - ~~4.~~ Children shall not be transported in vehicles which are not constructed for the purpose of transporting people, such as truck beds, campers, or any trailered attachment to a motor vehicle;
 - ~~5.~~ All children shall be seated on seats which are securely fastened to the body of the vehicle and which provide sufficient space for the child's body;
 - ~~6.~~ Seat belts or child restraint devices shall be required of all children when they are transported in a vehicle which weighs under 10,000 pounds Gross Vehicle Weight (GVW). In addition, children four years of age or younger and weighing 40 pounds or less must be properly secured in a child safety seat;
 - ~~7.~~ No personnel or child shall stand or sit on the floor while vehicle is in motion;
 - ~~8.~~ Vehicles used to transport children shall have operable heating and air conditioning; and
 - ~~9.~~ A first-aid kit which meets requirements specified in R9-5-907(B) and two large clean towels or blankets shall be maintained in each vehicle.
- ~~C.~~ Transport safety requirements:
 - ~~1.~~ The provider shall immediately notify the Department of any traffic accident involving children being transported by

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the provider and submit a written accident report to the Department within five working days on Department-approved report forms along with the copy of any police report pertaining to the accident;

2. No child shall be allowed to open or close doors of vehicles transporting enrolled children;
3. Headphones or earphones shall not be worn by the driver of a vehicle while transporting enrolled children;
4. The provider shall maintain a safe vehicle loading and unloading area for children which is located away from any hazard;
5. When away from the facility, the vehicle shall be parked at curbside to load and unload children. When a curbside location is not available, an adult shall find or make a safe path for children to enter or exit the vehicle prior to loading and unloading;
6. The vehicle driver shall remove the keys from the vehicle and set the emergency brake before exiting the vehicle;
7. Vehicle doors shall remain locked at all times when the vehicle is in motion; and
8. A child shall not be left unattended in a vehicle.

D. Field trip requirements:

1. The provider shall obtain written permission from the parent or guardian in advance of the child's participation in a field trip. The field trip permission notice shall provide details of the trip including the purpose of the field trip, time of departure and arrival at the child care group home, and the address of the trip destination;
2. A copy of the emergency information record for each child participating in the field trip shall be taken on all field trips;
3. Sufficient water or other beverages shall be available to children as necessary for the entire trip; and
4. Each child shall have on his person, in plain view, the provider's name, address, and telephone number. The child's first and last name shall be placed inconspicuously on his person.

ARTICLE 10. ACTIVITY AREAS AND PHYSICAL FACILITY STANDARDS FOR CHILD CARE GROUP HOMES REPEALED

R9-5-1001. Child Care Group Home Activity Areas Repealed

- A.** There shall be at least 30 square feet of open floor space in the indoor activity area for each child in the facility which shall not include single-use areas such as kitchens, family bedrooms, bathrooms, laundry rooms, shop areas, or garages.
- B.** Rooms used by enrolled children shall be maintained at temperatures between 68° F and 82° F.
- C.** The facility shall have indoor bathroom facilities, with a toilet and sink available for each 10 individuals in the facility, including children, facility personnel, and household members.
- D.** An outdoor activity area shall be available to children which:
 1. Provides at least 80 square feet of activity space for each child;
 2. Includes shaded areas large enough to accommodate each child using the area at any one time;
 3. Is accessible by a safe route;
 4. Is easily accessible to the indoor activity area and to bathroom facilities;
 5. Provides play equipment which is in good repair;
 6. Is arranged to eliminate hazards and minimize conflict with other activities;
 7. Has both hard surfaces and grass or other resilient surface. Resilient surfaces shall at least extend four feet from climbing structures in every direction, five feet from the bottom of a slide, seven feet plus the length of a swing's chain from the point of its suspension and seven feet from a merry-go-round or other revolving device; and
 8. Shall be free of all hazards and totally enclosed by a secure fence which is at least four feet high. Open spaces between upright or parallel posts and poles on fences and gates shall not exceed four inches. Gates shall be equipped with a self-closing latch and kept closed but not locked during hours of operation.

R9-5-1002. Swimming Pools Repealed

- A.** All swimming pools and equipment shall conform to manufacturer's specifications for installation and operation and shall be maintained and operated in a safe and sanitary manner at all times.
- B.** Swimming pools over two feet deep shall have the following:
 1. A recirculation system including at least one removable strainer, two pool inlets placed on opposite sides of the pool, and one drain located at the pool's lowest point covered by a grating designed to prevent suction of body surfaces;
 2. A vacuum cleaning system; and
 3. Two ring buoys, one of which has a minimum of 25 feet of 1/2-inch rope attached and a shepherd's crook.
- C.** Pools two feet deep or less shall meet the requirements of subsection (B) except:
 1. The recirculation system shall have at least one pool inlet and bottom drain is not required;
 2. No vacuum cleaning system is necessary, and
 3. No ring buoy is necessary.
- D.** Swimming pools shall be enclosed by a fence which separates it from all other outdoor areas with a minimum height of five feet and a self-closing and self-latching, lockable gate. Open spaces between upright or parallel posts and poles on fences and gates shall not exceed four inches. The gate shall be kept locked whenever the pool is not in use.

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- ~~E.~~ If a community or neighborhood swimming pool is accessible to enrolled children, the swimming pool shall be enclosed by a fence of at least five feet in height with self-closing and self-latching gates. Open spaces between upright or parallel posts and poles on fences and gates shall not exceed four inches. If these requirements are not met, the outdoor play area of the facility shall be entirely fenced as specified in R9-5-1001(D)(8).
- ~~F.~~ The provider shall ensure that all pool drain grates are in place, are in good repair, and cannot be removed without using tools.
- ~~G.~~ The provider shall ensure that pool chemicals are in a locked storage area which is inaccessible to the children and that machinery rooms are locked.
- ~~H.~~ Residential hot tubs, spas, ponds, and portable wading pools shall not be accessible to, or used by, enrolled children.

R9-5-1003. Fire and Safety Repealed

- ~~A.~~ An annual fire safety self-inspection shall be conducted by the provider. The inspection findings shall be recorded on Department approved forms, and a copy of the report shall be timely submitted to the Department. In local fire districts requiring annual inspections by that fire authority, the provider shall also submit to the Department a copy of the local annual fire inspection report.
- ~~B.~~ Smoke detectors shall be installed in all sleeping areas and hallways of the residential facility and shall be maintained in operable condition.
- ~~C.~~ Smoke detector batteries shall be tested monthly. A record of the test shall be kept at the facility and shall be available for inspection.
- ~~D.~~ Portable fire extinguishers which are approved by the State Fire Marshal shall be installed in the kitchen and in the activity areas primarily used for child care. Disposable fire extinguishers shall be discarded when the indicator reaches the red zone and all rechargeable extinguishers shall be serviced annually. The current inspection tag shall be attached to each fire extinguisher.
- ~~E.~~ An evacuation plan shall be conspicuously posted and fire evacuation drills shall be held at least once a month at varying times of the day.
- ~~F.~~ At least two unobstructed, usable exterior exits shall be available to enrolled children.
- ~~G.~~ Enrolled infants and children under the age of 7 years shall not be cared for below or above the facility's ground level unless there is an exit directly to the outside at that level.
- ~~H.~~ The facility, and facility grounds which are accessible to enrolled children, shall be designed, constructed and maintained in good repair and kept free of hazards.
- ~~I.~~ Furnishings, equipment, supplies, materials, utensils, toys, and facility grounds shall be maintained in a safe and sanitary condition.
- ~~J.~~ Firearms and ammunition shall be stored in a locked area, locked cabinet, or locked container inaccessible and out of view of children.
- ~~K.~~ Stairways to levels or rooms not to be used by enrolled children shall be separated either by a door or gate which shall be kept closed during hours of operation.
- ~~L.~~ Low glass windows, sliding doors, or other glass partitions shall either be made of tempered glass or have protective markings or other designation at a child's eye level.
- ~~M.~~ At least one telephone which is not a pay telephone shall be readily available in the facility with emergency telephone numbers conspicuously posted on or beside it. These phone numbers shall include police, fire, 9-1-1, poison control, and the facility's telephone number and address.
- ~~N.~~ All toxic and corrosive materials shall be kept in locked storage areas, cabinets, or containers;
- ~~O.~~ Electrical outlets shall be covered when not in use. All appliances, lights, other items, or devices with frayed electrical cords shall be repaired, discarded, or stored in a locked area.
- ~~P.~~ Extension cords shall not be used in place of permanent wiring. Electrical cords shall not hang in sight or in reach of children.
- ~~Q.~~ Unused natural gas outlets shall have the valves removed and shall be capped at the wall or floor.
- ~~R.~~ Gas lines shall be inspected and serviced as needed by a qualified professional but at least annually.
- ~~S.~~ Heating and cooling equipment shall not be accessible to enrolled children. Unvented or open flame space heaters and electric portable heaters shall not be used.
- ~~T.~~ All fireplaces shall be screened.
- ~~U.~~ Fans shall be permanently mounted and placed out of reach of enrolled children.
- ~~V.~~ A child care group home and its grounds shall be well illuminated.
- ~~W.~~ Children shall not be allowed to play with ropes or on rope swings.
- ~~X.~~ Poisonous plants shall be inaccessible to enrolled children.
- ~~Y.~~ All irrigation ditches, abandoned mines, and wells shall be inaccessible to children.

R9-5-1004. Sanitation Repealed

- ~~A.~~ An annual sanitation inspection shall be conducted on Department approved forms, a copy of which is to be submitted to the Department.
- ~~B.~~ The facility, furnishings, equipment, materials, and toys shall be kept clean and free of insects and vermin.
- ~~C.~~ An individual clean space shall be provided for each child's personal toothbrush, comb, washcloth, extra clothing, blanket, etc. Each child's toilet articles shall be separated from the articles used by other children.
- ~~D.~~ All equipment, toys, and materials used by, or accessible to, enrolled children shall be maintained in a clean and usable condition and disinfected as necessary. Fabric toys and toys for enrolled children who are 30 months of age and younger shall be washed and disinfected at least weekly.
- ~~E.~~ Drinking water shall be available to enrolled children at all times.
- ~~F.~~ Insect control shall include screening of all direct openings to the outside. Doors which open to the outside shall not be left open without insect control.
- ~~G.~~ There shall be covered, lined, waterproof, easily cleaned containers for the storage of soiled clothing. The children shall not have access to the containers.
- ~~H.~~ All plumbing fixtures shall be maintained in proper operating condition. There shall be sufficient water pressure at all times to meet the needs of the facility.
- ~~I.~~ In each bathroom at the facility to be used by enrolled children, mounted toilet tissue, soap, and mounted, singly dispensed paper towels shall be available at all times and within easy and safe reach of children.
- ~~J.~~ Toilet bowls, urinals, lavatories, tubs and showers, drinking fountains, and the bathroom, playroom, and kitchen floors shall be scrubbed with a disinfectant cleaning solution as needed but not less than daily.
- ~~K.~~ Organic waste shall be disposed of immediately in a sanitary manner and stored in tightly covered containers lined with plastic bags and secured with tight-fitting covers.
- ~~L.~~ Garbage, trash and organic waste shall be placed in secured plastic bags and removed from the facility daily, or more often if necessary, to maintain a sanitary environment.
- ~~M.~~ Tightly covered outdoor containers for garbage and trash, consistent with existing residential codes, shall be available in sufficient quantity to accommodate all waste products. Removal of waste products from the facility and its grounds shall be scheduled to maintain freedom from odor, vermin, and insects and to prevent the intrusion of animals.

R9-5-1005. Diaper Changing Repealed

- ~~A.~~ The diaper changing area shall not be located in the kitchen or eating areas and shall be accessible to soap and warm running water.
- ~~B.~~ The diaper changing surface shall be cleaned, sanitized, and dried before and after each diaper change.
- ~~C.~~ Personnel shall wash their hands with soap and warm running water before and after each diaper change.
- ~~D.~~ Soiled cloth diapers shall not be rinsed but shall be individually bagged in plastic and stored in a covered container out of reach of children. Soiled disposable diapers shall be discarded into tightly covered lined containers which are inaccessible to children.

R9-5-1006. Pets and Animals Kept on the Premises Repealed

- ~~A.~~ The provider shall be responsible for the behavior, maintenance, and cleanliness of pets or other animals at the facility or on the grounds of the facility when enrolled children are present.
- ~~B.~~ All dogs at the facility or on the grounds of the facility shall be vaccinated against rabies.
- ~~C.~~ Pets shall be controlled to assure that proper sanitation at the facility or on the grounds of the facility is maintained and to assure that the animals are not a hazard to enrolled children, personnel, or visitors at the facility.
- ~~D.~~ Pet dishes shall not be left on the floor or in reach of enrolled children.
- ~~E.~~ Farm animals including horses, sheep, cattle, poultry, and fowl shall be kept in an enclosed area which is not accessible to enrolled children.

NOTICE OF PROPOSED RULEMAKING

TITLE 15. REVENUE

CHAPTER 10. DEPARTMENT OF REVENUE
GENERAL ADMINISTRATION

PREAMBLE

- 1. Sections Affected**

R15-10-501	Amend
R15-10-502	Amend
R15-10-504	New Section
- 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. § 42-1005
Implementing statutes: A.R.S. §§ 42-1103.03, 42-1105, 42-1105.01, 42-1105.02, and 42-1125.01
- 3. A list of all previous notices appearing in the Register addressing the proposed rules:**

Notice of Rulemaking Docket Opening: 9 A.A.R. 3670, August 15, 2003
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Amanda Pope, Chief Income Tax Counsel
Address: Arizona Department of Revenue
1600 W. Monroe
Phoenix, AZ 85007
Telephone: (602) 542-3345, ext. 7506
Fax: (602) 542-4763
E-mail: PopeA@revenue.state.az.us
- 5. An explanation of the rules, including the agency's reasons for initiating the rules:**

R15-10-501 supplements the definitions enacted in Ch. 191, Laws 2001. R15-10-502 provides the authorization allowed by the Legislature in A.R.S. § 42-1105(F). R15-10-504 lists the methods by which an electronically filed return of transaction privilege, use, or withholding tax may be signed by a taxpayer. The Department is proposing these rules to assist in the administration of the electronic filing program.
- 6. A reference to any study relevant to the rules that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rules or proposes not to rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

None
- 7. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable
- 8. The preliminary summary of the economic, small business, and consumer impact:**

It is expected that the benefits of the rules will be greater than the costs. The Department will incur the costs associated with the rulemaking process. Taxpayers are not expected to incur any expense with the adoption of these rules. Electronic return preparers may incur minimal cost associated with the recordkeeping requirements of R15-10-502.
- 9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Amanda Pope, Chief Income Tax Counsel
Address: Arizona Department of Revenue
1600 W. Monroe
Phoenix, AZ 85007
Telephone: (602) 542-3345, ext. 7506
Fax: (602) 542-4763

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E-mail: PopeA@revenue.state.az.us

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rules, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rules:

Date: September 15, 2003

Time: 10:00 a.m.

Location: Department of Revenue
1600 W. Monroe, Room B1
Phoenix, AZ 85007

Nature: Public hearing on proposed rulemaking.

A person may submit written comments regarding the proposed rulemaking action by submitting the comments no later than 5:00 p.m., September 15, 2003, to the person listed in item #4.

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

None

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

None

13. The full text of the rules follows:

TITLE 15. REVENUE

**CHAPTER 10. DEPARTMENT OF REVENUE
GENERAL ADMINISTRATION**

ARTICLE 5. ELECTRONIC FILING PROGRAM

Section

R15-10-501. Definitions

R15-10-502. Recordkeeping Requirements

R15-10-504. Electronic Signatures for Transaction Privilege, Use and Withholding Tax

ARTICLE 5. ELECTRONIC FILING PROGRAM

R15-10-501. Definitions

In addition to the definitions provided in A.R.S. §§ 42-1101.01, 42-1103.01, ~~43-1103.02~~, 42-1103.02, ~~43-1103.03~~ 42-1103.03, and 42-1105.02, unless the context provides otherwise, the following definitions apply to this Article and to A.R.S. Title 42, Chapter 2:

“AZTaxes.gov” means the Department’s taxpayer service center web site that provides taxpayers with the ability to conduct transactions and review tax account information over the internet.

“Authorized user” means an individual, including a return preparer or electronic return preparer as defined in A.R.S. § 42-1101.01, granted limited authority by the security administrator to access taxpayer information available on the AZTaxes.gov web site.

1. “Electronic return, statement or other document” means all data entered into a return, statement or other document that is prepared using computer software and is transmitted electronically to the Department.

2. “Electronic return transmitter” includes a person who is part of the chain of transmission of an electronic return, statement or other document from the taxpayer or from an electronic return preparer to the Department even though the person did not receive the transmitted return, statement or other document directly from the taxpayer or electronic return preparer.

“License” means one or more transaction privilege, use, or withholding tax licenses or registrations obtained from the Department by completing and submitting a mail-in Arizona Joint Tax Application or by completing the online AZTaxes.gov business registration process and submitting an executed AZTaxes.gov Registration Signature Card.

“Registered customer” means a taxpayer that has, by means of providing specific information requested by the Department through its AZTaxes.gov web site registration process, obtained a username and password entitling that taxpayer to conduct transactions and access its account information through the AZTaxes.gov web site.

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“Security administrator” means an individual, including a return preparer or electronic return preparer as defined in A.R.S. § 42-1101.01, appointed and authorized to administer security access on the AZTaxes.gov web site for the specified taxpayer. The security administrator shall be appointed by the individual taxpayer, a partner duly authorized to act for the partnership, a manager duly authorized to act for the limited liability company, or a principal officer of the corporation.

“Security access” means the unlimited ability of the taxpayer or the security administrator to access taxpayer’s online accounts, conduct online transactions for the taxpayer, designate authorized users, specify the level of access granted to an authorized user, and modify or terminate the access of any authorized user.

R15-10-502. Recordkeeping Requirements

- A.** For each electronic return of individual income or withholding tax filed with the Department, the electronic return preparer shall keep the documents listed in A.R.S. § 42-1105(F) for four years following the later of the return’s due date or the date the return was filed with the Department.
- B.** For each electronic return of transaction privilege or use tax filed with the Department, the electronic return preparer shall keep the documents listed in A.R.S. § 42-1105(F) for six years following the later of the return’s due date or the date the return was filed with the Department.

R15-10-504. Electronic Signatures for Transaction Privilege, Use and Withholding Tax

- A.** A taxpayer that has previously obtained a license may become a registered customer of the AZTaxes.gov web site by:
1. Providing the following information during the AZTaxes.gov web site registration process:
 - a. The legal name of the registrant and one of the following:
 - i. The registrant’s federal employer identification number.
 - ii. The registrant’s social security number if the registrant is a sole proprietor, or
 - iii. The identification number assigned to the registrant by the Department if the registrant is not required under federal or international law to obtain either a federal employer identification number or social security number.
 - b. The legal name and e-mail address of the security administrator.
 2. Submitting to the Department an executed AZTaxes.gov Registration Signature Card as evidence of the following:
 - a. The information submitted during the AZTaxes.gov web site registration process is true and correct.
 - b. The information contained in the previously submitted Arizona Joint Tax Application is true and correct.
 - c. The signatory is duly authorized to act on behalf of the business, receive confidential information, and waive any rights of confidentiality, and
 - d. Security access is granted to taxpayer’s security administrator if one is appointed.
- B.** A taxpayer that has not obtained a license from the Department may become a registered customer of the AZTaxes.gov web site by:
1. Obtaining a license by completing either the mail-in Arizona Joint Tax Application or the online business registration.
 2. Providing the following information during the AZTaxes.gov web site registration process:
 - a. The legal name of the registrant and one of the following:
 - i. The registrant’s federal employer identification number.
 - ii. The registrant’s social security number if the registrant is a sole proprietor, or
 - iii. The identification number assigned to the registrant by the Department if the registrant is not required under federal or international law to obtain either a federal employer identification number or social security number.
 - b. The legal name and e-mail address of the security administrator.
 3. Submitting to the Department either the executed mail-in Arizona Joint Tax Application or the AZTaxes.gov Registration Signature Card as evidence of the following:
 - a. The information submitted during the AZTaxes.gov web site registration process is true and correct.
 - b. The information either contained in the Arizona Joint Tax Application or submitted during the online business registration is true and correct.
 - c. The signatory is duly authorized to act on behalf of the business, receive confidential information, and waive any rights of confidentiality, and
 - d. Security access is granted to taxpayer’s security administrator if one is appointed.
- C.** A taxpayer, its security administrator, or authorized user shall use the taxpayer’s signature on the AZTaxes.gov Registration Signature Card to sign any of the taxpayer’s electronic transaction privilege, use, or withholding tax returns. Use of taxpayer’s signature is taxpayer’s declaration, under penalties of perjury, that the electronic return is, to the best of the taxpayer’s knowledge and belief, true, correct, and complete.

D. A taxpayer files an electronic return under subsection (C) by doing the following:

1. If the taxpayer or security administrator is preparing the taxpayer's electronic return, the taxpayer or security administrator accesses the AZTaxes.gov web site and electronically files the return.
2. If the taxpayer's authorized user is preparing the taxpayer's electronic return, the taxpayer files an electronic return by:
 - a. Accessing the AZTaxes.gov web site and electronically filing the return, or
 - b. Authorizing, in writing on a form prescribed by the Department, the authorized user to access the taxpayer's account on the AZTaxes.gov web site and electronically file the return on behalf of the taxpayer.

NOTICE OF PROPOSED RULEMAKING

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 6. DEPARTMENT OF INSURANCE

PREAMBLE

1. Sections Affected

Rulemaking Action

R20-6-101	Amend
R20-6-102	Amend
R20-6-103	Amend
R20-6-104	Amend
R20-6-105	Amend
R20-6-106	Amend
R20-6-107	Amend
R20-6-108	Amend
R20-6-109	Amend
R20-6-110	Amend
R20-6-111	Amend
R20-6-112	Amend
R20-6-113	Amend
R20-6-114	Amend
R20-6-115	Amend
R20-6-116	Re-number
R20-6-116	Amend
R20-6-160	Re-number

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

Authorizing statutes: A.R.S. §§ 20-143 and 41-1003

Implementing statutes: A.R.S. §§ 20-143, 41-1003, 41-1033, 41-1061, and 41-1062

3. A list of all previous notices appearing in the Register addressing the proposed rules:

Notice of Rulemaking Docket Opening: 9 A.A.R. 3063, July 11, 2003

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

Name: Margaret McClelland
Address: Arizona Department of Insurance
2910 N. 44th Street, 2nd Floor
Phoenix, AZ 85018
Telephone: (602) 912-8456
Fax: (602) 912-8452

5. An explanation of the rules, including the agency's reasons for initiating the rules:

The Department proposes amendments to R20-6-101 through R20-6-116 and renumbering of R20-6-160 in response to a five-year review report approved by the Governor's Regulatory Review Council (Council) on February 5, 2002. The rules are administrative and procedural in nature and the changes made to the rules are generally non-substantive for the purpose of making the rules more clear, concise and understandable, and to make the rules comply with current rulewriting standards of the Office of the Secretary of State.

The Department may include information in the preamble of the Notice of Final Rulemaking that demonstrates that the rule needs to be effective immediately on filing in the Office of the Secretary of State under A.R.S. § 41-1032(A).

Specific Section-by-Section Explanation of This Proposal

R20-6-101 sets forth the scope of this Article and definition of terms used in this Article.

R20-6-102 sets forth requirements for practice and appearance before the Director.

R20-6-103 sets forth requirements for filing documents with the Director and for service of notice and documents on parties.

R20-6-104 sets forth requirements for making filings with the Director and signature on documents.

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R20-6-105 sets forth requirements for amendments to the notice of hearing, orders issued by the Director, or an answer.

R20-6-106 sets forth requirements for filing a written answer to allegations in the notice of hearing.

R20-6-107 sets forth requirements for a party to request and have a prehearing opportunity to inspect and copy documents.

R20-6-108 sets forth requirements for requesting, issuing, serving, and objecting to subpoenas.

R20-6-109 sets forth requirements for deposing witnesses.

R20-6-110 sets forth requirements for prehearing conferences.

R20-6-111 sets forth requirements for designating a hearing officer, motions to disqualify a hearing officer, conduct of a hearing, consolidation of hearings, and holding open and closing the hearing record.

R20-6-112 sets forth the order of presentation by the parties at a hearing.

R20-6-113 sets forth requirements for computing time periods and extending time limits.

R20-6-114 sets forth requirements for requesting a rehearing or review of an order and for requesting a stay of the Director's decision.

R20-6-115 sets forth requirements for parties to respond to a request for rehearing and the option for the Director or hearing officer to convene a hearing or oral argument on the request.

R20-6-160 is renumbered to R20-6-116. This Section sets forth requirements for a person to petition the Department for a rulemaking and the requirement for the Department to deny the petition or commence rulemaking.

6. A reference to any study relevant to the rules that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rules or proposes not to rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

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

Not applicable

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

The rules in this Article are procedural and administrative in nature. This rulemaking is proposed in response to a five-year review of this Article approved by the Council on February 5, 2002. The rulemaking adds no new requirements, but revises the language of the existing rules to make them more clear, concise and understandable, and to comply with current rule writing standards.

The persons who will be directly effected by this rulemaking are the parties to an administrative hearing before the Department. There will be little economic impact as a result of this rulemaking.

R20-6-103 is amended to recognize the wider range of options now generally available and routinely used for communicating decisions and information to parties. The broader range of options for serving a party, including use of facsimile, could result in some cost savings to parties because a party may be able to use a less costly method of service. Any cost savings are expected to be minimal.

This rulemaking will have no economic impact on consumers, businesses, including small businesses, or political subdivisions.

There will be a minimal economic impact on the Department, the Office of the Secretary of State and the Governor's Regulatory Review Council for costs associated with the rulemaking process. The Department does not expect the rulemaking to have any economic impact on any other public agencies.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Margaret McClelland
Address: Arizona Department of Insurance
2910 N. 44th Street, 2nd Floor
Phoenix, AZ 85018
Telephone: (602) 912-8456
Fax: (602) 912-8452

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rules, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rules:

ADOI will hold an oral proceeding to receive public comments in accordance with A.R.S. § 41-1023 on Wednesday, September 17, 2003, 10:00 a.m., at the Arizona Department of Insurance, 2910 N. 44th Street, Phoenix, AZ, 3rd floor training room. ADOI will accept oral or written comments that are received by 5:00 p.m. on September 22, 2003 or that are postmarked by that date. The comment period will end and the record will close at 5:00 p.m. on September 22, 2003.

ADOI is committed to complying with the Americans with Disabilities Act. If any individual with a disability needs any type of accommodation, please contact ADOI at least 72 hours before the hearing.

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

Not applicable

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

None

13. The full text of the rules follows:

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 6. DEPARTMENT OF INSURANCE

ARTICLE 1. HEARING PROCEDURES

Section

R20-6-101.	Scope of Article; Definitions
R20-6-102.	Appearance and Practice before <u>Before</u> the Director
R20-6-103.	Filing; Service
R20-6-104.	Form of All Filings; Signature
R20-6-105.	Amendments
R20-6-106.	Answer to Notice of Hearing
R20-6-107.	Prehearing Disclosure of Documents and Statements
R20-6-108.	Subpoenas
R20-6-109.	Depositions
R20-6-110.	Prehearing Conference
R20-6-111.	Hearings
R20-6-112.	Order of Presentation
R20-6-113.	Computation of Time; Continuances and Extensions of Time
R20-6-114.	Request for Rehearing or Review
R20-6-115.	Response to Request for Rehearing
R20-6-116.	Reserved
R20-6-160. <u>R20-6-116.</u>	<u>Rulemaking Petition</u>
<u>R20-6-160.</u>	<u>Renumbered</u>

ARTICLE 1. HEARING PROCEDURES

R20-6-101. Scope of Article; Definitions

- A.** Scope. This Article and Title 20 of the Arizona Revised Statutes govern contested cases before the Department. Except as otherwise provided in R20-6-160 for rulemaking petitions, this Article does not apply to rulemaking or investigative proceedings before the Department. Unless expressly applicable by rule or statute, the Arizona Rules of Civil Procedure do not apply to contested cases.
- B.** Definitions. In this Article, the following definitions apply:
1. "Attorney General" means the Attorney General of Arizona, and the Attorney General's assistants or special agents.
 2. "Contested case" ~~means any proceeding in which the legal rights, duties or privileges of a party are required by law to be determined by the Director after an opportunity for hearing~~ has the meaning prescribed in A.R.S. § 41-1001(4).
 3. "Department" means the Arizona Department of Insurance.
 - ~~7-4.~~ "Director" means the Director of the Department or a hearing officer or any deputy, assistant or examiner of the Director acting in the Director's name in accordance with A.R.S. § 20-150.
 5. "Document" means any paper such as a complaint, answer, motion response, notice, or brief.
 - ~~4-6.~~ "Hearing Officer" means a person appointed by the Director to hear a contested case and make recommendations.
 - ~~5-7.~~ "Party" has the meaning prescribed in A.R.S. § 41-1001(12).

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6-8. "Person" has the meaning prescribed in A.R.S. § 41-1001(13).

R20-6-102. Appearance and Practice ~~before~~ Before the Director

- A. ~~Any~~ A person may appear ~~in his~~ on that person's own behalf or through ~~counsel~~ an attorney licensed in Arizona. An insurer may appear through ~~legal counsel~~ an attorney licensed to practice law in Arizona or through a duly authorized officer of the corporation.
- B. When an attorney other than the Attorney General appears or intends to appear before the Director, ~~he~~ the attorney shall promptly advise the Director of ~~his~~ the attorney's name, address and telephone number and the name and address of the person on whose behalf ~~he~~ the attorney intends to appear.
- C. ~~Conduct at any hearing which, in the discretion of the Director, is deemed contemptuous shall be grounds for exclusion from the hearing. The Director or hearing officer may exclude from a hearing any person the Director or hearing officer deems to be engaged in contemptuous conduct. Contemptuous conduct shall include:~~
 - 1. ~~willful~~ Willful noncompliance with an order of the Director or hearing officer;
 - 2. ~~willful~~ Willful disruption or obstruction of any hearing; or
 - 3. ~~any~~ Any other willful conduct during ~~any~~ a hearing ~~which~~ that lessens the dignity or authority of the Director or hearing officer.
- D. Upon motion of any party, the Director or hearing officer may exclude from a hearing a non-party witness before the witness gives testimony.

R20-6-103. Filing; Service

- A. ~~No paper shall be deemed filed until received by the Director. The Director shall deem a document filed on the date the Director receives it.~~
- B. ~~Unless otherwise provided by these rules, copies of all papers filed shall, at or before the time of filing, be served~~ The filing party shall serve a copy of each document filed on the hearing officer, the Attorney General, and all parties each party to the proceeding at or before the time of filing.
- C. ~~Whenever under these rules service is required or permitted to be made upon a party represented by an attorney, the service shall be made upon the attorney~~ The filing party shall serve the attorney if a party is represented by an attorney.
- D. ~~Service upon the attorney, or upon a party, shall be made personally in accordance with Rule 5(e) of the Arizona Rules of Civil Procedure, or by mail by enclosing a copy thereof in a sealed envelope and depositing same, postage prepaid, in the United States mail, addressed to the party to be served or his attorney~~ The filing party shall serve each party or the party's attorney personally by first class, express, or certified United States Postal Service mail, or by facsimile or electronic mail transmission at the address or facsimile number as shown by the licensing records of the Director. Department. Service by mail is complete upon deposit in the United States Mail. Service on a party is complete as follows:
 - 1. On the date it is personally served.
 - 2. Five days after it is mailed by express or first class mail.
 - 3. On the date of the return receipt if it is mailed by certified mail, or
 - 4. On the date indicated on the facsimile or electronic mail transmission.
- E. ~~All notices~~ The Director shall serve each notice of hearing and final decisions decision issued by the Director ~~shall be served by mail first class, express, or certified United States Postal Service mail or by facsimile or electronic mail transmission at the address or facsimile number as shown by the records of the Director.~~
- F. ~~Proof of~~ A party shall prove service shall be made by filing with the Director a written statement that service was made and the date and manner of service.

R20-6-104. Form of All Filings; Signature

- A. ~~All papers filed with the Director shall be typewritten on 8-1/2 x 11 inch paper. A party or the party's attorney shall make written filings with the Director that are signed by the party or the party's attorney.~~
- B. ~~Every paper filed with the Director under these rules shall be signed by the party filing it or by at least one attorney, in his individual name, who represents the party. The signature constitutes a certificate~~ certification by the signer that ~~he~~ the signer has read the ~~paper~~ document, that to the best of ~~his~~ the signer's knowledge, information and belief, it is well grounded in fact and is warranted by law, and that it is not ~~interposed for~~ filed for the purpose of delay or harassment.

R20-6-105. Amendments

Except where otherwise provided by law ~~or these rules~~, the Director may amend ~~any~~ a notice of hearing or prior order issued by the Director or permit the amendment of any answer in the interest of justice.

R20-6-106. Answer to Notice of Hearing

- A. In any notice of hearing, the Director may require that one or more parties ~~shall~~ file a written answer to the allegations contained in the notice of hearing. ~~Even if not directed to do so, any party may file such an answer. A party may file an answer even if not required by the Director.~~

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- B. ~~Except where a different period is provided by the notice of hearing, If the Director requires a party directed to file a written answer, the party shall do so within 20 days after issuance of the notice of hearing unless a different period is provided in the notice of hearing. Where amendments to~~ If the Director amends the assertions contained in the notice of hearing are made subsequent to after service of the notice of hearing, the Director may require one or more of the parties may be required to answer the amended assertions within a reasonable time the amended assertions.
- C. ~~Unless otherwise directed by the Director, an answer filed under this rule~~ A party's answer shall briefly state the party's position or defense to the proceeding and shall specifically admit or deny each of the assertions contained in the notice of hearing, unless otherwise directed by the Director. If the answering party is without or is unable to reasonably obtain knowledge or information sufficient to form a belief as to the truth of an assertion, he the party shall so state, which shall have the effect of a denial. Any assertion not denied shall be deemed to be admitted. If a party does not deny an assertion, the Director shall deem the assertion admitted by the party. When If an answering party intends in good faith to deny only a part of an assertion, he the answering party shall specify so much of it as what part of the assertion is true and shall deny only the remainder.
- D. ~~If a~~ The Director shall deem a party in default if the party fails to file an answer required by the Director within the required time provided, period, such person shall be deemed in default and the proceeding may be determined against him by the Director and The Director may determine the proceeding against the party and deem one or more of the assertions contained in the notice of hearing may be deemed to be admitted.
- E. ~~Any defenses~~ The Director shall deem any defense not raised in the answer shall be deemed to be waived.

R20-6-107. Prehearing Disclosure of Documents and Statements

- A. The Director, upon written request ~~from a party,~~ shall allow ~~any the~~ party to have a reasonable opportunity to inspect and copy, at the party's expense, admissible documentary evidence or documents reasonably calculated to lead to admissible evidence prior to a hearing in a contested case, so long as such evidence is not privileged. ~~The inspection shall be party shall inspect documentary evidence or documents~~ at the Department or at a place designated by the Director.
- B. The Director may order a party to allow the Attorney General or the Department's investigator to have an opportunity, prior to a hearing, to inspect and copy at the state's expense, admissible documentary evidence or documents reasonably calculated to lead to admissible evidence. The inspection shall be at the premises of the party, if located in the state of Arizona. Otherwise, the Director may order the party to produce documents at a place designated by the Director.
- C. The Director, upon request by the Attorney General or ~~any a~~ party, may require, ~~prior to a hearing, the disclosure a party to disclose and allow inspection and copying of~~ documentary evidence intended to be used the party intends to use at the hearing, ~~so long as such if the~~ evidence is not privileged. ~~Disclosure may include inspection and copying.~~

R20-6-108. Subpoenas

- A. ~~Any party desiring the issuance of~~ A party may request that the Director issue a subpoena to compel the appearance of a witness or the production of documents at any hearing or deposition shall file by filing a written ~~ex parte~~ part parte application ~~therefore setting forth that states~~ the name and address of the witness, time and place of appearance, and any documents or tangible things sought to be produced. Upon receipt, the Director shall issue the subpoena.
- B. The party ~~requesting who requests~~ the subpoena shall arrange for service of the subpoena, ~~as in civil actions. Subpoenas A subpoena~~ issued at the request of the Director may be served by an employee of the Department or any attorney or agent of the Attorney General's Office. The party who requests the subpoena shall serve the subpoena at least 10 days before the date of the hearing or deposition unless the Director or hearing officer determines that the requesting party has shown good cause for waiving the 10 days requirement.
- C. A party may request issuance of an amended subpoena, which shall be served as provided in subsection (B).
- D. The person to whom the subpoena is directed may, within 10 days after ~~the service, thereof~~ or on or before the return date if the return date is less than 10 days after service, serve upon the Director, the hearing officer and the attorney or party designated in the subpoena, written objection to the appearance or to the inspection or copying of any or all of the designated material. ~~If objection is made, the subpoenaed person objects,~~ the party serving the subpoena shall not be entitled to inspect and copy the materials ~~except pursuant to an~~ by order of the Director. The party serving the subpoena shall have five days within which to file a written response to the objection within five days. The Director's order on the objection shall be based upon Director shall base the order on the written objection and response. ~~No oral argument shall be heard on the objection unless the~~ The Director or hearing officer directs may set an oral argument on the objection.

R20-6-109. Depositions

- A. ~~Except~~ A party shall not depose a witness except as provided by this Section and ~~otherwise provided by law, depositions may not be taken of any witness.~~
- B. ~~Depositions for use as evidence may be taken of witnesses~~ A party may depose for evidence a witness who cannot be subpoenaed or are is otherwise unable to attend the hearing. ~~In order to~~ To take a deposition, a party shall file with the ~~Department~~ Director a written motion with copies to ~~all parties~~ each party and the Attorney General setting forth the name and address of the witness, the subject matter of the deposition, the documents, if any, sought to be produced, the time and place proposed for the deposition, and the justification for the deposition.

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- C. ~~If a deposition is permitted, The party who seeks to depose a witness shall request that the Director issue a subpoena and a written order, shall be issued. The~~ If the Director permits the deposition, the Director shall issue a subpoena and order ~~shall identify that identifies~~ the person to be deposed, the scope of testimony to be taken, the documents, if any, to be produced, and the time and place of the deposition. The party requesting the deposition shall arrange for service of the subpoena and order. ~~The subpoena and order shall be served on all parties each party~~ and the Attorney General at least five business days before the time fixed for taking the deposition unless, for good cause shown, ~~such time is shortened by the Director or a hearing officer shortens the time.~~
- D. If the parties agree in writing, a ~~deposition may be taken of party~~ may depose a witness for any purpose, in the manner and upon the terms designated by them, subject to approval by the Director or the hearing officer.

R20-6-110. Prehearing Conference

The Director, upon written request of a party or the Attorney General, or on ~~his~~ the Director's own motion, and upon written notice to ~~all parties, each party~~ may direct that a prehearing conference be held ~~for the purpose of clarifying or limiting the~~ clarify or limit procedural, legal, or factual issues involved in a contested case.

R20-6-111. Hearings

- A. ~~Hearings may be presided over by a hearing officer designated by the Director. All such hearings shall be open to the public, except as provided in A.R.S. § 20-164. A hearing officer appointed by the Director may~~ The Director may designate a hearing officer to preside over a hearing and to make all determinations and enter all orders and process which that the Director is authorized to make or issue ~~under these rules or any other order necessary~~ for the orderly conduct of the hearing.
- B. ~~Any challenge of the hearing officer shall be made in the form of a written motion specifying~~ A party may file with the Director a written motion to disqualify the hearing officer. The party shall specify in the motion the grounds for disqualification of the hearing officer and shall be served and serve the motion as soon as practicable under the circumstances, but no later than 15 days after the ~~person party~~ party discovers ~~that such grounds exist or, with reasonable diligence should have discovered, with reasonable diligence that grounds exist.~~ The Director shall rule ~~upon on~~ the challenge prior to the commencement or continuation of the hearing.
- C. The hearing ~~shall be open to the public, except as provided under A.R.S. § 20-164. The hearing officer shall regulate the course of the hearing in an impartial manner and shall rule upon procedural and evidentiary matters incidental thereto. The hearing officer may question witnesses. Upon motion of any party, a witness may be excluded from the hearing by the hearing officer prior to his or her testimony, except that this rule shall not be used to exclude a party to the proceeding.~~
- D. ~~All~~ The parties shall make all motions and objections ~~made during the course of a hearing shall be made on record to the hearing officer and state the grounds for the objection. the~~ The hearing officer who shall rule thereon on or take the motion and objections them under advisement for later determination. ~~Objections to the admission or exclusion of evidence shall be made on the record and shall state the grounds of objections relied upon.~~
- E. ~~The hearing proceedings shall be stenographically reported by a~~ A certified court reporter or the hearing officer shall mechanically record the hearing, or mechanically recorded under the direction of a The Director or hearing officer ~~who shall retain control of the used reel or tape following conclusion of recording after the hearing.~~
- F. ~~By order of the~~ The Director or the hearing officer may order that proceedings involving a common question of fact or a common respondent ~~may be consolidated for hearing of any or all of the matters at issue where such if consolidation may tend to facilitate a just and efficient resolution.~~
- G. ~~At the discretion of the~~ The Director, ~~the hearing record may be held open~~ may hold the hearing record open for a reasonable period of time at the conclusion of the hearing to permit the ~~presentation of parties to present~~ additional written arguments, memoranda, evidence, or responsive pleadings. At the close of ~~such the~~ period, the Director shall close the hearing record ~~shall close.~~

R20-6-112. Order of Presentation

All witnesses at a hearing shall testify under oath or affirmation. The parties may make an opening and closing statement. In matters brought at the request of the Director evidence in support of the Director's action shall be presented first, then the respondent may present evidence in support of his or her position, and then there may be rebuttal and surrebuttal evidence presented. In matters brought at the request of a person other than the Director, including requests for hearing on the denial of a license and other hearings brought pursuant to A.R.S. § 20-161(B), the person seeking the hearing shall present his or her evidence first. The parties may present evidence and conduct cross-examination. The hearing officer shall rule upon the admissibility of evidence sua sponte or upon objection of any party.

A. Each witness at a hearing shall testify under oath or affirmation.

B. Each party may make an opening and closing statement.

C. If the Director initiates an action:

1. The Director shall first present evidence in support of the Director's action.

2. The respondent shall next present evidence in support of the respondent's position.

3. Each party may then present rebuttal and surrebuttal evidence.

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D. If a party other than the Director initiates an action, including requests for hearing on the denial of a license and other hearings brought under A.R.S. § 20-161(B), the party seeking the action shall present evidence first. The parties may present evidence and conduct cross-examination. The hearing officer shall rule upon the admissibility of evidence sua sponte or upon objection of any party.

R20-6-113. Computation of Time; Continuances and Extensions of Time

- A.** ~~In computing any~~ To compute a period of time prescribed or allowed by these rules in this Article, by order of the Director or by any applicable statute, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday or Sunday or a legal holiday, in which event, then the period runs until the end of the next day which that is not a Saturday, Sunday or legal holiday. When ~~If~~ If the period of time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.
- B.** ~~Except as otherwise provided by law, the~~ The Director or hearing officer, for good cause, may extend time limits ~~pre-~~scribed by these rules in this Article except those ~~time limits imposed by~~ in R20-6-114.

R20-6-114. Request for Rehearing or Review

- A.** ~~Within 30 days after service of the Director's order on the a hearing, any an aggrieved party may file with the Director a~~ written request a ~~for~~ for rehearing or review of the order with service on each party. ~~The request shall be in writing and shall be served upon the Director as provided by R20-6-103, and a copy shall be served upon all other parties to the hearing, including the Attorney General if the Attorney General is not the party filing the request.~~
- B.** ~~A request for~~ The party requesting rehearing or review shall ~~be based upon~~ specify one or more of the following grounds ~~which that~~ that have materially affected the ~~rights of a party~~ party's rights:
1. Irregularity in the hearing proceedings, or any order or abuse of discretion whereby the party seeking rehearing or review was deprived of a fair hearing;
 2. Misconduct by the Director, the hearing officer or any party to the hearing;
 3. Accident or surprise ~~which that~~ which that could not have been prevented by ordinary prudence;
 4. Newly discovered material evidence ~~which that~~ which that could not have been discovered with reasonable diligence and produced at the hearing;
 5. Excessive or insufficient sanctions or penalties imposed;
 6. Error in the admission or rejection of evidence, or errors of law occurring at the hearing or during the course of the hearing;
 7. Bias or prejudice of the Director or hearing officer;
 8. That the order, decision, or findings of fact are not justified by the evidence or are contrary to law.
- C.** ~~A request for rehearing or review shall specify which of the grounds listed in subsection (B) it is based upon and shall set forth specific~~ The requesting party shall specify facts and laws in support of the request. A request ~~The requesting party~~ may cite relevant portions of testimony from the hearing by referring to the pages or lines of the reporter's transcript of the hearing and may cite hearing exhibits by reference to the exhibit number.
- D.** ~~A request for~~ The party requesting rehearing shall specify the ~~one or more forms of~~ one or more forms of relief sought by the request, such as a different finding of fact, conclusion of law or order. ~~A request for rehearing or review may seek multiple forms of relief in the alternative.~~
- E.** ~~When a request for~~ If the party requesting rehearing is based upon affidavits, they shall be attached to and filed with ~~bases the request on an affidavit, the party shall attach and file the affidavit with the request unless the Director or hearing officer grants leave for later filing of affidavits is granted by the Director or hearing officer. Leave may be granted~~ The Director of hearing officer may grant leave ~~ex parte.~~
- F.** ~~A request for rehearing or review of the Director's order on the hearing which is not timely made is deemed waived for the purpose of judicial review. A party who fails to request rehearing or review of the Director's order on the hearing shall be barred from raising a claim in any proceeding in which the Director, the hearing officer or the Department of Insurance is a party, except as otherwise required by law.~~
- G.** ~~A party may file a written request for a~~ with the Director to stay of the Director's decision. ~~An~~ but an order entered by the Director shall not be stayed by the filing of a stay request or a request for rehearing or review. The Director may stay an order pending the resolution of a request for rehearing or review or when justice requires.

R20-6-115. Response to Request for Rehearing

- A.** ~~Each party served with a request for rehearing pursuant to R20-6-114 shall be permitted to file a response within 15 days after the request for rehearing has been filed. This response shall be designated as a "response to request for rehearing or review" and shall be in writing. Affidavits may be attached to and filed with the response. If not filed in this manner, an affidavit shall be filed only if leave for later filing of affidavits is granted by the hearing officer or Director. Leave may be granted ex parte. The original response shall be filed with the Department as provided in R20-6-103, and one copy shall be served upon all other parties to the hearing, including the Attorney General if the Attorney General is not the party filing the response.~~

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- A. Each party served with a request for rehearing under R20-6-114:
1. May file a written Response to Request for Rehearing or Review with the Director within 15 days after the request for rehearing has been filed; and
 2. Shall effect service under R20-6-103.
- B. The responding party may attach and file affidavits with the response, or a party may later file an affidavit if the Director or hearing officer grants leave for later filing. The Director or hearing officer may grant leave ex parte.
- ~~B.C.~~ The Director or hearing officer or Director has the discretion to may convene a hearing or hear oral argument to consider a request for rehearing.

~~R20-6-116.~~ **Reserved**

~~R20-6-160.~~ **R20-6-116. Rulemaking Petition**

- A. The following definitions apply in this Section:-:
1. "Department" means the Arizona Department of Insurance.
 2. "Director" means the Director of the Department of Insurance.
 3. "Petitioner" means a person who petitions the Department for rulemaking ~~action~~.
 4. "Rulemaking ~~action~~" means the process for a formulation and finalization of a new rule, or amendment or repeal of an existing rule.
- B. Any person may petition the Department under A.R.S. § 41-1033 for rulemaking ~~action~~.
- C. A person who seeks a rulemaking ~~action~~ shall file, with the Director, a petition with the following information:
1. The petitioner's name, address, and telephone number;
 2. The name and address of any organization the petitioner represents;
 3. A statement of the rulemaking action the petitioner seeks, including:
 - a. A citation to any existing rule, substantive policy statement, or Department practice to be amended or repealed; and
 - b. The specific suggested language ~~of a proposed~~ for a new rule or rule amendment;
 4. The reasons for the rulemaking action, including an explanation of why an existing rule, substantive policy statement, or Department practice is inadequate, unreasonable, unduly burdensome, or unlawful; and
 5. The petitioner's dated signature.
- D. The petitioner may submit additional supporting information, including:
1. Statistical data; ~~and~~
 2. Information regarding the economic impacts of the rulemaking; and
 - ~~2.3.~~ A list of other persons and entities likely to be affected by the ~~proposed~~ rulemaking action, with an explanation of the likely effects.
- E. ~~Within 60 days of the date the Department receives the petition, the Department shall send the petitioner a written decision indicating whether the Department is denying the petition or will initiate the requested rulemaking action, with the reasons for the decision. The Department shall either deny the petition, initiate rulemaking, or make a rule under A.R.S. § 41-1033.~~

~~R20-6-160.~~ **Renumbered**