



**Division of Medical Services
Legislative & Intergovernmental Affairs
Policy Coordination & Promulgation**

P.O. Box 1437, Slot S295 · Little Rock, AR 72203-1437
501-320-6428 · Fax: 501-404-4619



October 1, 2018

Varnaria Vickers-Smith, Legislative Analyst
Senate Interim Children and Youth Committee and the
House Aging, Children and Youth, Legislative and Military Affairs Committee
Arkansas Bureau of Legislative Research
Bureau of Legislative Research
One Capital Mall, 5th Floor, Room R-516
Little Rock, AR 72201

**Re: Initial Filing – Regular Promulgation for -
Minimum Licensing Requirements for Child Care Centers
Minimum Licensing Requirements for Child Care Family Homes
Minimum Licensing Requirements for Out of School Time Facilities
Minimum Licensing Requirements for Registered Child Care Family Homes**

Dear Ms. Vickers-Smith:

Please place the Division of Child Care and Early Childhood Education on the Children & Youth Committee agenda for review of the Rules as listed on the Questionnaire. The public comment period is from August 6, 2018 to September 4, 2018, with a proposed effective date of November 1, 2018.

Enclosed are copies of the Questionnaire, Summary of Changes, Financial Impact Statement and Rule.

If you have any questions or comments please do not hesitate to contact Becky Murphy, Program Administrator, Division of Medical Services, Office of Policy Coordination & Promulgation Development at 501-320-6429 or emailing becky.murphy@dhs.arkansas.gov.

Sincerely,

A handwritten signature in blue ink that reads "Tonya Williams".

Tonya Williams
Director

TW:th

Attachments

Summary of DCCECE Rule Revision/Promulgation

Child Care Licensing

The Division is proposing changes to the Minimum Licensing Requirements for Child Care Centers, Minimum Licensing Requirements for Child Care Family Home, Minimum Licensing Requirements for Out of School Time Facilities, and Minimum Licensing Requirements for Registered Child Care Family Homes, to define, simplify and clarify the intent of current regulations and to increase the overall quality of care for the children of Arkansas.

The following recommended changes are the result of recent legislation:

Minimum Licensing Requirements for Child Care Centers

In order to come into compliance with Act 23 of 2015 regarding the requirements for insurance the following standards have been added:

Regulation

- 101.5 To exempt state institutions, political subdivisions, or other entities entitled immunity for liability under 21-9-301 to have general liability insurance coverage to be licensed.
- 1301.6 To exempt state institutions, political subdivisions, or other entities entitled immunity for liability under 21-9-301 to have commercial insurance coverage in order to transport

In order to come into compliance with Act 572 of 2017 regarding the requirements for FBI Background Checks the following standards have been revised which will require additional staff to have FBI Background Checks:

- 110.1b To require all direct care staff to submit an FBI Background Check within 10 business days of their hire/start date in order to bring these requirements into compliance with the Federal Block Grant Requirements
- 110.1c To require all administrative persons who have direct contact with children to submit an FBI Background Check within 10 business days of their hire/start date in order to bring these requirements into compliance with the Federal Block Grant Requirements
- 110.1d To require all therapist, volunteers or other persons who have supervisory control, disciplinary control over children or who may be left alone with children to submit an FBI Background Check within 10 business days of their hire/start date in order to bring these requirements into compliance with the Federal Block Grant Requirements

The following proposed changes are necessary to explain or clarify existing standards and provide child care providers with clarifications for the standards:

Regulation

- 102.6 To clarify possible consequences of falsification of any documents and /or submission of false information to the Child Care Licensing Unit or any division of DHS
- 306.3 To add a review of the Minimum Licensing Requirements for Child Care Centers to new staff orientation
- 401.5 Staff shall plan and provide experiences that meet children’s needs and stimulate learning in the following developmental area: physical, social/emotional, creative/aesthetic, cognitive/intellectual and language, found in Arkansas’ Early Learning Standards

Minimum Licensing Requirements for Child Care Family Home

In order to come into compliance with Act 572 of 2017 regarding the requirements for FBI Background Checks the following standards have been revised which will require additional staff to have FBI Background Checks:

- 109.1b To require each staff person to submit an FBI Background Check within 10 business days.**
- 109.1c To require all therapist, volunteers or other persons who have supervisory control, disciplinary control over children or who have routine contact with children to submit an FBI Background Check within 10 business days of their hire/start date.**
- 305 Sections 305.1, 305.2, 305.3 and 305.4 are being added to define those individuals who would be considered volunteers and the qualifications and responsibilities required of them including background checks. In addition, Section 305 will ensure the definition of volunteers is outlined and defined in the same manner as it is in the Minimum Licensing Requirements for Child Care Facilities, Minimum Licensing Requirements for Registered Family Homes and Minimum Licensing Requirements for Out of School Time Programs.**

The following proposed changes are necessary to explain or clarify existing standards and provide child care providers with clarifications for the standards:

Regulation

- 201.2 To clarify possible consequences of falsification of any documents and/or submission of false information to the Child Care Licensing Unit or any division of
- 401.2 Staff shall plan and provide experiences that meet children’s needs and stimulate learning in the following developmental area: physical, social/emotional, creative/aesthetic, cognitive/intellectual and language, found in Arkansas’ Early Learning Standards.

Minimum Licensing Requirements for Registered Child Care Family Home

In order to come into compliance with Act 572 of 2017 regarding the requirements for FBI Background Checks the following standards have been revised which will require additional staff to have FBI Background Checks:

- 109.1b** To require each staff person to submit an FBI Background Check within 10 business days.
- 109.1c** To require all therapist, volunteers or other persons who have supervisory control, disciplinary control over children or who have routine contact with children to submit an FBI Background Check within 10 business days of their hire/start date.
- 303** Sections 303.1, 303.2, 303.3 and 303.4 are being added to define those individuals who would be considered volunteers and the qualifications and responsibilities required of them including background checks. In addition, Section 303 will ensure the definition of volunteers is outlined and defined in the same manner as it is in the Minimum Licensing Requirements for Child Care Facilities, Minimum Licensing Requirements for Child Care Family Homes and Minimum Licensing Requirements for Out of School Time Programs.

The following proposed changes are necessary to explain or clarify existing standards and provide child care providers with clarifications for the standards:

Regulation

- 201.3** To clarify possible consequences of falsification of any documents and/or submission of false information to the Child Care Licensing Unit or any division of
- 401.2** Staff shall plan and provide experiences that meet children's needs and stimulate learning in the following developmental area: physical, social/emotional, creative/aesthetic, cognitive/intellectual and language, found in Arkansas' Early Learning Standards.

Minimum Licensing Requirements for Out of School Time

In order to come into compliance with Act 23 of 2015 regarding the requirements for insurance the following standards have been added.

Regulation

- 101.4** To exempt state institutions, political subdivisions, or other entities entitled immunity for liability under 21-9-301 to have general liability insurance coverage to be licensed.
- 1301.6** To exempt state institutions, political subdivisions, or other entities entitled immunity for liability under 21-9-301 to have commercial insurance coverage in order to transport.

In order to come into compliance with Act 572 of 2017 regarding the requirements for FBI Background Checks the following standards have been revised which will require additional staff to have FBI Background Checks:

- 110.1b To require all direct care staff to submit an FBI Background Check within 10 business days of their hire/start date in order to bring these requirements into compliance with the Federal Block Grant Requirements
- 110.1c To require all administrative persons who have direct contact with children to submit an FBI Background Check within 10 business days of their hire/start date in order to bring these requirements into compliance with the Federal Block Grant Requirements
- 110.1d To require all therapist, volunteers or other persons who have supervisory control, disciplinary control over children or who may be left alone with children to submit an FBI Background Check within 10 business days of their hire/start date in order to bring these requirements into compliance with the Federal Block Grant Requirements

The following proposed changes are necessary to explain or clarify existing standards and provide child care providers with clarifications for the standards.

Regulation

- 102.6 To explain, or clarify possible consequences of falsification of any documents and /or submission of false information to the Child Care Licensing Unit or any division of DHS
- 1101.7 To correct a typographical error which left off the end of a sentence

This draft is a working document. All information contained herein is subject to change and may differ substantially from the final document. The information contained in this document should not be considered the positions or views of the agency or governor.

**QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS
WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE**

DEPARTMENT/AGENCY Department in Human Services
DIVISION Division of Child Care and Early Childhood Education
DIVISION DIRECTOR Tonya Williams
CONTACT PERSON David Griffin
ADDRESS PO Box 1437, Slot S150, Little Rock, AR 72203
PHONE NO. 501-320-8904 FAX NO. 501-682-2317 E-MAIL david.griffin@dhs.arkansas.gov
NAME OF PRESENTER AT COMMITTEE MEETING David Griffin
PRESENTER E-MAIL david.griffin@dhs.arkansas.gov

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question **completely** using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

**Donna K. Davis
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, AR 72201**

Minimum Licensing Requirements for Child Care Centers
Minimum Licensing Requirements for Child Care Family Home
Minimum Licensing Requirements for Out of School Time Facilities
Minimum Licensing Requirements for Registered Child Care Family

1. What is the short title of this rule? Homes
Rules pertaining to entities entitled to immunity for general liability insurance
Clarifications pertaining to possible consequences of falsification
Clarifications pertaining to Staff Orientation Training
Requirements for FBI Background Checks
Definitions of individuals considered to be volunteers in child care facilities and requirements pertaining for the
Correction to add the name of the early childhood benchmarks- Arkansas Early Learning Standards

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes No
If yes, please provide the federal rule, regulation, and/or statute citation. _____

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes No
If yes, what is the effective date of the emergency rule? N/A

When does the emergency rule expire? N/A

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes No

5. Is this a new rule? Yes No

If yes, please provide a brief summary explaining the regulation. The requirements for FBI Background Checks for all child care staff is a new rule/requirement.

Does this repeal an existing rule? Yes No

If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does. N/A

Is this an amendment to an existing rule? Yes No

If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. Child Care Facility Licensing Act - Ark Code Annotated 20-78-201-220.

7. What is the purpose of this proposed rule? Why is it necessary?

The purpose of these rules is to clarify and make the rules more provider friendly and to comply with Acts 23 and 572.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b). <https://humanservices.arkansas.gov/about-dhs/dccece/programs-services/child-care-licensing>

9. Will a public hearing be held on this proposed rule? Yes No

If yes, please complete the following:

Date: August 14, 2018

Time: 1:00 p.m.

Place: Central Library – Main Library Darragh Center Auditorium 100

Rock Street, Little Rock, AR. 72201

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

September 4, 2018

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Department of Human Services
DIVISION Division of Child Care and Early Childhood Education
PERSON COMPLETING THIS STATEMENT David Griffin
TELEPHONE NO. 501-320-8904 **FAX NO.** 501-628-2317 **EMAIL:** david.griffin@dhs.arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Minimum Licensing Requirements for Child Care Centers
Minimum Licensing Requirements for Child Care Family Home
Minimum Licensing Requirements for Out of School Time
Facilities
Minimum Licensing Requirements for Registered Child Care
Family Homes

- 1. Does this proposed, amended, or repealed rule have a financial impact? Yes No
- 2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule? Yes No
- 3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If an agency is proposing a more costly rule, please state the following:

- (a) How the additional benefits of the more costly rule justify its additional cost;
Increase safety for child in licensed care.
- (b) The reason for adoption of the more costly rule;
State Law 572 of 2017 and to comply with Federal Child Care Development Block Grant requirements
- (c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;
This rule will help safeguard the welfare of children in licensed care by ensuring that we have the most complete information possible on individuals with prohibiting offenses.
- (d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.
Act 572 of 2017

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

- (a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

Next Fiscal Year

General _____

General Revenue 0

Total 293,040.00 Total 73,260.00

(b) What is the additional cost of the state rule?

Current Fiscal Year

Next Fiscal Year

General Revenue 0
 Federal Funds **293,040.00
 Cash Funds 0
 Special Revenue 0
 Other (Identify) 0

General Revenue 0
 Federal Funds **73,260.00
 Cash Funds 0
 Special Revenue 0
 Other (Identify) 0

Total **293,040.00

Total **73,260.00

**These cost were listed in both the federal and state areas because they are the result of a federal requirement and a state law.

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

Next Fiscal Year

\$68.00 per provider

\$ 17.00 per provider

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

Next Fiscal Year

\$ 293,040.00

\$ 73,260.00

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes No

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:

Revenue	
Federal Funds	<u>293,040.00</u>
Cash Funds	<u>0</u>
Special Revenue	<u>0</u>
Other (Identify)	<u>0</u>

Federal Funds	
Federal Funds	<u>73,260.00</u>
Cash Funds	<u>0</u>
Special Revenue	<u>0</u>
Other (Identify)	<u>0</u>