

# MINIMUM LICENSING REQUIREMENTS FOR Out-of-School Time Facilities



ARKANSAS DEPARTMENT OF HUMAN SERVICES  
DIVISION OF CHILD CARE AND EARLY CHILDHOOD EDUCATION  
CHILD CARE LICENSING UNIT  
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PUB-004 (REV. 04/01/2019 01/01/2020)

Out-Of-School Time

## 101 Related Laws and Requirements

1. The "Child Care Facility Licensing Act" Ark. Code Ann. 20-78-201-220, as amended, is the statutory authority for licensing Out-of-School Time (OST) Programs. This act created the Division of Child Care and Early Childhood Education and authorized the Division to establish rules ~~and regulations~~ governing the granting, revocation, denial, and suspension of licenses for OST facilities and the operation of OST facilities in this state. The Minimum Licensing Requirements for Out-of-School Time Facilities are the Division's rules ~~and regulations~~ for OST Facilities.
2. The Child Care Facility Licensing Act designates the Arkansas Department of Human Services, Division of Child Care and Early Childhood Education as the administrative agency responsible for administering the Act in accordance with the Minimum Licensing Requirements for Out-of-School Time Facilities. The Division is authorized to inspect and investigate any proposed or operating OST Facilities and any personnel connected with the OST Facilities to determine if the facility will be or is being operated in accordance with the Child Care Facility Licensing Act and the Minimum Licensing Requirements for Out-of-School Time Facilities.
3. The Child Care Licensing Unit will notify the applicable federal agency at any time they become aware of or are advised of violations of any of the following or similar laws. The owner should be aware of applicable federal laws which may affect the operation of the facility, such as, but not limited to:
  - a. Americans with Disabilities Act (ADA).
  - b. Environmental Protection Agency (EPA) regulations to ensure that any renovation or repair work on a home, child care facility, or school that was constructed prior to 1978 shall be completed by a contractor that is certified by the Environmental Protection Agency (EPA), when the repairs or renovations consist of any or all of the following: the repair or renovation disturbs six (6) or more square feet of the interior, the repair or renovation disturbs twenty (20) feet or more square feet of the exterior, or the repair or renovation involves removing a window.
  - c. Federal civil rights laws state that a facility may not discriminate on the basis of race, color, sex, religion, national origin, physical or mental handicap, or veteran status.
4. The Licensee shall maintain Child Care Liability Insurance (Act 778 of 2009), and comply with the following requirements: State entities, political subdivisions or other entities entitled to immunity from liability under 21-9-301, are not required to have general liability insurance coverage in order to be licensed. (Act 23 of 2015)
  - a. Prior to the approval of an application, the applicant shall provide verification of the required coverage to the Licensing Specialist and provide subsequent verification when requested. (Facilities licensed prior to the effective date of this revision shall have ninety (90) days to comply with this requirement.)
  - b. The Licensee shall maintain the minimum amount of coverage as follows:

Licensed Capacity of OST Facility	Minimum Child Care Liability Insurance Coverage Required
1-74	\$500,000 per occurrence

75 and up	\$1,000,000 per occurrence
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5. Owners, operators, staff, therapists, and volunteers are mandated reporters of suspected child maltreatment and are required to call the Child Maltreatment Hotline at 1-800-482-5964, if they have reason to suspect child maltreatment. Additionally, these same individuals are required by Act 530 of 2019, to notify law enforcement if they have a good faith belief that there is a serious and imminent threat to the health or safety of a student, employee, or the public, based on a threat made by an individual regarding violence in, or targeted at, a school (facility) that has been communicated to the person in the course of their professional duties.
6. Laws relevant to the operation of OST Facilities are available upon request.
7. The following standards are the minimum licensing requirements which shall be met by persons or organizations which operate an OST Facility. In recommending a license be issued, the Division of Child Care and Early Childhood Education works in coordination with the local and state Health Departments, Fire Departments, City Planning or Zoning Departments, and the Boiler Division of the Department of Labor. Persons considering opening or expanding an OST Facility shall immediately contact these individual departments for inspection and information on their separate regulations rules.

A prospective Licensee should request clarification regarding the codes or covenants enforced by these departments as some may prevent the operation of an OST Facility at a particular location, may limit the number of participants in care, or may impose additional safety requirements.

8. The Licensing Unit shall share information on the location and status of new applicants applying for a license and on facilities holding a license when a city or county requests the information.

**109 Child Maltreatment Checks**

1. The following persons shall be required to have their background reviewed through an Arkansas Child Maltreatment Central Registry Check. ~~A check or money order made out to Department of Human Services (DHS) must be attached to each form.~~

Prospective employees who have not lived in the State of Arkansas during the preceding five (5) years will be subject to current federal guidelines regarding conducting a child maltreatment background check in any states where they resided during the past five (5) years.

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| a. Each applicant to own or operate an OST Facility | At application and every two (2) years thereafter |
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| b. Staff members and applicants for employment in OST Facility  | At application or within 10 days of hire/start date <u>Prior to employment</u> and every two (2) years thereafter   |
| c. All volunteers who have routine contact with participants  | At application, and every two years thereafter <u>Prior to providing services or participating in center activities</u> and every two (2) years thereafter                      |
| d. Administrative staff <del>and</del> or members of Board of Directors who have supervisory <del>and</del> or disciplinary control over participants or who have routine contact with participants | At application <u>and when changes occur with administrative staff or Board members</u> and every two (2) years thereafter  |
| e. Student Observers  | At beginning of observation or within 10 days of first observation and every two years thereafter if applicable   |
| e. Therapists or other persons who have routine contact with participants   | Within 10 days of the time they begin <u>Prior to provide providing services or begin to participate participating</u> in program activities and every two (2) years thereafter |

2. If a complaint of child maltreatment is filed against any owner/operator, staff, or other person in OST Facility, the Child Care Licensing Specialist shall evaluate the risk to participants and determine the suitability of the person(s) to supervise, be left alone with participants, have disciplinary control over participants, or remain in the program during hours of care until the allegations have been determined true or unsubstantiated. (Pending the evaluation of risk to participants by the Child Care Licensing Unit, the person(s) alleged shall not be left alone with participants.)
3. If corrective action is appropriate, the facility shall require all staff members who have had a founded report of child maltreatment to follow the corrective action plan specified by the Child Care Licensing Unit. Corrective action measures may vary from relevant training to reassignment or termination. Failure to comply with corrective action plans may constitute grounds for adverse action against the license.
4. The statewide Child Maltreatment Hot Line and the Child Care Licensing Central Office number shall be posted in a conspicuous place in the OST Facility. The Hot Line number is 1-800-482-5964 and the Licensing Central Office number is (501) 682-8590 or toll free 1-800-445-3316.

#### **110 FBI Criminal Records Check**

1. The following persons shall apply to the Identification Bureau of the Arkansas State Police for a nationwide criminal record check, to be conducted by the FBI, which shall include a fingerprint check: (The individual is responsible for the cost of a nationwide check. Each request must be accompanied by a check or money order made out to the Arkansas State Police.)

Fingerprints submitted will be used to check the criminal history records of the FBI. Individuals with results showing a prohibited offense shall be advised to contact the Licensing Unit for procedures to obtain the results and for procedures to update or make corrections to the record of their individual history.

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|---|---|
| a. Each applicant to own or operate an OST Facility   | <u>At initial application only and every five (5) years thereafter</u>  |
| b. <u>Direct care staff or staff with routine contact with participants</u>   | <u>Within 10 days of hire/start date Prior to employment and every five (5) years thereafter</u>  |
| c. Administrative persons who have direct contact with participants   | <u>Within 10 days of hire Prior to employment and every five (5) years thereafter</u>   |
| d. Therapists, volunteers, or other persons who have supervisory control, disciplinary control over participants, or are left alone with participants | <u>Within 10 days of start date Prior to providing services or participating in center program activities and every five (5) years thereafter</u> |

## 2. Arkansas State Police Criminal Background Check

The following persons shall be required to have their background reviewed through a fingerprint Criminal Records check (which includes the Arkansas Sexual Offender Registry) conducted by the Arkansas State Police.

**A prospective staff member may not begin work until the Arkansas State Police criminal record check result has been returned as satisfactory. Following receipt of the satisfactory result, this individual must be supervised at all times, pending completion of all of the required background check components, by a staff member who has successfully completed all required background checks.**

Prospective employees who have not lived in the State of Arkansas during the preceding five (5) years will be subject to current federal guidelines regarding conducting a criminal background check and sexual offender registry check in any states where they resided during the past five (5) years. (A National Sexual Offender Registry check will also be conducted on prospective employees.)

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| a. Each applicant to own or operate an OST Facility  | At application and every five (5) years thereafter   |
| b. Staff and applicants for employment in an OST Facility  | <del>Within 10 days of hire/start date</del><br>Prior to employment and every five (5) years thereafter  |
| c. Administrative persons who have direct contact with participants  | <del>Within 10 days of hire</del> Prior to employment and every five (5) years thereafter  |
| d. Therapists or other persons who have supervisory or disciplinary control over participants, or are left alone with participants | <del>Within 10 days of the time they begin to</del><br>Prior to <del>provide</del> providing services or <del>begin to participate</del> participating in program activities and every five (5) years thereafter |
3. Criminal records will be returned to the division for review. Any charge/convictions listed in this section (Section 110) that are returned will be considered regardless of whether the record is expunged, pardoned, or otherwise sealed.
4. No person shall be eligible to be an OST Facility owner, operator, or employee if that person has pled guilty, or been found guilty, of any of the following offenses by any court in the State of Arkansas, any similar offense by a court in another state or any similar offense by a federal court. The following offenses are permanently prohibited:

01. Abuse of an endangered or impaired person, if felony	§5-28-103
02. Arson	§5-38-301
03. Capital Murder	§5-10-101
04. Endangering the Welfare of an Incompetent person- 1 <sup>st</sup> degree	§5-27-201
05. Kidnapping	§5-11-102
06. Murder in the First degree	§5-10-102
07. Murder in the Second degree	§5-10-103
08. Rape	§5-14-103
09. Sexual Assault in the First degree	§5-14-124
10. Sexual Assault in the Second degree	§5-14-125

5. No person shall be eligible to be an OST Facility owner, operator, or employee if that person has pled guilty, or been found guilty, of any of the following offenses by any court in the State of Arkansas, any similar offense by a court in another state or any similar offense by a federal court. The following offenses are prohibited:

<b>01. Criminal Attempt to commit any offenses in MLR Section 100.110</b>	<b>§5-3-201</b>
<b>02. Criminal Complicity to commit any offenses in MLR Section 100.110</b>	§5-3-202
<b>03. Criminal Conspiracy to commit any offenses in MLR Section 100.110</b>	§5-3-401
<b>04. Criminal Solicitation to commit any offenses in MLR Section 100.110</b>	§5-3-301
<b>05. Assault in the First, Second, or Third degree</b>	§5-13-205 - §5-13-207
<b>06. Assault, Aggravated</b>	§5-13-204
<b>07. Assault, Aggravated on a Family or Household Member</b>	§5-26-306
<b>08. Battery in the First, Second, or Third Degree</b>	§5-13-201 - §5-13-203
<b>09. Breaking or Entering</b>	§5-39-202
<b>10. Burglary</b>	§5-39-201
<b>11. Coercion</b>	§5-13-208
<b>12. Computer Crimes Against Minors</b>	§5-27-601 et. seq.
<b>13. Contributing to the Delinquency of a Juvenile</b>	§5-27-220
<b>14. Contributing to the Delinquency of a Minor</b>	§5-27-209
<b>15. Criminal Impersonation</b>	§5-3-208
<b>16. Criminal Use of a Prohibited Weapon</b>	§5-73-104
<b>17. Death Threats Concerning a School Employee or Students</b>	§5-17-101
<b>18. Domestic Battery in the First, Second, or Third Degree</b>	§5-26-303 - §5-26-305
<b>19. Employing or Consenting to the Use of a Child in a Sexual Performance</b>	§5-27-402
<b>20. Endangering the Welfare of a Minor in the First or Second Degree</b>	§5-27-205 and §5-27-206
<b>21. Endangering the Welfare of an Incompetent Person in the First or Second Degree</b>	§5-27-201 and §5-27-202
<b>22. Engaging Children in Sexually Explicit Conduct for Use in Visual or Print Media</b>	§5-27-303

23. False Imprisonment in the First or Second Degree	§5-11-103 and §5-11-104
24. Felony Abuse of an Endangered or Impaired Person	§5-28-103
25. Felony Interference with a Law Enforcement Officer	§5-54-104
26. Felony Violation of the Uniform Controlled Substance Act	§5-64-101 - §5-64-508 et. seq.
27. Financial Identity Fraud	§5-37-227
28. Forgery	§5-37-201
29. Incest	§5-26-202
30. Interference with Court Ordered Custody	§5-26-502
31. Interference with Visitation	§5-26-501
32. Introduction of Controlled Substance into Body of Another Person	§5-13-210
33. Manslaughter	§5-10-104
34. Negligent Homicide	§5-10-105
35. Obscene Performance at a Live Public Show	§5-68-305
36. Offense of Cruelty to Animals	§5-62-103
37. Offense of Aggravated Cruelty to Dog, Cat, or Horse	§5-62-104
38. Pandering or Possessing Visual or Print Medium Depicting Sexually Explicit Conduct Involving a Child	§5-27-304
39. Patronizing a Prostitute	§5-70-103
40. Permanent Detention or Restraint	§5-11-106
41. Permitting Abuse of a Minor	§5-27-221
42. Producing, Directing, or Promoting a Sexual Performance by a Child	§5-27-403
43. Promoting Obscene Materials	§5-68-303
44. Promoting Obscene Performance	§5-68-304
45. Promoting Prostitution in the First, Second, or Third Degree	§5-70-104 - §5-70-106
46. Prostitution	§5-70-102
47. Public Display of Obscenity	§5-68-205
48. Resisting Arrest	§5-54-103
49. Robbery	§5-12-102
50. Robbery (Aggravated Robbery)	§5-12-103
51. Sexual Offense (any)	§5-14-101 et. seq.
52. Simultaneous Possession of Drugs and Firearms	§5-74-106
53. Soliciting Money or Property from Incompetents	§5-27-229
54. Stalking	§5-71-229
55. Terroristic Act	§5-13-310
56. Terroristic Threatening	§5-13-301
57. Theft by Receiving	§5-36-106
58. Theft of Property	§5-36-103
59. Theft of Services	§5-36-104
60. Transportation of Minors for Prohibited Sexual Conduct	§5-27-305
61. Unlawful Discharge of a Firearm from a Vehicle	§5-74-107
62. Voyeurism	§5-16-102



6. If the Licensee wishes to employ an individual with a conviction or plea of guilty or nolo contendere for the following nonviolent offenses, they shall submit a written request for a waiver prior to employment. § 20-38-103 (e) (3) (a) Act 990 of 2013
  - a. Theft by receiving § 5-36-106
  - b. Forgery § 5-37-201
  - c. Financial identity fraud § 5-37-227
  - d. Resisting arrest § 5-54-103
  - e. Criminal impersonation in the second degree § 5-37-208(b)
  - f. Interference with visitation § 5-26-501
  - g. Interference with court-ordered visitation § 5-26-502
  - h. Prostitution § 5-70-102
  - i. Patronizing a prostitute § 5-70-203

The waiver may be approved if all the following conditions are met:

- The individual has completed probation or parole supervision
  - The individual has paid all court ordered fees, fines, and restitution
  - The individual has fully complied with all court orders pertaining to the conviction or plea
7. The waiver will be revoked if after employment the individual pleads guilty or nolo contendere or is found guilty of any prohibited offense (including the list above a-i) or has a true or founded report of child maltreatment or adult maltreatment in a central registry.
  8. The request for waiver and certification of approval shall be kept in the individual's file for the term of employment and three (3) years after termination of employment.
  9. If approved, the waiver is not transferable to another licensed facility.
  10. Any person who has pled guilty, nolo contendere, or who has been found guilty of any one (1) of the offenses listed as prohibited above (Section 110.5, 0-62) may not work in child care unless:
    - a. The date of the conviction, plea of guilty or nolo contendere for a misdemeanor offense is at least five (5) years from the date of the request for the criminal history records check and there have been no criminal convictions or pleas of guilty or nolo contendere of any type or nature during the five (5) year period preceding the background check request.
    - b. The date of the conviction, plea of guilty or nolo contendere for a felony offense is at least more than ten (10) years from the date of the request for the criminal history records check and there have been no criminal convictions or pleas of guilty or nolo contendere of any type or nature during the ten (10) year period preceding the background check request.
  11. Anyone employed in a licensed center, COE center, licensed child care family home, or a registered child care family home prior to 9/1/2009 with a clear background check

history may remain eligible for employment unless the employee had a conviction, plead guilty, or plead nolo contendere to an offense listed in the above section (Section 110.6) since 9/1/2009.

### 307 Professional Development

1. All directors, site supervisors, and staff who provide direct care to participants shall be registered with the Division of Child Care and Early Childhood Education Professional Development Registry within thirty (30) days of hire and all training shall be registered with the Division of Child Care and Early Childhood Education Professional Development Registry or Department of Education or Department of Higher Education approved.

1-2. All new staff shall have a probationary period of at least thirty (30) days, but no more than six (6) months, during which they are closely supervised, mentored, and evaluated. Evaluations shall be documented and maintained in the employee file.

2-3. All new staff members who provide direct care to children shall receive a basic orientation to facility management policies, center schedules, The Minimum Licensing Standards, and emergency procedures prior to providing care. This shall be documented in the employee file.

3-4. All new staff, including volunteers who are counted in the ratios, shall receive the following orientation within three (3) months of employment (and every three (3) years thereafter) and shall not be left alone with children until this is completed. (unless the staff has prior documented training in the required areas).

a. Introduction (8 clock hours) to include the following, which shall be completed before being left alone with participants:

- Proper supervision of participants
- Behavioral guidance practices
- Shaken baby syndrome; which includes prevention (Carter's Law, Act 1208)
- Emergency procedures in the event of severe weather, or fire, including evacuation procedures and routes, and location and use of fire extinguishers.
- Mandated reporter training
- Administering medication
- Caring for participants with special needs / care plans
- Transportation and car seat safety
- Policies regarding release of participants to authorized individuals
- Prevention and control of infectious diseases
- Building and physical premises safety, including the identification of, and protection from, hazards, bodies of water, and vehicular traffic
- Nutrition and physical activities
- Prevention and response to food sensitivities and allergic reactions
- Basic child development
- The handling and storage of hazardous materials and the appropriate disposal of biocontaminants

See Division Website for a list of courses that The Division maintains contracts for which meet the above requirements.

- b. All staff shall have fifteen (15) hours of job specific training each calendar year, including child development training, for the ages of participants they work with. This shall be training focused on their job responsibilities.

See Division Website for a list of courses that The Division maintains contracts for which meet the above requirements.

5. The director, assistant director/site supervisor, and 50% of the facility staff that are on site at any given time shall have a certificate of successful completion of first aid and CPR from an approved organization.
  - a. The curriculum shall conform with current American Heart Association or American Red Cross guidelines.
  - b. The curriculum shall require hands on, skill-based instruction, as well as practical testing. Training and certification that is provided solely online will not be accepted.
  - c. The instructor shall be qualified and authorized to teach the curriculum and shall be certified by a nationally recognized organization. (Including but not limited to: Health and Safety Institute; EMS Safety Services, Inc.)

### **1201 Safety Requirements**

1. Within thirty (30) days of licensure and within thirty (30) days of any change or modification of the floor plan the facility shall file a copy of their floor plan with the local Office of Emergency Management including the following (§ 20-78-228 Act 1159 of 2013):
  - a. A schematic drawing of the facility and property used by the child care facility including the configuration of rooms, spaces, and other physical features of the building
  - b. The location or locations where children enrolled in child care spend time regularly
  - c. The escape routes approved by the local fire department for the child care facility
  - d. The licensed capacity and ages of children per room at the facility
  - e. The contact information for at least two (2) emergency contacts for the facility
  - f. An aerial view of the child care facility and property used by the child care facility shall be included with the floor plan if available
2. The OST Facility shall have a written plan detailing the procedures to follow in the event of emergencies (fires, floods, tornadoes, utility disruptions, bomb threats, etc.) (Act 801 of 2009). The plan and procedures are required for emergencies that could cause structural damage to the facility, be identified as a threat by the Arkansas Department of Emergency Management or pose a health or safety hazard to the participants and staff. This plan shall include provisions for "sheltering in place" or "lock down", in the event of situations that warrant these measures.

3. The written plan shall include the following information:
  - a. Designated relocation site and evacuation route
  - b. Procedures for notifying parents of relocation
  - c. Procedures for ensuring family reunification
  - d. Procedures to address the needs of individual participants, including participants with special needs disabilities and children with chronic medical conditions
  - e. Procedures and documentation for annual training of staff regarding the plan and possible reassignment of staff duties in an emergency
  - f. Plans to ensure that all staff and volunteers are familiar with the components of the plan
4. The facility shall coordinate with local emergency management officials to plan for emergencies.
5. The facility shall maintain, on site, a current copy of the Arkansas Comprehensive Emergency Management Plan issued by the Arkansas Division of Emergency Management. This plan shall be reviewed by the facility Director and signed and dated, indicating that they have reviewed the current plan and agree to comply with the provisions of the plan.
6. Written procedures and evacuation diagrams for emergency drills shall be posted in each program space.
7. Fire and tornado drills shall be practiced as follows:
  - a. Monthly
  - b. Fire and tornado drills shall be practiced on separate days and at different times of the day.
  - c. Everyone in the facility, at the time of the drill shall participate.
  - d. Staff, including volunteers and substitutes, shall be trained in emergency drill procedures.
  - e. Drills shall be conducted during all hours when participants are in care (evenings, nights, weekends, etc.)
8. The facility shall maintain a record of emergency drills. This record shall include:
  - a. Date of drill
  - b. Type of drill
  - c. Time of day
  - d. Number of participants participating in the drill
  - e. Length of time taken to reach safety
  - f. Notes regarding things that need improved upon
9. The OST Facility shall maintain an evacuation pack that shall be taken on all drills and during actual emergency evacuations. The pack shall be easily accessible in an emergency and all staff shall know the location of the pack. The evacuation pack shall include, but is not limited to the following:

- a. List of emergency numbers
  - b. List of all emergency and contact information for participants
  - c. List of all emergency and contact information for staff
  - d. First aid kit (requirement 1101.6) with extra gloves
  - e. Kleenex
  - f. Battery powered flashlight and extra batteries
  - g. Battery powered radio and extra batteries
  - h. Hand sanitizer
  - i. Notepad and pens/pencils
  - j. Whistle
  - k. Disposable cups
  - l. Wet wipes
  - m. Emergency survival blanket
10. The facility shall immediately notify the Licensing Unit of any extended utility outages or significant damage to the building or grounds. If phone service is not available, notification shall be as soon as service is restored or available.
  11. OST Facilities shall maintain a log of all child product recalls and safety notices issued by CPSC or distributed by the Attorney General's Office and shall post or otherwise make these notices available for parents to review on site. The facility director shall certify, on an annual basis, that these notices have been maintained and reviewed and that any identified items have been removed from the facility. Forms for self-certification will be provided by the Licensing Specialist and shall be submitted annually. (Act 1313 of 2001).
  12. There shall be no alcoholic beverages in any part of the facility during hours of care. Illegal drugs/paraphernalia shall not be in any part of the facility or on the premises, regardless if participants are present or not.
  13. All medications and poisonous substances shall be kept in separately locked areas.
  14. Rescue medications such as inhalers or EpiPens shall be inaccessible to children (kept in a cabinet with a child proof type safety latch or carried by a staff member.)
  15. All detergents and cleaning supplies shall be kept out of the reach of participants. (This does not include hand soap in participants' or staff bathrooms.)
  16. Supplies used for participants' activities shall be carefully supervised.
  17. All bags belonging to participants shall be checked on arrival to eliminate possible hazards. Purses and bags belonging to staff shall be stored out of reach of participants.
  18. Balloon use shall be carefully supervised.
  19. Staff shall be instructed in the use of fire extinguishers.
  20. The facility shall maintain smoke detectors/fire extinguishers as required by the

Fire Department. Smoke detectors shall be kept in working order at all times.

21. Chemicals and toxins shall not be stored in the food storage area.

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3. The Child Care Licensing Unit will notify the applicable federal agency at any time they become aware of or are advised of violations of any of the following or similar laws. The owner should be aware of applicable federal laws which may affect the operation of the facility, such as, but not limited to:
  - a. Americans with Disabilities Act (ADA).
  - b. Environmental Protection Agency (EPA) regulations to ensure that any renovation or repair work on a home, child care facility, or school that was constructed prior to 1978 shall be completed by a contractor that is certified by the Environmental Protection Agency (EPA), when the repairs or renovations consist of any or all of the following: the repair or renovation disturbs six (6) or more square feet of the interior, the repair or renovation disturbs twenty (20) feet or more square feet of the exterior, or the repair or renovation involves removing a window.
  - c. Federal civil rights laws state that a facility may not discriminate on the basis of race, color, sex, religion, national origin, physical or mental handicap, or veteran status.
4. The Licensee shall maintain Child Care Liability Insurance (Act 778 of 2009), and comply with the following requirements: State entities, political subdivisions or other entities entitled to immunity from liability under 21-9-301, are not required to have general liability insurance coverage in order to be licensed. (Act 23 of 2015)
  - a. Prior to the approval of an application, the applicant shall provide verification of the



required coverage to the Licensing Specialist and provide subsequent verification when requested. (Facilities licensed prior to the effective date of this revision shall have ninety (90) days to comply with this requirement.)

b. The Licensee shall maintain the minimum amount of coverage as follows:

Licensed Capacity of OST Facility	Minimum Child Care Liability Insurance Coverage Required
1-74	\$500,000 per occurrence
75 and up	\$1,000,000 per occurrence

5. Owners, operators, staff, therapists, and volunteers are mandated reporters of suspected child maltreatment and are required to call the Child Maltreatment Hotline at 1-800-482-5964, if they have reason to suspect child maltreatment. Additionally, these same individuals are required by Act 530 of 2019, to notify law enforcement if they have a good faith belief that there is a serious and imminent threat to the health or safety of a student, employee, or the public, based on a threat made by an individual regarding violence in, or targeted at, a school (facility) that has been communicated to the person in the course of their professional duties.
6. Laws relevant to the operation of OST Facilities are available upon request.
7. The following standards are the minimum licensing requirements which shall be met by persons or organizations which operate an OST Facility. In recommending a license be issued, the Division of Child Care and Early Childhood Education works in coordination with the local and state Health Departments, Fire Departments, City Planning or Zoning Departments, and the Boiler Division of the Department of Labor. Persons considering opening or expanding an OST Facility shall immediately contact these individual departments for inspection and information on their separate rules.

A prospective Licensee should request clarification regarding the codes or covenants enforced by these departments as some may prevent the operation of an OST Facility at a particular location, may limit the number of participants in care, or may impose additional safety requirements.

8. The Licensing Unit shall share information on the location and status of new applicants applying for a license and on facilities holding a license when a city or county requests the information.

**109 Child Maltreatment Checks**

1. The following persons shall be required to have their background reviewed through an Arkansas Child Maltreatment Central Registry Check.

Prospective employees who have not lived in the State of Arkansas during the preceding five (5) years will be subject to current federal guidelines regarding conducting a child maltreatment background check in any states where they resided during the past five (5)

years.

- |   |   |
|---|---|
| a. Each applicant to own or operate an OST Facility   | At application and every two (2) years thereafter   |
| b. Staff members and applicants for employment in OST Facility  | Prior to employment and every two (2) years thereafter  |
| c. All volunteers who have routine contact with participants  | Prior to providing services or participating in center activities and every (2) years thereafter                    |
| d. Administrative staff or members of Board of Directors who have supervisory or disciplinary control over participants or who have routine contact with participants | At application and when changes occur with administrative staff or Board members and every two (2) years thereafter |
| e. Therapists or other persons who have routine contact with participants   | Prior to providing services or participating in program activities and every two (2) years thereafter               |
- 
2. If a complaint of child maltreatment is filed against any owner/operator, staff, or other person in OST Facility, the Child Care Licensing Specialist shall evaluate the risk to participants and determine the suitability of the person(s) to supervise, be left alone with participants, have disciplinary control over participants, or remain in the program during hours of care until the allegations have been determined true or unsubstantiated. (Pending the evaluation of risk to participants by the Child Care Licensing Unit, the person(s) alleged shall not be left alone with participants.)
  3. If corrective action is appropriate, the facility shall require all staff members who have had a founded report of child maltreatment to follow the corrective action plan specified by the Child Care Licensing Unit. Corrective action measures may vary from relevant training to reassignment or termination. Failure to comply with corrective action plans may constitute grounds for adverse action against the license.
  4. The statewide Child Maltreatment Hot Line and the Child Care Licensing Central Office number shall be posted in a conspicuous place in the OST Facility. The Hot Line number is 1-800-482-5964 and the Licensing Central Office number is (501) 682-8590 or toll free 1-800-445-3316.

### **110 FBI Criminal Records Check**

1. The following persons shall apply to the Identification Bureau of the Arkansas State Police for a nationwide criminal record check, to be conducted by the FBI, which shall include a fingerprint check: (The individual is responsible for the cost of a nationwide check. Each request must be accompanied by a check or money order made out to the Arkansas State Police.)

Fingerprints submitted will be used to check the criminal history records of the FBI. Individuals with results showing a prohibited offense shall be advised to contact the Licensing Unit for procedures to obtain the results and for procedures to update or make corrections to the record of their individual history.

- |   |   |
|---|---|
| a. Each applicant to own or operate an OST Facility   | At initial application and every five (5) years thereafter  |
| b. Direct care staff or staff with routine contact with participants  | Prior to employment and every five (5) years thereafter   |
| c. Administrative persons who have direct contact with participants   | Prior to employment and every five (5) years thereafter   |
| d. Therapists, volunteers, or other persons who have supervisory control, disciplinary control over participants, or are left alone with participants | Prior to providing services or participating in center program activities and every five (5) years thereafter |

Proposed

**2. Arkansas State Police Criminal Background Check**

The following persons shall be required to have their background reviewed through a fingerprint Criminal Records check (which includes the Arkansas Sexual Offender Registry) conducted by the Arkansas State Police.

**A prospective staff member may not begin work until the Arkansas State Police criminal record check result has been returned as satisfactory. Following receipt of the satisfactory result, this individual must be supervised at all times, pending completion of all of the required background check components, by a staff member who has successfully completed all required background checks.**

Prospective employees who have not lived in the State of Arkansas during the preceding five (5) years will be subject to current federal guidelines regarding conducting a criminal background check and sexual offender registry check in any states where they resided during the past five (5) years. (A National Sexual Offender Registry check will also be conducted on prospective employees.)

- |  |  |
|--|--|
| a. Each applicant to own or operate OST Facility   | At application and every five (5) years thereafter   |
| b. Staff and applicants for employment in an OST Facility  | Prior to employment and every five (5) years thereafter  |
| c. Administrative persons who have direct contact with participants  | Prior to employment and every five (5) years thereafter  |
| d. Therapists or other persons who have supervisory or disciplinary control over participants, or are left alone with participants | Prior to providing services or participating in program activities and every five (5) years thereafter |

3. Criminal records will be returned to the division for review. Any charge/convictions listed in this section (Section 110) that are returned will be considered regardless of whether the record is expunged, pardoned, or otherwise sealed.

4. No person shall be eligible to be an OST Facility owner, operator, or employee if that person has pled guilty, or been found guilty, of any of the following offenses by any court in the State of Arkansas, any similar offense by a court in another state or any similar offense by a federal court. The following offenses are permanently prohibited:

01. Abuse of an endangered or impaired person, if felony	§5-28-103
02. Arson	§5-38-301
03. Capital Murder	§5-10-101
04. Endangering the Welfare of an Incompetent person- 1 <sup>st</sup> degree	§5-27-201
05. Kidnapping	§5-11-102
06. Murder in the First degree	§5-10-102
07. Murder in the Second degree	§5-10-103
08. Rape	§5-14-103
09. Sexual Assault in the First degree	§5-14-124
10. Sexual Assault in the Second degree	§5-14-125

5. No person shall be eligible to be an OST Facility owner, operator, or employee if that person has pled guilty, or been found guilty, of any of the following offenses by any court in the State of Arkansas, any similar offense by a court in another state or any similar offense by a

federal court. The following offenses are prohibited:

<b>01. Criminal Attempt to commit any offenses in MLR Section 100.110</b>	<b>§5-3-201</b>
<b>02. Criminal Complicity to commit any offenses in MLR Section 100.110</b>	§5-3-202
<b>03. Criminal Conspiracy to commit any offenses in MLR Section 100.110</b>	§5-3-401
<b>04. Criminal Solicitation to commit any offenses in MLR Section 100.110</b>	§5-3-301
<b>05. Assault in the First, Second, or Third degree</b>	§5-13-205 - §5-13-207
<b>06. Assault, Aggravated</b>	§5-13-204
<b>07. Assault, Aggravated on a Family or Household Member</b>	§5-26-306
<b>08. Battery in the First, Second, or Third Degree</b>	§5-13-201 - §5-13-203
<b>09. Breaking or Entering</b>	§5-39-202
<b>10. Burglary</b>	§5-39-201
<b>11. Coercion</b>	§5-13-208
<b>12. Computer Crimes Against Minors</b>	§5-27-601 et. seq.
<b>13. Contributing to the Delinquency of a Juvenile</b>	§5-27-220
<b>14. Contributing to the Delinquency of a Minor</b>	§5-27-209
<b>15. Criminal Impersonation</b>	§5-3-208
<b>16. Criminal Use of a Prohibited Weapon</b>	§5-73-104
<b>17. Death Threats Concerning a School Employee or Students</b>	§5-17-101
<b>18. Domestic Battery in the First, Second, or Third Degree</b>	§5-26-303 - §5-26-305
<b>19. Employing or Consenting to the Use of a Child in a Sexual Performance</b>	§5-27-402
<b>20. Endangering the Welfare of a Minor in the First or Second Degree</b>	§5-27-205 and §5-27-206

21. Endangering the Welfare of an Incompetent Person in the First or Second Degree	§5-27-201 and §5-27-202
22. Engaging Children in Sexually Explicit Conduct for Use in Visual or Print Media	§5-27-303
23. False Imprisonment in the First or Second Degree	§5-11-103 and §5-11-104
24. Felony Abuse of an Endangered or Impaired Person	§5-28-103
25. Felony Interference with a Law Enforcement Officer	§5-54-104
26. Felony Violation of the Uniform Controlled Substance Act	§5-64-101 - §5-64-508 et. seq.
27. Financial Identity Fraud	§5-37-227
28. Forgery	§5-37-201
29. Incest	§5-26-202
30. Interference with Court Ordered Custody	§5-26-502
31. Interference with Visitation	§5-26-501
32. Introduction of Controlled Substance into Body of Another Person	§5-13-210
33. Manslaughter	§5-10-104
34. Negligent Homicide	§5-10-105
35. Obscene Performance at a Live Public Show	§5-68-305
36. Offense of Cruelty to Animals	§5-62-103
37. Offense of Aggravated Cruelty to Dog, Cat, or Horse	§5-62-104
38. Pandering or Possessing Visual or Print Medium Depicting Sexually Explicit Conduct Involving a Child	§5-27-304
39. Patronizing a Prostitute	§5-70-103
40. Permanent Detention or Restraint	§5-11-106
41. Permitting Abuse of a Minor	§5-27-221
42. Producing, Directing, or Promoting a Sexual Performance by a Child	§5-27-403
43. Promoting Obscene Materials	§5-68-303
44. Promoting Obscene Performance	§5-68-304
45. Promoting Prostitution in the First, Second, or Third Degree	§5-70-104 - §5-70-106
46. Prostitution	§5-70-102
47. Public Display of Obscenity	§5-68-205
48. Resisting Arrest	§5-54-103
49. Robbery	§5-12-102
50. Robbery (Aggravated Robbery)	§5-12-103
51. Sexual Offense (any)	§5-14-101 et. seq.
52. Simultaneous Possession of Drugs and Firearms	§5-74-106
53. Soliciting Money or Property from Incompetents	§5-27-229
54. Stalking	§5-71-229
55. Terroristic Act	§5-13-310
56. Terroristic Threatening	§5-13-301
57. Theft by Receiving	§5-36-106
58. Theft of Property	§5-36-103

59. <b>Theft of Services</b>	§5-36-104
60. <b>Transportation of Minors for Prohibited Sexual Conduct</b>	§5-27-305
61. <b>Unlawful Discharge of a Firearm from a Vehicle</b>	§5-74-107
62. <b>Voyeurism</b>	§5-16-102

6. If the Licensee wishes to employ an individual with a conviction or plea of guilty or nolo contendere for the following nonviolent offenses, they shall submit a written request for a waiver prior to employment. § 20-38-103 (e) (3) (a) Act 990 of 2013

- a. Theft by receiving § 5-36-106
- b. Forgery § 5-37-201
- c. Financial identity fraud § 5-37-227
- d. Resisting arrest § 5-54-103
- e. Criminal impersonation in the second degree § 5-37-208(b)
- f. Interference with visitation § 5-26-501
- g. Interference with court-ordered visitation § 5-26-502
- h. Prostitution § 5-70-102
- i. Patronizing a prostitute § 5-70-203

The waiver may be approved if all the following conditions are met:

- The individual has completed probation or parole supervision
- The individual has paid all court ordered fees, fines, and restitution
- The individual has fully complied with all court orders pertaining to the conviction or plea

7. The waiver will be revoked if after employment the individual pleads guilty or nolo contendere or is found guilty of any prohibited offense (including the list above a-i) or has a true or founded report of child maltreatment or adult maltreatment in a central registry.

8. The request for waiver and certification of approval shall be kept in the individual's file for the term of employment and three (3) years after termination of employment.

9. If approved, the waiver is not transferable to another licensed facility.

10. Any person who has pled guilty, nolo contendere, or who has been found guilty of any one (1) of the offenses listed as prohibited above (Section 110.5, 0-62) may not work in child care unless:

- a. The date of the conviction, plea of guilty or nolo contendere for a misdemeanor offense is at least five (5) years from the date of the request for the criminal history records check and there have been no criminal convictions or pleas of guilty or nolo contendere of any type or nature during the five (5) year period preceding the background check request.
- b. The date of the conviction, plea of guilty or nolo contendere for a felony offense is at least more than ten (10) years from the date of the request for the criminal history records check and there have been no criminal convictions or pleas of guilty or nolo contendere of any type or nature during the ten (10) year period preceding

the background check request.

11. Anyone employed in a licensed center, COE center, licensed child care family home, or a registered child care family home prior to 9/1/2009 with a clear background check history may remain eligible for employment unless the employee had a conviction, plead guilty, or plead nolo contendere to an offense listed in the above section (Section 110.6) since 9/1/2009.

### **307 Professional Development**

1. All directors, site supervisors, and staff who provide direct care to participants shall be registered with the Division of Child Care and Early Childhood Education Professional Development Registry within thirty (30) days of hire and all training shall be registered with the Division of Child Care and Early Childhood Education Professional Development Registry or Department of Education or Department of Higher Education approved.
2. All new staff shall have a probationary period of at least thirty (30) days, but no more than six (6) months, during which they are closely supervised, mentored, and evaluated. Evaluations shall be documented and maintained in the employee file.
3. All new staff members who provide direct care to children shall receive a basic orientation to facility management policies, center schedules, The Minimum Licensing Standards, and emergency procedures prior to providing care. This shall be documented in the employee file.
4. All new staff, including volunteers who are counted in the ratios, shall receive the following orientation within three (3) months of employment (and every three (3) years thereafter) and shall not be left alone with children until this is completed.
  - a. Introduction (8 clock hours) :
    - Proper supervision of participants
    - Behavioral guidance practices
    - Shaken baby syndrome; which includes prevention (Carter's Law, Act 1208)
    - Emergency procedures in the event of severe weather, or fire, including evacuation procedures and routes, and location and use of fire extinguishers.
    - Mandated reporter training
    - Administering medication
    - Caring for participants with special needs / care plans
    - Transportation and car seat safety
    - Policies regarding release of participants to authorized individuals
    - Prevention and control of infectious diseases
    - Building and physical premises safety, including the identification of, and protection from, hazards, bodies of water, and vehicular traffic
    - Nutrition and physical activities
    - Prevention and response to food sensitivities and allergic reactions



- Basic child development
- The handling and storage of hazardous materials and the appropriate disposal of biocontaminants

See Division Website for a list of courses that The Division maintains contracts for which meet the above requirements.

- b. All staff shall have fifteen (15) hours of job specific training each calendar year, including child development training, for the ages of participants they work with. This shall be training focused on their job responsibilities.

See Division Website for a list of courses that The Division maintains contracts for which meet the above requirements.

5. The director, assistant director/site supervisor, and 50% of the facility staff that are on site at any given time shall have a certificate of successful completion of first aid and CPR from an approved organization.
  - a. The curriculum shall conform with current American Heart Association or American Red Cross guidelines.
  - b. The curriculum shall require hands on, skill-based instruction, as well as practical testing. Training and certification that is provided solely online will not be accepted.
  - c. The instructor shall be qualified and authorized to teach the curriculum and shall be certified by a nationally recognized organization. (Including but not limited to: Health and Safety Institute; EMS Safety Services, Inc.)

## **1201 Safety Requirements**

1. Within thirty (30) days of licensure and within thirty (30) days of any change or modification of the floor plan the facility shall file a copy of their floor plan with the local Office of Emergency Management including the following (§ 20-78-228 Act 1159 of 2013):
  - a. A schematic drawing of the facility and property used by the child care facility including the configuration of rooms, spaces, and other physical features of the building
  - b. The location or locations where children enrolled in child care spend time regularly
  - c. The escape routes approved by the local fire department for the child care facility
  - d. The licensed capacity and ages of children per room at the facility
  - e. The contact information for at least two (2) emergency contacts for the facility
  - f. An aerial view of the child care facility and property used by the child care facility shall be included with the floor plan if available
2. The OST Facility shall have a written plan detailing the procedures to follow in the event of emergencies (fires, floods, tornadoes, utility disruptions, bomb threats, etc.) (Act 801 of 2009). The plan and procedures are required for emergencies that could cause structural damage to the facility, be identified as a threat by the Arkansas Department of Emergency Management or pose a health or safety hazard to the participants and staff.

This plan shall include provisions for “sheltering in place” or “lock down”, in the event of situations that warrant these measures.

3. The written plan shall include the following information:
  - a. Designated relocation site and evacuation route
  - b. Procedures for notifying parents of relocation
  - c. Procedures for ensuring family reunification
  - d. Procedures to address the needs of individual participants, including participants with special needs disabilities and children with chronic medical conditions
  - e. Procedures and documentation for annual training of staff regarding the plan and possible reassignment of staff duties in an emergency
  - f. Plans to ensure that all staff and volunteers are familiar with the components of the plan
4. The facility shall coordinate with local emergency management officials to plan for emergencies.
5. The facility shall maintain, on site, a current copy of the [Arkansas Comprehensive Emergency Management Plan issued by the Arkansas Division of Emergency Management](#). This plan shall be reviewed by the facility Director and signed and dated, indicating that they have reviewed the current plan and agree to comply with the provisions of the plan.
6. Written procedures and evacuation diagrams for emergency drills shall be posted in each program space.
7. Fire and tornado drills shall be practiced as follows:
  - a. Monthly
  - b. Fire and tornado drills shall be practiced on separate days and at different times of the day.
  - c. Everyone in the facility, at the time of the drill shall participate.
  - d. Staff, including volunteers and substitutes, shall be trained in emergency drill procedures.
  - e. Drills shall be conducted during all hours when participants are in care (evenings, nights, weekends, etc.)
8. The facility shall maintain a record of emergency drills. This record shall include:
  - a. Date of drill
  - b. Type of drill
  - c. Time of day
  - d. Number of participants participating in the drill
  - e. Length of time taken to reach safety
  - f. Notes regarding things that need improved upon
9. The OST Facility shall maintain an evacuation pack that shall be taken on all drills and during actual emergency evacuations. The pack shall be easily accessible in an

emergency and all staff shall know the location of the pack. The evacuation pack shall include, but is not limited to the following:

- a. List of emergency numbers
  - b. List of all emergency and contact information for participants
  - c. List of all emergency and contact information for staff
  - d. First aid kit (requirement 1101.6) with extra gloves
  - e. Kleenex
  - f. Battery powered flashlight and extra batteries
  - g. Battery powered radio and extra batteries
  - h. Hand sanitizer
  - i. Notepad and pens/pencils
  - j. Whistle
  - k. Disposable cups
  - l. Wet wipes
  - m. Emergency survival blanket
10. The facility shall immediately notify the Licensing Unit of any extended utility outages or significant damage to the building or grounds. If phone service is not available, notification shall be as soon as service is restored or available.
  11. OST Facilities shall maintain a log of all child product recalls and safety notices issued by CPSC or distributed by the Attorney General's Office and shall post or otherwise make these notices available for parents to review on site. The facility director shall certify, on an annual basis, that these notices have been maintained and reviewed and that any identified items have been removed from the facility. Forms for self-certification will be provided by the Licensing Specialist and shall be submitted annually. (Act 1313 of 2001).
  12. There shall be no alcoholic beverages in any part of the facility during hours of care. Illegal drugs/paraphernalia shall not be in any part of the facility or on the premises, regardless if participants are present or not.
  13. All medications and poisonous substances shall be kept in separately locked areas.
  14. Rescue medications such as inhalers or EpiPens shall be inaccessible to children (kept in a cabinet with a child proof type safety latch or carried by a staff member.)
  15. All detergents and cleaning supplies shall be kept out of the reach of participants. (This does not include hand soap in participants' or staff bathrooms.)
  16. Supplies used for participants' activities shall be carefully supervised.
  17. All bags belonging to participants shall be checked on arrival to eliminate possible hazards. Purses and bags belonging to staff shall be stored out of reach of participants.
  18. Balloon use shall be carefully supervised.
  19. Staff shall be instructed in the use of fire extinguishers.

20. The facility shall maintain smoke detectors/fire extinguishers as required by the Fire Department. Smoke detectors shall be kept in working order at all times.

21. Chemicals and toxins shall not be stored in the food storage area.

Proposed