

**DEPARTMENT OF HUMAN SERVICES**

**Social Services Rules**

**CHILD CARE FACILITY LICENSING**

**12 CCR 2509-8**

*[Editor's Notes follow the text of the rules at the end of this CCR Document.]*

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**7.700 CHILD CARE FACILITY LICENSING**

**7.701 GENERAL RULES FOR CHILD CARE FACILITIES**

**7.701.1 INTRODUCTION**

All rules in Section 7.701, et seq., shall be known and hereinafter referred to as the General Rules for Child Care Facilities and will apply to all child care applicants and licensees subject to the Child Care Licensing Act, Sections 26-6-101 to 26-6-119, C.R.S.

**7.701.11 Licensing Exemptions [Rev. eff. 4/1/11]**

- A. A license must be obtained before care begins unless such care is exempt as set forth below.
- B. A license is not required for:
  - 1. A special school or class in which more than seventy five (75) percent of the time that children are present is spent in religious instruction. Religious instruction is defined to include such developmentally appropriate children's activities as worship, singing religious songs, listening to religious stories, learning and practicing religious cultural activities, and participating in religious celebrations;
  - 2. A special school or class operated for a single skill-building purpose;
  - 3. A child care center operated in connection with a church, shopping center, or business where children are cared for during short periods of time, not to exceed three hours in any twenty-four hour period of time, while parents or persons in charge of such children, or employees of the church, shopping center, or business whose children are being cared for at such location are attending church services at such location, shopping, patronizing or working on the premises of the business. This facility must be operated on the premises of the church, business, or shopping center. Only children of parents or guardians who are attending a church activity or patronizing the business or shopping center or working at the church, shopping center or business can be cared for in the center;
  - 4. Occasional care of children with or without compensation, which means the offering of child care infrequently and irregularly that has no apparent pattern;

**12 CCR 2509-8**

5. A family care home in which less than 24-hour care is given for only one child or two or more children who are siblings from the same family household at any one time;
  6. A child care facility that is approved, certified, or licensed by any other state department or agency, or by a federal government department or agency, which has standards for operation of the facility and inspects or monitors the facility;
  7. The medical care of children in nursing homes;
  8. Ski area guest child care facilities as defined at Sections 26-6-102(5) and 26-6-103.5, C.R.S.;
  9. Neighborhood Youth Organizations as defined at Sections 26-6-102(5.8) and 26-6-103.7, C.R.S.;
- C. Any child care providers wishing to be declared exempt from the Child Care Licensing Act based on the nature of their program must submit a request for exemption to the State Department. That request must include the name and address of the facility, the number of children in care and their approximate ages, the hours of operation, and a basic description of the program and its curriculum.
- D. Decisions of the State Department regarding exemptions are the final agency decision of the Department and cannot be reviewed by an Administrative Law Judge.

**7.701.12 Civil Penalties and Injunctions**

- A. Violation of any provision of the Child Care Licensing Act or intentional false statements or reports made to the Department or to any agency lawfully delegated by the Department to make an investigation or inspection may result in fines assessed of not more than \$100 a day to a maximum of \$10,000.
1. A civil penalty will be assessed by the Department only in conformity with the provisions and procedures specified in Article 4 of Title 24, C.R.S. No civil penalty will be assessed without a hearing conducted pursuant to the Child Care Licensing Act and Article 4 of Title 24, C.R.S., before an Administrative Law Judge acting on behalf of the Department.
  2. Prior to receipt of a cease and desist order from the Department or from any agency delegated by the Department to make an investigation or inspection under the provision of the Child Care Licensing Act, any unlicensed child care facility may be fined up to \$100 a day to a maximum of \$10,000 for providing care for which a license is required.
  3. For providing child care for which a license is required after receipt of a cease and desist order, an unlicensed facility will be fined \$100 a day to a maximum of \$10,000.
  4. Assessment of any civil penalty under this section will not preclude the Department from initiating injunctive proceedings pursuant to Section 26-6-111, C.R.S.
  5. A licensed child care facility may be fined up to \$100 a day to a maximum of \$10,000 for each violation of the Child Care Licensing Act or for any statutory grounds as listed at Section 26-6-108(2), C.R.S.
  6. Assessment of any civil penalty does not preclude the department from also taking action to deny, suspend, revoke, make probationary, or refuse to renew that license.

**12 CCR 2509-8**

7. Any person intentionally making a false statement or report to the Department or to any agency delegated by the Department to make an investigation or inspection under the provisions of the Child Care Licensing Act may be fined up to \$100 a day to a maximum of \$10,000.
  8. Civil penalties assessed by the department must be made payable to the Colorado Department of Human Services.
- B. In addition to civil penalties that may be assessed under Section 7.701.12, A, when an individual operates a facility after a license has been denied, suspended, revoked, or not renewed, or before an original license has been issued, injunctive proceedings may be initiated to enjoin the individual from operating a child care facility without a license.
- C. Within ten (10) working days after receipt of a notice of final agency action with regard to a negative licensing action or the imposition of a fine, each child care center or family child care home must provide the Department with the names and mailing addresses of the parents or legal guardians of each child cared for at the facility so that the Department can notify the parents or legal guardians of the negative licensing action taken. The facility will be responsible for paying a fine to the Department that is equal to the direct and indirect costs associated with the mailing of the notice.

**7.701.13 Waivers [Rev. eff. 2/1/14]**

- A. A person who has applied for or been issued a certificate or license to operate a child care facility or child placement agency has the right to request a waiver of any rule or regulation which, in his/her opinion, works an undue hardship on the person, facility, or the community, or has been too stringently applied by a representative of the Department.
- B. Requests for waivers must be submitted to the Department in writing within sixty (60) calendar days of the date on which the rule allegedly was too stringently applied or created the hardship. Requests must include the name and address of the facility, its assigned license number, the citation of the rule for which a waiver is being sought, and all relevant information regarding the alleged hardship or evidence of the rule being too stringently applied.
- C. Pursuant to Section 26-6-105.7, C.R.S., materials waivers are different than general waivers in several ways. Child care centers may apply for a waiver to use certain materials in its program pursuant to Section 26-6-105.7(2)(a), (b), C.R.S.
- D. The Department will designate, pursuant to the Child Care Licensing Act, Section 26-6-106(3), C.R.S., an appeal panel, which will meet to review appeal requests and make recommendations to the Executive Director of the Colorado Department of Human Services, and the Director will issue a decision. Decisions of the Executive Director are final and not subject to judicial review. Requests for an appeal shall be submitted to the Office of Early Childhood.
- E. The Department shall make a decision on waiver requests and notify the child care center of its decision no later than sixty (60) calendar days of receipt of the request.
- F. If a child care facility or agency is aggrieved by the decision of the appeal panel, the facility or agency has the following rights:
  1. If the denial of a waiver request relates to a request for a materials waiver/appeal, the facility or agency may petition the Colorado Department of human services ("The Department") in writing within forty-five (45) calendar days to appeal the denial decision.

## **12 CCR 2509-8**

2. If the appeal/waiver relates to any other rule than a materials waiver/appeal, the facility has a right to a formal hearing pursuant to Section 24-4-105, C.R.S., if the facility or agency petitions the Department in writing within thirty (30) calendar days of receipt of the written appeal decision.
- G. For appeals of materials waiver/appeal denials, the Executive Director or designee shall act upon the appeal within forty-five (45) calendar days and shall provide notice of his/her decision on the appeal within ten (10) calendar days.
- H. For appeals of materials waiver/appeal denials, the appealing child care center has the right to request a meeting in person with Department personnel regarding the appeal.
- I. For appeals of materials waiver/appeal denials, the entire appeals process shall last no longer than one hundred (100) calendar days after the date of the notice of the denial of the waiver request.
- J. Written decisions of the appeal panel shall be posted beside the child care license, but posting of the decision shall not occur until the appeal is final. The Department shall not post the decision to deny a waiver on its web site until the appeal is final.

### **7.701.14 Civil Rights**

All facilities licensed under the Child Care Licensing Act are subject to the non-discrimination provisions of Title VI of the Civil Rights Act of 1964, as amended, and its implementing regulation, Title 45 Code of Federal Regulations (CFR), Part 80; the Age Discrimination Act of 1975, as amended, and its implementing regulation, Title 45 CFR, Part 91; Section 504 of the Rehabilitation Act of 1973, as amended, and its implementing regulation, Title 45 CFR, Part 84.

All facilities licensed under the Child Care Licensing Act are also subject to Titles I through V of the Americans with Disabilities Act, as amended, and its implementing regulation, Title 29 C.F.R., Part 1630. Decisions related to the enrollment, placement, or dismissal of a child with a disability or chronic condition must be in compliance with the Americans with Disabilities Act. The facility must provide reasonable accommodations for the child with a disability who has special needs.

A lack of independent ambulation or the need for assistance in feeding, toileting, or dressing or in other areas of self-care cannot be used as sole criteria for enrollment or placement or denial of enrollment or denial of placement. Efforts must be made to accommodate the child's needs and to integrate the child with his/her peers who do not have disabilities.

### **7.701.2 DEFINITIONS [Rev. eff. 1/1/16]**

#### **A. Types of Homes**

##### **1. Family Child Care Home**

"Family Child Care Home", defined at Section 26-6-102(4), C.R.S., means a type of family care home that provides less than 24-hour care for two (2) or more children on a regular basis in a place of residence. Children in care are from different family households and are not related to the head of household.

2. Foster Care Home

“Foster Care Home” means a home that is certified by a county department or a child placement agency, pursuant to Section 26-6-106.3, C.R.S., for child care in a place of residence of a family or person for the purpose of providing twenty-four (24) hour foster care for a child and/or youth under the age of twenty-one years. A foster care home may include foster care for a child and/or youth who is unrelated to the head of the home or foster care provided through a kinship foster care home, but does not include non-certified kinship care defined in Section 19-1-103(78.7), C.R.S. The term includes any foster care home receiving a child and/or youth for regular twenty-four (24) hour care and any home receiving a child and/or youth from any state-operated institution for child care or from any child placement agency. Foster care home also includes those homes licensed by the Department of Human Services pursuant to Section 26-6-104, C.R.S., that receive neither moneys from the counties, nor children and/or youth placed by the counties.

B. Specialized Group Facility

A “Specialized Group Facility”, defined at Section 26-6-102(10)(a), C.R.S., means sponsored and supervised by a county department or a licensed child placement agency for the purpose of providing twenty-four (24) hour care for three (3) or more children, but fewer than twelve (12) children except as noted below, from at least three (3) but less than eighteen (18) years of age, or for those persons less than twenty-one (21) years old who are placed by court order prior to their eighteenth birthday whose special needs can best be met through the medium of a small group. A specialized group facility may serve a maximum of one (1) child enrolled in Children's Habilitation Residential Program (CHRP) and eight (8) other foster children, or two (2) children enrolled in CHRP and five (5) other foster children, unless there has been prior written approval by the CHRP waiver administrator. If placement of a child in a Specialized Group Center will result in more than three (3) children approved for Children's Habilitation Residential Program (CHRP) funding, then the total number of children placed in that Specialized Group Center will not exceed a maximum of six (6) total children. Placements of more than three (3) children approved for CHRP funding may be made if the agency can demonstrate to the CHRP waiver administrator that the provider has sufficient knowledge, experience, and supports to safely meet the needs of all of the children in the home. Emergency placements will not exceed maximum established limits. Facilities that exceed established capacity at the time the rule takes effect may not accept additional children into the home until capacity complies with the rule.

**SPECIALIZED GROUP FACILITY MAXIMUM CAPACITY**

CHRP	Non-CHRP	Total Children
1	8	9
2	5	7

**SPECIALIZED GROUP CENTER MAXIMUM CAPACITY**

CHRP	Non-CHRP	Total Children
3	3	6

1. “Specialized Group Homes or Group Centers” who are serving children enrolled in the Children's Habilitation Residential Program (CHRP) waiver shall be in compliance with rules contained within the Department of Health Care Policy and Financing's Medical Assistance Manual at Section 8.508 (10 CCR 2505-10).

**12 CCR 2509-8**

2. "Specialized Group Centers" that serve three (3) children enrolled in CHRP waiver must be staffed with sufficient staff to deal with the complex needs of the children placed in the home.
3. A "Specialized Group Home" is located in a house owned or otherwise controlled by the group home parents who are primary responsible for the care of the children and reside at the home.
4. A "Specialized Group Center" is located in a facility owned or controlled by a governing body that hires the group center parents or personnel who are primarily responsible for the care of the children.

C. Child Care Center

"Childcare centers", less than 24-hour programs of care defined at Section 26-6-102(1.5), C.R.S., include the following types of facilities:

1. A "large child care center" provides care for sixteen (16) or more children between two and one-half (2-1/2) and sixteen (16) years of age.
2. A "small child care center" provides care for five (5) through fifteen (15) children between two (2) and sixteen (16) years of age.
3. An "infant program" provides care for children between six (6) weeks and eighteen (18) months of age.
4. A "toddler program" provides care for children between the ages of twelve (12) months (when walking independently) and thirty-six (36) months of age.
5. "Preschool" is a part-day child care program for five (5) or more children between the ages of two and one-half (2-1/2) and seven (7) years of age.
6. "Kindergarten" provides a program for children the year before they enter the first grade.
7. A "school-age child care center" means a child care center that provides care for five (5) or more children who are between five (5) and sixteen (16) years of age. The centers purpose is to provide child care and/or an outdoor recreational experience using a natural environment. The center operates for more than one week during the year. The term includes facilities commonly known as "day camps", "summer camps", "summer playground programs", "before and after school programs", and "extended day programs." This includes centers operated with or without compensation for such care, and with or without stated educational purposes.
  - a. A "building-based school-age child care program" means a child care program that provides care for five (5) or more children who are between five (5) and sixteen (16) years of age. The center is located in a building that is regularly used for the care of children.
  - b. A "mobile school-age child care program" provides care for five (5) or more children who are at least seven (7) years of age or have completed the first grade. Children move from one site to another by means of transportation provided by the governing body of the program. The program uses no permanent building on a regular basis for the care of children.

**12 CCR 2509-8**

- c. An “outdoor-based school-age child care program” provides care for five (5) or more children who are at least seven (7) years of age or have completed the first grade. This program uses no permanent building on a regular basis for the care of children. Children are cared for in a permanent outdoor or park setting.

**D. Children's Resident Camp**

A “Children's Residential Camp”, is defined at Section 26-6-102(2.2), C.R.S.

- 1. A residential camp may have a “primitive camp” which is a portion of the permanent camp premises or another site at which the basic needs for camp operation such as places of abode, water supply systems, and permanent toilet and/or cooking facilities are not usually provided.
- 2. A “travel-trip camp” shall be known as a camp in which there is no permanent camp site and children move from one site to another. The travel-trip camp either originates in Colorado or moves into and/or through Colorado from another state and operates for three or more consecutive twenty four (24) hour days during one or more seasons of the year for the care of five (5) or more children who are at least ten (10) years old or have completed the fourth grade. The program shall have as its purpose a group learning experience offering educational and recreational activities utilizing an outdoor environment.

**E. Day Treatment Center**

A “Day Treatment Center”, defined at Section 26-6-102(2.4), C.R.S., means a facility that provides less than twenty-four (24) hour care for groups of five (5) or more children three (3) to twenty-one years of age. Nothing prohibits a day treatment center from allowing a person who reaches twenty-one (21) years of age after the commencement of an academic year from attending an educational program at the day treatment center through the end of the semester in which the twenty-first birthday occurs or until the person completes the educational program, whichever comes first. The center must provide a structured program of various types of psycho-social and/or behavioral treatments to prevent or reduce the need for placement of the child out of the home or community. This definition does not include special education programs operated by a public or private school system or programs that are licensed by other regulations of the Department of Human Services for less than twenty-four (24) hour care of children, such as a child care center or part-day preschool.

**F. Child Placement Agency**

A “Child Placement Agency”, defined at Section 26-6-102(2), C.R.S., means any corporation, partnership, association, firm, agency, institution, or person unrelated to the child being placed, who places, who facilitates placement for a fee, or arranges for placement any child under the age of eighteen (18) years with any family, person or institution for purposes of foster care, treatment and/or adoption. The natural parents or legal guardian of any child who places that child for care with any facility licensed as a “Family Child Care Home” or “Child Care Center” shall not be deemed to be a Child Placement Agency.

To arrange for placement is to act as an intermediary by assisting a parent or guardian or legal custodian to place or plan to place a child with persons unrelated to the child for twenty-four (24) hour care.

Any agency from out of state placing a child within Colorado must be licensed as a child placement agency by the Colorado Department of Human Services unless the placement

**12 CCR 2509-8**

services are coordinated with and provided by a county department of social services or a child placement agency licensed by the department.

**G. Residential Child Care Facility**

1. "Residential Child Care Facility", defined at Section 26-6-102(8), C.R.S., shall provide twenty-four (24) hour residential group care and treatment for five (5) or more children between the ages of three (3) and eighteen (18) years old and for those persons to twenty-one (21) years old who are placed by court order prior to their eighteenth birthday. A residential child care facility must offer opportunities for a variety of experiences through a group living program and specialized services that can be used selectively in accordance with an individual plan for each child. A residential child care facility includes "Shelter Care Facilities", "Residential Child Care Facilities", and "Psychiatric Residential Treatment Facilities".
2. "Transition Program" may be a component of an RCCF program in which the child is residing in the RCCF part of the time and in a living situation that child is expected to move to after treatment in the RCCF is completed. The purpose of transition is to enable the child to transition to the home or a less restrictive setting in a manner that prepares the child for success in the new setting.

**H. Secure Residential Treatment Center**

A "Secure Residential Treatment Center", defined at Section 26-6-102(9), C.R.S., means a facility operated under private ownership that provides twenty-four (24) hour group care and treatment in a secure setting for five (5) or more children or persons from age ten (10) up to the age of twenty-one (21) who are committed by a court pursuant to an adjudication of delinquency or pursuant to a determination of guilt of a delinquent act or having been convicted as an adult and sentenced for an act that would be a crime if committed in Colorado, or in the committing jurisdiction, to be placed in a secure facility.

**I. Neighborhood Youth Organization**

A "Neighborhood Youth Organization", defined at Section 26-6-102(5.8), C.R.S., means a nonprofit organization that is designed to serve youth as young as six (6) years of age and as old as eighteen (18) years of age and that operates primarily during times of the day when school is not in session and provides research-based, age-appropriate, and character-building activities designed exclusively for the development of youth from six (6) to eighteen (18) years of age. These activities shall occur primarily in a facility leased or owned by the Neighborhood Youth Organization. The activities shall occur in an environment in which youth have written parental or legal guardian consent to become a youth member of the neighborhood youth organization and to arrive at and depart from the primary location of the activity on their own accord, without supervision by a parent, legal guardian, or organization.

A Neighborhood Youth Organization shall not include faith-based centers, organizations or programs operated by state or city parks or special districts, or departments or facilities that are currently licensed as child care centers as defined in Section 26-6-102(1.5), C.R.S.

**J. Other Definitions**

1. "Affiliate of a licensee" means any person or entity that owns more than five (5) percent of the ownership interest in the business operated by the licensee or the applicant for a license, or any person who is directly responsible for the care and welfare of children served, any executive, officer, member of the governing board, or employee of a licensee, or a relative of a licensee, which relative provides care to children at the



licensee's facility, or is otherwise involved in the management or operations of the licensee's facility.

2. For the purposes of all child care licensing rules, the terms "child battering", "child abuse", "child molesting", and "child neglect" are terms to be considered within the definition of abuse set forth in Section 19-1-103, C.R.S., unless otherwise indicated.
3. "Citizen/legal resident" means a citizen of the United States, current legal resident of the United States, or lawfully present in the United States.
4. The "Consumer Product Safety Commission", as referred to in rules regulating child care facilities, means the National Commission that establishes standards for the safety of children's equipment and furnishings and for playground safety. Information about these guidelines may be obtained from the Office of Information and Public Affairs, U.S. Consumer Product Safety Commission (CPSC), Washington, D.C. 20207. The CPSC web address is <http://www.cpsc.gov>. The local U.S. Consumer Product Safety Commission Office is located at 1961 Stout Street, Denver, Colorado 80294. You may contact a Senior Resident Investigator in the Denver office for information. This rule refers to the current edition of the Consumer Product Safety Commission standards, in effect when rules referencing the Commission are referenced, and does not include later amendments to or editions of the standards. The standards may be examined at any State Publications Depository Library.
5. A "critical incident" is a serious life safety or potential life safety incident or concern that poses a danger to the life, health, and/or well-being of a child or children at the facility or of a staff member at the facility.
6. "Department" is the Colorado Department of Human Services.
7. "Facility" is any business or operation established for the purpose of providing child care services that are required to be licensed pursuant to the Child Care Licensing Act, Section 26-6-101 et seq., C.R.S.
8. "Final Agency Action" means the determination made by the State Department, after opportunity for hearing to deny, suspend, revoke, or demote to probationary status a license issued pursuant to the Child Care Licensing Act or an agreement between the Department and the licensee concerning the demotion of such a license to a probationary license.
9. "Governing Body" is the individual, partnership, corporation, or association in whom ultimate authority and legal responsibility are vested for the administration and operation of the child care facility.
10. "Licensing specialist" is the authorized representative of the Colorado Department of Human Services who inspects child care facilities to ensure compliance with licensing requirements and to investigate possible violations of those requirements.
11. "Negative licensing action" means a Final Agency Action resulting in the denial, suspension, or revocation of a license issued pursuant the Child Care Licensing Act or the demotion of such a license to a probationary license.
12. "Serious emotional disturbance" means a diagnosable mental, behavioral, or emotional disorder that is of sufficient duration and has resulted in a functional impairment that substantially interferes with or limits a child's role or functioning in family, school, or community activities. Serious emotional disturbances do not include developmental

**12 CCR 2509-8**

disorders, substance-related disorders, or conditions or problems that may be a focus or clinical attention unless they occur with another diagnosable serious emotional disturbance.

**7.701.21 Homeless Youth Services - Definitions [Eff. 9/15/12]**

“Homeless Youth” is defined at Sections 24-32-723 and 26-5.7-102(2), C.R.S.

“Homeless Youth Shelter” is defined at Sections 26-5.7-102(3) and 26-6-102(5.1), C.R.S.

“Licensed Host Family Home” is a home that is certified by the county department or a child placement agency as meeting the requirements for providing shelter to homeless youth.

**7.701.3 APPLICATION PROCESS**

**7.701.31 Original Application [Rev. eff. 6/1/12]**

- A. A completed original application accompanied by the appropriate fee and proof of lawful presence in the United States (see Section 3.140.11, 9 CCR 2503-1) must be submitted to the State Department a minimum of sixty (60) days prior to the proposed opening date for the facility.
- B. A licensing evaluation will occur only after the department has received the complete application and appropriate fee.
- C. If a county or agency establishes and plans to sponsor a Specialized Group Facility, the governing body for the Specialized Group Facility is the applicant for the license. A written plan for the supervision of the Specialized Group Facility shall accompany the application.

**7.701.32 Use of Records and Reports of Child Abuse or Neglect for Background and Employment Inquiries [Rev. eff. 1/1/16]**

A request to determine whether any owner, applicant, employee, licensee or resident of a licensed facility, or any supervisory employee of a guest care facility, or an exempt family child care home provider and each adult eighteen (18) years of age or older residing in the home (also known as a qualified adult) receiving or applying to receive Colorado Child Care Assistance moneys was found to be responsible in a confirmed report of child abuse or neglect reported to the State Department's automated system shall be directed to and be the responsibility of the State Department.

- A. Foster Homes must also obtain a child abuse or neglect records check for each adult eighteen (18) years of age or older living in the home in every state where the adult has resided in the five years immediately preceding the date of application.
- B. An inquiry is not necessary regarding out of state employees of a children's resident camp or school-age child care center for a camp or center that is in operation for fewer than ninety (90) calendar days, if the employee changes employment to a different facility that has the same licensing body;
- C. The request must be made within ten (10) calendar days of the first day of employment for each employee or facility on the State prescribed form, accompanied by the required fee paid by check or money order (for fee assessment see section 7.000.73).
- D. The request must be accompanied by the individual's written authorization to obtain such information from the State automated system, if applicable.

**12 CCR 2509-8**

- E. The State Department will inform the requesting party in writing of whether the individual has been confirmed to be responsible for an incident of child abuse or neglect.
  - 1. If the result of the inquiry is that the individual has been confirmed as responsible for an incident of child abuse or neglect, the State Department shall provide the requesting party with information regarding the date of the reported incident, the type of abuse or neglect with the severity level, and the county department that confirmed the report.
  - 2. If the result of the inquiry is that the individual has not been confirmed to be responsible for an incident of child abuse or neglect, the State Department shall notify the requesting party of this fact.
- F. The information provided by the State Department shall serve only as the basis for further investigation. The director or operator may inform an applicant or employee that the report from the State Department's automated system was a factor in the director or operator's decision with regard to the applicant or employee's employment.
- G. Any person who willfully permits or who encourages the release of data or information related to child abuse or neglect contained in the State Department's automated database to persons not permitted access to such information commits a Class 1 misdemeanor and shall be punished as provided in Section 18-1.3-501, C.R.S.

**7.701.33 Criminal Record Check [Rev. eff. 1/1/16]**

- A. Criminal records checks are required under the following circumstances:
  - 1. Each applicant listed below shall submit to the Colorado Bureau of Investigation (CBI) and the Federal Bureau of Investigation (FBI) a complete set of fingerprints taken by a qualified law enforcement agency to obtain any criminal record held by the CBI and FBI, except county departments of human or social services that use fingerprint machines pursuant to Section 19-3-406(1)(c), (2), C.R.S. Payment of the fee for the criminal record check is the responsibility of the individual being checked, identified as follows:
    - a. Each applicant for an original license for a center, facility, or agency and any adult eighteen (18) years of age or older who resides in the licensed center, facility or agency.
    - b. Each exempt family child care home provider who provides care for a child and each individual who provides care for a child who is related to the individual (referred collectively in this section as a "qualified provider"), if the child's care is funded in whole or in part with money received on the child's behalf from the publicly funded Colorado Child Care Assistance Program; and, any adult eighteen (18) years of age or older who resides with a qualified provider where the care is provided.
    - c. Applicants for an original certificate for a foster care home, and any adult eighteen (18) years of age or older who resides in the foster care home.
    - d. Specialized group home parents and any person working in a twenty-four (24) hour child care facility.

2. Each applicant for an original license for a Neighborhood Youth Organization shall comply with the criminal background check requirements found at Section 26-6-103.7(4), C.R.S.

The applicant shall ascertain whether the person being investigated has been convicted of felony child abuse as specified in Section 18-6-401, C.R.S., or a felony offense involving unlawful sexual behavior as defined in Section 16-22-102(9), C.R.S. The Neighborhood Youth Organization shall not hire a person as an employee or approve a person as a volunteer after confirmation of such a criminal history.

- B. Only in the case of a children's resident camp or school-age child care center, out-of-state persons employed in a temporary capacity for less than ninety (90) days are not required to be fingerprinted to obtain a criminal record check. Each person exempted from fingerprinting and being checked with the State Department's automated system must sign a statement which affirmatively states that she/he has not been convicted of any charge of child abuse or neglect, unlawful sexual offense, or any felony.

Prospective employers of such exempted persons shall conduct reference checks of the prospective employees in order to verify previous work history and shall conduct personal interviews with each such prospective employee.

- C. At the time the annual declaration of compliance is submitted to the department, a criminal record check is required only for adults living at the licensed facility who have not previously obtained one. Because the Colorado Bureau of Investigation (CBI) provides the Department with ongoing notification of arrests, owners, applicants, licensees, and persons who live in the licensed facility who have previously obtained a criminal record check are not required to obtain additional criminal record checks.

- D. Each owner, employee, who is eighteen (18) years of age or older, and newly hired employee who is eighteen (18) years of age or older, of a facility or agency must submit to CBI a complete set of fingerprints to obtain any criminal record held by the CBI and FBI. Payment of the fee for the criminal record check is the responsibility of the individual being checked or the facility or agency. The results of the criminal record check must be maintained at the home, center, facility, or agency and must be available for review upon request by a licensing specialist.

1. Employees and volunteers who are transferring from one child care facility to another may have their CBI, but not their FBI, fingerprints transferred if they complete the following process:
  - a. New employees must obtain their CBI clearance letter or a photocopy of their processed fingerprint card from their former employer or school district. They must attach it to a new fingerprint card, the top portion of which they have completed with new fingerprints taken. The new fingerprint card must include the new employer's address and the new employer's license I.D. number in the box labeled MNU. "Transfer - Child Care" must be inserted in the "Reason Fingerprinted" block. The CBI clearance letter (or photocopy of the old fingerprint card) and the new fingerprint card must be sent with a \$2 money order payable to CBI to: Colorado Bureau of Investigation, 690 Kipling St., Ste. 3000, Denver, CO 80215. Those facilities that have accounts with CBI are not required to send the \$2 money order; instead, they shall enter their CBI account number in the OCA block of the new fingerprint card.

- b. New employees who cannot obtain the CBI clearance letter or photocopy of the processed fingerprint card from their former employer must have their fingerprints retaken and follow the process detailed in Section 7.701.33, D, 1, a.
  - c. When an individual leaves employment, the facility must submit to CBI a completed Notification of Name Removal form to request the removal of the individual's name from their facility license number in the CBI database.
  - d. School district employees who currently work at a child care facility must have their criminal history report linked to the license number of the child care facility.
2. Licensees must send a copy of an employee's or a resident's criminal record check to his/her new employer upon written request from that employer.
3. Any adult volunteer, working as a staff member to meet the required staff child ratio or staff qualifications, who works fourteen (14) days or more in a calendar year, must submit to CBI a complete set of fingerprints taken by a qualified law enforcement agency to obtain a criminal record check. The results of the criminal record check must be maintained at the facility or agency and must be available for inspection by a licensing specialist.
4. Requests for a criminal record check must be submitted to the CBI within five (5) working days of the day that the individual begins to work at the facility or agency.
5. For the purposes of these rules, "convicted" means a conviction by a jury or by a court and shall also include a deferred judgment and sentence agreement, a deferred prosecution agreement, a deferred adjudication agreement, an adjudication, and a plea of guilty or *nolo contendere*.
6. Facilities and agencies that hire individuals who have been convicted of any felony, except those listed in a-f below, unlawful sexual behavior, or any misdemeanor, the underlying factual basis of which has been found by the court on record to include an act of domestic violence must inform the department of that hiring within fifteen (15) calendar days of receiving knowledge of the conviction.
7. A child care facility shall not employ, or a child placement agency shall not employ or certify, an individual who has been convicted of:
  - a. Child abuse, as specified in Section 18-6-401, C.R.S.;
  - b. A crime of violence, as defined in Section 18-1.3-406, C.R.S.;
  - c. An offense involving unlawful sexual behavior, as defined in Section 16-22-102(9), C.R.S.;
  - d. A felony, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in Section 18-6-800.3, C.R.S.;
  - e. A felony involving physical assault, battery, or a drug-related offense within the five years preceding the date of application for a license or certificate;
  - f. A pattern of misdemeanor convictions within the ten (10) years immediately preceding submission of the application. "Pattern of misdemeanor" shall include

consideration of Section 26-6-108(2), C.R.S., regarding suspension, revocation and denial of a license, and shall be defined as:

- 1) Three (3) or more convictions of 3rd degree assault as described in Section 18-3-204, C.R.S., and/or any misdemeanor, the underlying factual basis of which has been found by any court on the record to include an act of domestic violence as defined in Section 18-6-800.3, C.R.S.; or,
  - 2) Five (5) misdemeanor convictions of any type, with at least two (2) convictions of 3rd degree assault as described in Section 18-3-204, C.R.S., and/or any misdemeanor, the underlying factual basis of which has been found by any court on the record to include an act of domestic violence as defined in Section 18-6-800.3, C.R.S.; or,
  - 3) Seven (7) misdemeanor convictions of any type.
- g. Any offense in any other state, the elements of which are substantially similar to the elements listed in a-f.
8. No license or certificate to operate any agency or facility shall be issued by the Department, a county department of human or social services, or a licensed Child Placement Agency if the person applying for such license or certificate or an affiliate of the applicant, a person employed by the applicant, or a person who resides with the applicant of the facility has been determined to be insane or mentally incompetent by a court of competent jurisdiction and, should a court enter, pursuant to Part 3 or Part 4 of Article 14 of Title 15, C.R.S. or Section 27-65-109(4) or 27-65-127, C.R.S., an order specifically finding that the mental incompetency or insanity is of such degree that the applicant is incapable of operating a family child care home, foster care home, child care center, or child placement agency, the record of such determination and entry of such order being conclusive evidence thereof.
- E. Payment of the fee for the FBI check is the responsibility of the individual who is obtaining the check or the facility or agency. Certified foster parent(s) or any person eighteen (18) years of age or older who resides with a certified foster parent must obtain a criminal record check from the FBI regardless of the length of residence in Colorado.
- F. The Department may deny, revoke, suspend, change to probationary or fine a child care facility or child placement agency if the applicant(s), an affiliate of the applicant, or any person living with or employed by the applicant has:
1. Been convicted in Colorado or in any other state of any felony, or has entered into a deferred judgment agreement or a deferred prosecution agreement in Colorado or in any other state to any felony other than those offenses specified in Section 26-6-104(7), C.R.S., or child abuse, as specified in Section 18-6-401, C.R.S., the record of conviction being conclusive evidence thereof, notwithstanding Section 24-5-101, C.R.S.; or,
  2. Been convicted of third degree assault, as described in Section 18-3-204, C.R.S., any misdemeanor, the underlying factual basis of which has been found by the court on any record to include an act of domestic violence, as defined in Section 18-6-800.3, C.R.S., any misdemeanor violation of a restraining order, as described in Section 18-6-803.5, C.R.S., any misdemeanor offense of child abuse as defined in Section 18-6-401, C.R.S.,

**12 CCR 2509-8**

or any misdemeanor offense in any other state, the elements of which are substantially similar to the elements of any one of the offenses described in this paragraph; or,

3. Used any controlled substance as defined in Section 12-22-303(7), C.R.S. or consumed any alcoholic beverage or been under the influence of a controlled substance or alcoholic beverage during the operating hours of the facility; or,
4. Been convicted of unlawful use of a controlled substance as specified in Section 18-18-404, C.R.S., unlawful distribution, manufacturing, dispensing, sale, or possession of a controlled substance as specified in Section 18-18-405, C.R.S., or unlawful offenses relating to marijuana or marijuana concentrate as specified in Section 18-18-406, C.R.S.; or,
5. Consistently failed to maintain standards prescribed and published by the Colorado Department of Human Services; or,
6. Furnished or made any misleading or any false statement or report to the Colorado Department of Human Services; or,
7. Refused to submit to the Colorado Department of Human Services any reports, or refused to make available to the Department any records required by it in making investigation of the facility for licensing purposes; or,
8. Failed or refused to submit to an investigation or inspection by the Colorado Department of Human Services or to admit authorized representatives of the Department at any reasonable time for the purpose of investigation or inspection; or,
9. Failed to provide, maintain, equip, and keep in safe and sanitary condition premises established or used for child care pursuant to standards prescribed by the Colorado Department of Public Health and Environment and the Colorado Department of Human Services or by ordinances or regulations applicable to the location of the foster care home; or,
10. Willfully or deliberately violated any of the provisions of the Child Care Licensing Act; or,
11. Failed to maintain financial resources adequate for the satisfactory care of children served in regard to upkeep of premises and provision for personal care, medical services, clothing, and other essentials in the proper care of children; or,
12. Been charged with the commission of an act of child abuse or an unlawful sexual offense, as specified in Section 18-3-411(1), C.R.S., if:
  - a. Such individual has admitted committing the act or offense and the admission is documented or uncontroverted; or,
  - b. An Administrative Law Judge finds that such charge is supported by substantial evidence; or,
13. Admitted to an act of child abuse or if substantial evidence is found that the licensee, person employed by the licensee, or person who resides with the licensed in the foster home has committed an act of child abuse, as defined at Section 19-1-103(1), C.R.S.; or,
14. Been the subject of a negative licensing action; or

**12 CCR 2509-8**

15. Misuse any public funds that are provided to any foster care home or any child placement agency that places, or arranges for placement of a child in foster care for the purposes of providing foster care services, child placement services related to the provision of foster care, or any administrative costs related to the provision of such foster care services or such foster-care-related child placement services.
- G. The Department may deny an application for a child care facility license or a child placement agency license if the applicant is a relative affiliate of a licensee, as described in Section 26-6-102(1)(d), C.R.S., of a child care facility or child placement agency, which licensee is the subject of a previous negative licensing action or is the subject of a pending investigation by the Department that may result in a negative licensing action.
- H. For all CBI fingerprint-based criminal history record information checks required in this Section 7.701.33, including those confirming a criminal history as well as those confirming no criminal history, the Department will conduct a comparison search on the State Judicial Department's court case management system and the sex offender registry of the Colorado Department of Public Safety. The court case management search shall be based on name, date of birth, and address, in addition to any other available criminal history data that the Department deems appropriate, is used to determine the type of crime(s) for which a person was arrested or convicted and the disposition thereof. The sex offender registry search is used to determine whether the address of a licensee or prospective licensee is listed as belonging to a registered sex offender, except that:
1. County departments of human or social services shall conduct sex offender searches in the CBI sex offender registry and the national sex offender public website operated by the United States Department of Justice prior to certification and annually, and include a copy in the provider record using the following criteria at a minimum:
    - a. Known names and addresses of each adult residing in the foster care home or kinship foster care home; and,
    - b. Address only, of the foster care home or the kinship foster care home.
  2. Child placement agencies shall conduct sex offender searches in the CBI sex offender registry and the national sex offender public website operated by the United States Department of Justice prior to certification and annually, and include copy in the provider record using the following criteria at a minimum:
    - a. Known names and addresses of each adult residing in the foster care home or kinship foster care home; and,
    - b. Address only of each adult residing in the foster care home or the kinship foster care home.
- I. Portability of Fingerprint-Based Criminal Background Checks
1. Where two or more individually licensed facilities are wholly owned, operated, and controlled by a common ownership group or school district, a fingerprint-based criminal history records check completed for one of the licensed facilities of the common ownership group or school district pursuant to this section for whom a criminal records check is required under Section 26-6-107, C.R.S., may satisfy the records check requirement for any other licensed facility under the same common ownership group or school district. A new fingerprint-based criminal history records check shall not be



## **12 CCR 2509-8**

required of such an individual if the common ownership group or school district maintains a central records management system for employees of all its licensed facilities; takes action as required pursuant to Section 26-6-104, C.R.S., when informed of the results of a fingerprint-based criminal history records check that requires action pursuant to Section 26-6-107 C.R.S.; and informs the Department whenever an additional licensed facility comes under or is no longer under its ownership or control.

2. When a licensee is inspected pursuant to the Child Care Licensing Act and records regarding CBI and FBI fingerprint-based criminal background checks, as well as records and reports of child abuse and neglect maintained by the State Department, and the comparison search on the ICON system at the State Judicial system are held at a central records management system, the licensee shall be afforded fourteen (14) calendar days to provide to the State Department documentation necessary to verify that employees at the licensed facility have the required records related to fingerprint-based criminal background checks.

### **7.701.34 Fire and Health Inspections, Zoning Codes [Rev. eff. 1/1/16]**

- A. Prior to the original license being issued, following the renovation of the facility that would affect the licensing of the facility and at least every two (2) years thereafter, all child care facilities except family child care homes must be inspected and obtain an approving inspection report from the local department of health or the Colorado Department of Public Health and Environment and from the local fire department. These reports must be maintained at the facility and be available for review upon request by a licensing specialist.
- B. Prior to the original license being issued, all child care facilities, except for foster homes and specialized group facilities that are providing care for three or fewer children who are determined to have a developmental disability by a community centered board or who have a serious emotional disturbance, must submit to the State Department written approval from the local zoning department approving operation of the facility. The approval must include the address of the child care facility and the ages and numbers of children to be served. The facility must also submit written zoning department approval to the State Department any time there is a change to the license, including moving the facility to another location, increasing the capacity, or adding different ages of children.
- C. All child care facilities must operate in compliance with local planning and zoning requirements of the municipality, city and county, or county where the facility is located.

### **7.701.35 Changes Requiring a New Application [Rev eff. 8/1/14]**

A license is deemed surrendered and a new application is required in the following circumstances:

- A. Change of licensee, owner, or governing body; or
- B. Change in classification of facility or service offered; or
- C. Change in location of the facility.

### **7.701.36 Types of Licenses**

#### **7.701.361 Permanent License [Emer. Rule eff. 8/7/06; Perm. Rule eff. 10/30/06]**

- A. A permanent license is granted when the Department is satisfied that the facility or agency is in compliance with the appropriate Department rules and the Child Care Licensing Act. The permanent license remains in effect until surrendered or revoked.

## **12 CCR 2509-8**

- B. Once a permanent license has been issued, the licensee must annually submit to the Department a declaration of compliance with the applicable licensing rules and notice of continuing operation on the form prescribed by the Department, along with the appropriate annual fee as set forth at Section 7.701.4.
- C. Failure to submit the annual declaration and fee will constitute a consistent failure to maintain department standards and may result in revocation of the license.
- D. At the time the annual declaration of compliance is submitted to the Department, the licensee must also complete a written self- evaluation on the forms prescribed by the Department. The self- evaluation form must be maintained by the facility and be available for review upon request by the licensing specialist.

### **7.701.362 Time-Limited License [Emer. Rule eff. 8/7/06; Perm. Rule eff. 10/30/06]**

- A. A time-limited license is granted for specific types of child care facilities or agencies when the Department is satisfied that the facility or agency is in compliance with the appropriate Department rules and the Child Care Licensing Act. The time-limited license will expire on a set date.
- B. Once a time-limited license has been issued, the licensee must submit a renewal application prior to the expiration of the time-limited license. This will keep the license in effect until a new time-limited license can be issued.
- C. Failure to submit the renewal application prior to the expiration of the time-limited license will result in the expiration of the license and closure of the facility.

### **7.701.363 Provisional License [Emer. Rule eff. 8/7/06; Perm. Rule eff. 10/30/06]**

- A. A provisional license or certificate may be issued only for the initial six (6) month licensing period.
- B. This license permits the facility to operate while it is temporarily unable to conform to all rules upon proof by the applicant that attempts are being made to comply with the rules.
- C. If an applicant holds a valid provisional license at the time of application for a permanent license, the provisional license will remain in effect until the application is acted on by the Department.

### **7.701.364 Probationary License [Emer. Rule eff. 8/7/06; Perm. Rule eff. 10/30/06]**

- A. A probationary license or certificate may be granted to a licensed facility or agency as provided in Section 26-6-108(2), C.R.S.
- B. If the applicant holds a valid probationary license at the time of application for a permanent license, the current license will remain in effect until the application is acted on by the Department.

### **7.701.365 Multiple Licenses [Emer. Rule eff. 8/7/06; Perm. Rule eff. 10/30/06]**

- A. If a licensee wishes to assume child care responsibility in more than one classification of care, separate applications, fees, and licensing evaluations are required for each classification. A Family Child Care Home and a Specialized Group Home may only be licensed as one type of classification at any one location address.
- B. If a licensee wishes to operate more than one facility of the same classification but at different locations, a separate application, fee, and evaluation are required for each location.

**7.701.4 FEES [Rev. eff. 10/1/15]**

- A. The appropriate application fee outlined in 7.701.4, C, must be submitted to the department with the application for a child care, agency or Neighborhood Youth Organization license at least sixty (60) calendar days prior to the opening date of the facility or the expiration date of the provisional or probationary license. Neighborhood Youth Organizations shall be exempt from this sixty (60) day requirement for the first twelve (12) months following original promulgation of the Neighborhood Youth Organization rules.
- B. The appropriate application fee outlined in 7.701.4, C, must be submitted to the Department annually, at least sixty (60) calendar days prior to the anniversary date of the license, along with a completed continuation declaration.
- C. Following is a schedule of original and annual fees for all types of child care facilities and agencies, and Neighborhood Youth Organizations:

<b>Family Child Care Homes (1-8 children)</b>	
Original/Continuation	\$27
<b>Large Family Child Care Homes (7-12 children)</b>	
Original/Continuation	\$40
<b>Experienced Family Child Care Homes</b>	
Original Application	\$43
Continuation	\$43

<b>Child Care Centers, Preschools, School Age Child Care and Resident Camps</b>	
Original/Continuation (5-20 children)	\$ 85
Original/Continuation (21-50 children)	\$134
Original/Continuation (51-100 children)	\$195
Original/Continuation (101-150 children)	\$299
Original/Continuation (151-250 children)	\$414
Original/Continuation (251 or more children)	\$585

<b>Day Treatment Center</b> Original/Continuation	\$49
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<b>Specialized Group Facility</b> Original/Continuation	\$121
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<b>Child Placement Agencies Licensed for Foster Care</b>	
Original Application	\$627
Continuation (0-5 homes)	\$319
Continuation (6-15 homes)	\$407
Continuation (16-30 homes)	\$506
Continuation (31-50 homes)	\$594
Continuation (51 or more homes)	\$693

<b>Child Placement Agencies Licensed for Adoption</b>	
Original Application	\$479
Continuation (0-5 finalized adoptions)	\$242
Continuation (6-11 finalized adoptions)	\$270
Continuation (12-17 finalized adoptions)	\$286
Continuation (18-23 finalized adoptions)	\$319
Continuation (24 or more finalized adoptions)	\$330

A Child Placement Agency licensed for both foster care and adoptions will pay only one fee - either the foster care fee or the adoption fee, whichever is greater. The annual report required by regulation 7.710.72, B, must be attached.

<b>Homeless Youth Shelter</b> Original/Continuation	\$330
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<b>Neighborhood Youth Organization</b> Original Application/Continuation	\$77
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<b>Residential Child Care Facility</b>	
Original Application	\$792
Continuation (under 12 children)	\$242
Continuation (13-25 children)	\$396
Continuation (26-50 children)	\$550
Continuation (51 or more children)	\$715
RCCF/RTC's pay one continuation fee per year based on the total licensed capacity of the facility.	

<b>Secure Residential Treatment Center</b> Original/Continuation	\$924
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<b>Changes to Licenses</b> (Capacity and/or Number of Children) Family Child Care Homes, Child Care Centers, School Aged Child Care, Day Treatment Facilities, Children's Resident Camps, Neighborhood Youth Organization	\$49
<b>Duplicate Licenses</b> Family Child Care Homes, Child Care Centers, School Aged Child Care, Day Treatment Facilities, Children's Resident Camps, Neighborhood Youth Organization	\$37
<b>Changes to Licenses</b> (Capacity and/or Number of Children) Child Placement Agencies, Group Centers, Residential Child Care Facility, Secure Residential Treatment Center, Homeless Youth Center, International Adoption Agencies. Specialized Group Facility	\$44

<b>Duplicate Licenses</b> Child Placement Agencies, Group Centers, Residential Child Care Facility, Secure Residential Agencies, Treatment Center, Homeless Youth Center, International Adoption Agencies, Specialized Group Facility	\$33
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**Changes to Licensees** of Family Child Care Homes, Large Family Child Care Homes, and Experienced Family Child Care Homes will never exceed the cost of the original or continuation fee.

- D. Following is a schedule of fees for the original application and annual fee required for the temporary and full accreditation of international adoption agencies.

<b>International Adoption Agencies</b>	
Original Application for Full Accreditation for Agencies that Complete 100 or More Intercountry Adoptions in a Calendar Year	\$4,000
Original Application for Full Accreditation for Agencies that Complete 50-99 Intercountry Adoptions in a Calendar Year	\$3,000
Original Application for Full Accreditation for Agencies that Complete 49 or Fewer Intercountry Adoptions in a Calendar Year	\$2,000
Annual Fee for Agencies with Full Accreditation	\$2,000
Original Application for Full Accreditation - Agencies with Colorado and Out-of-State Offices Additional Fee	\$2,000
Original Application for Temporary Accreditation - Agencies with Colorado and Out-of-State Offices - Additional Fee	\$500

- E. International adoption agencies with out-of-state offices will be required to reimburse the State for actual and necessary charges involved with travel to out-of-state offices.
- F. The appropriate administrative and criminal background check fees (refer to Section 7.701.33) paid with certified funds (i.e., money order or cashier's check) outlined in Section 3.905.1, A (9 CCR 2503-1) must be submitted to the State Department along with the completed background check packet upon renewal or signing a new fiscal agreement with the county to receive Colorado Child Care Assistance funds.

<b>CCCAP – Exempt Family Child Care Homes</b>	
Administration Fee for SFY2007 Initial Fingerprint Packet	\$9.00
Administrative Fee for Subsequent Year Initial Fingerprint Packet	\$11.00

**7.701.5 ADMINISTRATION**

**7.701.51 Governing Body**

- A. The governing body must be identified by its legal name on the original application and annual declaration. The names and addresses of individuals who hold primary financial control and officers of the governing body must be fully disclosed to the Department.
- B. The governing body must demonstrate to the Department, upon request, that there is sufficient financial support to operate and maintain the facility in accordance with all rules in Section 7.701, the rules regulating the specific type of facility, and the goals and objectives of the facility.

**7.701.52 Reports**

**12 CCR 2509-8**

A. Within twenty four (24) hours, excluding weekends and holidays, of the occurrence of a critical incident at the facility or within twenty four (24) hours of a child's return to the facility if the child was on authorized or unauthorized leave from the facility, the facility or child placement agency must report in writing to the licensing or certifying authority the following critical incidents involving a child in the care of the facility or a staff member on duty:

1. The death of a child or staff member as a result of an accident, suicide, assault, or any natural cause while at the facility, or while on authorized or unauthorized leave from the facility.
2. An injury to a child or staff member that requires emergency medical attention by a health care professional or admission to a hospital.
3. A mandatory reportable illness, as required by the Colorado Department of Public Health and Environment, of a child or staff member that requires emergency medical attention by a health care professional or admission to a hospital.
4. Any allegation of physical, sexual, or emotional abuse or neglect to a child that results in reporting to a law enforcement or social services agency.
5. Any fire that is responded to by a local fire department.
6. Any major threat to the security of a facility including, but not limited to, a threat to kidnap a child, riots, bomb threats, hostage situations, use of a weapon, or drive by shootings.
7. A drug or alcohol related incident involving a staff member or a child that requires outside medical or emergency response.
8. An assault, as defined by Sections 18-3-201 through 18-3-204, C.R.S., by a child upon a child, a child upon a staff member, or a staff member upon a child which results in a report to law enforcement.
9. A suicide attempt by a child at the facility which requires emergency intervention.
10. Felony theft or destruction of property by a child while in placement at the facility for which law enforcement is notified.
11. Any police or sheriff contact with the facility for a crime committed by a resident while in placement at the facility.

A report of a critical incident must be submitted on the Colorado Department of Human Services, Division of Child Care, critical incident form.

B. The following items must be reported in writing to the department within ten (10) working days, unless otherwise noted:

1. Any legal action against a facility, agency, owner, operator, or governing body that relates to or may impact the care or placement of children.
2. Change of director of facility or agency.
3. Proposed change in the number, sex, or age of children for whom the facility is licensed that differs from that authorized by the license.
4. Change of address of child placement agency.

## **12 CCR 2509-8**

5. Changes in the physical facility or use of rooms for child care at a facility.
6. Closure of the facility or agency.
7. Change of name of the facility or agency.
8. Change of residents in the facility, not to include those residents placed in the facility by a county department or a child placement agency.

### **7.701.53 Reporting of Child Abuse**

- A. A child care facility must require each staff member of the facility to read and sign a statement clearly defining child abuse and neglect pursuant to state law and outlining the staff member's personal responsibility to report all incidents of child abuse or neglect according to state law.
- B. Any caregiver or staff member in a child care facility who has reasonable cause to know or suspect that a child has been subjected to abuse or neglect or who has observed the child being subjected to circumstances or conditions that would reasonably result in abuse or neglect must immediately report or cause a report to be made of such fact to the county department of social services or local law enforcement agency.
- C. If the suspected child abuse occurred at the child care facility, the report of suspected child abuse must be made to the county department of social services, police department, or other law enforcement agency in the community or county in which the child care facility is located.
- D. If the suspected child abuse did not occur at the child care facility, the report of suspected child abuse must be made to the county department of social services in the county in which the child resides or to the local law enforcement agency in the community in which the incident is believed to have occurred.
- E. At the time of admission the facility must give the child's parent or guardian information that explains how to report suspected child abuse or child neglect.

### **7.701.54 Investigation of Child Abuse**

- A. Staff members of the county department of social services or a law enforcement agency that investigates an allegation of child abuse must be given the right to interview staff and children in care and to obtain names, addresses, and telephone numbers of parents of children enrolled at the child care facility.
- B. Any report made to the law enforcement authorities or a county department of social services of an allegation of abuse of any child at the child care facility will result in the temporary suspension or reassignment of duties of the alleged perpetrator to remove the risk of harm to the child/children if there is reasonable cause to believe that the life or health of the victim or other children at the facility is in imminent danger due to continued contact between the alleged perpetrator and the child/children at the facility. Such suspension or reassignment of duties will remain in effect pending the outcome of the investigation by the appropriate authorities.

### **7.701.55 Reporting of Licensing Complaints**

Child care facilities must provide written information to parents at the time of admission and staff members at the time of employment on how to file a complaint concerning suspected licensing violations. The information must include the complete name, mailing address, and telephone number of the Colorado Department of Human Services, Division of Child Care.

**12 CCR 2509-8**

**7.701.56 Posting Licensing Information [Rev. eff. 1/1/16]**

- A. At all times during the operating hours of the facility, except for foster care homes, the facility/agency shall post the current child care license in a prominent and conspicuous location easily observable by those entering the child care facility or agency. For foster care homes, the certificate shall be available for review/upon request.
- B. At all times during the operating hours of a family child care home, child care center, school-age child care center, or children's resident camp, the facility shall post its most recent licensing inspection report or a notice as to where the report may be reviewed at the facility by the parent or legal guardian of a child or their designee.
- C. At all times during the operating hours of a child care facility, except for foster care homes and child placement agencies, the facility shall post in a prominent and conspicuous location information regarding the procedures for filing a complaint with the Colorado Department of Human Services, Division of Child Care, including the telephone number and mailing address. For foster care homes and child placement agencies, information for filing a complaint shall be made available upon request.
- D. The facility must post in every room of the child care facility, excluding bedrooms and living areas, the license capacity of the room and the staff-to-child ratio required by regulation to be maintained for the age of children cared for in the room.

**7.701.6 CONFIDENTIALITY OF RECORDS**

- A. The records concerning the licensing of facilities and agencies are open to the public except as provided below.
- B. Anyone wishing to review a record must make a written request to the department.
- C. The following documents are confidential and not available for review:
  - 1. Information identifying children or their families; and
  - 2. Scholastic records, health reports, social or psychological reports. These are available only to the person in interest; and
  - 3. Personal references requested by the department; and
  - 4. Reports and records received from other agencies, including police and child protection investigation reports.

**7.701.7 PARENTAL ACCESSIBILITY**

- A. During hours of operation, a facility must allow access to parents and guardians having legal custody of a child in care to those areas of the facility that are licensed for child care.
- B. During the hours of operation, the facility's most recent licensing, fire department, and health department inspection reports must be accessible to parents and legal guardians of children in care or their designee and to parents and legal guardians considering placing their children in care at the facility.

**7.701.8 PERJURY STATEMENT - APPLICATION FORMS FOR EMPLOYMENT WITH A CHILD CARE PROVIDER**



**12 CCR 2509-8**

Every application used in the State of Colorado for employment with a child care provider or facility, or for the certification of a foster home, shall include the following notice to the applicant:

“Any applicant who knowingly or willfully makes a false statement of any material fact or thing in the application is guilty of perjury in the second degree as defined in Section 18-8-503, C.R.S., and, upon conviction thereof, shall be punished accordingly.”

**7.701.9 GENERAL HEALTH RULES [Eff. 6/1/12]**

**7.701.91 Smoking and Tobacco Products [Eff. 6/1/12]**

Pursuant to 26-6-106(2)(e), C.R.S., 25-14-103.5, C.R.S., and 18-13-121, C.R.S., tobacco and nicotine products are prohibited by law from use in and around licensed child care facilities.

- A. Smoking and tobacco product use is prohibited at all times while transporting children on field trips and excursions.
- B. Smoking and tobacco product use is not prohibited in Family Child Care Homes during non-business hours.
- C. Foster parents are exempt from this rule when no children are in placement.

**7.701.100 Emergency and Disaster Preparedness for Child Care Centers, Family Child Care Homes, Day Treatment Centers, School-Age Programs, and Children’s Resident Camps [Eff. 4/1/15]**

- A. Evacuation, Shelter in Place, Lockdown, and Active Shooter on Premises Plans for Children in Care

All child care providers must have a written plan for evacuating and safely moving children to an alternate site, as well as lockdown, shelter in place, and active shooter on premises. The plan must include provisions for multiple types of hazards, such as floods, fires, tornados, and local shootings. All employees of a child care provider must be trained in emergencies and disaster preparedness.

- 1 “Lockdown drill” means a drill in which the occupants of a building are restricted to the interior of the building and the building is secured.
2. “Shelter-in-place drill” means a drill in which the occupants of a building seek shelter in the building from an external threat.
3. “Active shooter on premises drill” means a drill to address an individual actively engaged in killing or attempting to kill people in a confined space or other populated area.

- B. Reuniting Families After an Emergency or Disaster

All child care providers must have a written plan for emergency notification of parents and reunification of families following an emergency or disaster.

- C. Children with Disabilities and Those with Access and Functional Needs

All child care providers must have a written plan that accounts for children with disabilities and those with access and functional needs. The plan must include a specific requirement indicating how all children with special needs will be included in the emergency plan.

**12 CCR 2509-8**

D. Continuity of operations after a disaster

1. All child care providers must have a written plan for continuity of operations in the aftermath of an emergency or disaster. Components of the plan must include:
  - A. Responsibility for essential staffing needs and predetermined roles during and after the emergency or disaster; and
  - B. Procedure for backing up or retrieving staff and children's files; and
  - C. Procedure for protecting confidential and financial records.
2. During an emergency or other significant, unexpected event, a child care facility may request an emergency waiver to move to a temporary location or exceed capacity, on a temporary basis, to accept children and families from affected areas.

DE. Fire, Natural Disaster, and Emergency Drills

1. Each staff member of the facility must be trained in fire safety and the use of available fire extinguishers and fire alarms.
2. Drills must be held quarterly so that all occupants are familiar with the drill procedure and their conduct during a drill is a matter of established routine. Fire drills must be consistent with local fire department procedures. A record of fire drills held over the past twelve (12) months must be maintained by the center, including date and time of drill, number of adults and children participating, and the amount of time taken to evacuate.
3. Drills must be held at unexpected times and under varying conditions to simulate the conditions of an actual fire.
4. Drills must emphasize orderly evacuation under proper discipline rather than speed. No running or horseplay should be permitted.
5. Drills must include suitable procedures for ensuring that all persons in the building, or all persons subject to the drill, actually participate.
6. Fire alarm equipment must be used regularly in the conduct of fire exit drills. Hand bells or other alarm emanating devices may be used in lieu of fire alarm equipment if use of fire alarm equipment is not feasible including, but not limited to, facilities operating in buildings where multiple unrelated tenants share a common fire alarm system.
7. If appropriate to the location of the center, forest fire, tornado and/or flood drills must be held often enough that all occupants are familiar with the drill procedure and their conduct during a drill is a matter of established routine. A record of drills held over the past twelve (12) months must be maintained by the center.
8. For children's resident camps, at least one fire drill must be held within twenty-four (24) hours of the commencement of each camp session. The dates of the fire drills must be recorded in the camp office.

**7.701.200 THE REASONABLE AND PRUDENT PARENT STANDARD REQUIREMENTS FOR FACILITIES PROVIDING TWENTY-FOUR (24) HOUR OUT-OF-HOME CARE TO APPROVE ACTIVITIES FOR A CHILD OR YOUTH IN FOSTER CARE [Eff. 11/1/15]**

**12 CCR 2509-8**

Children and youth in foster care are entitled to participate in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities as part of their well-being needs.

Providers shall use a “reasonable and prudent parent standard” when determining whether to allow a child or youth in foster care, under the responsibility of the county or in non-secure residential settings under the Division of Youth Corrections (DYC), to participate in such activities following the criteria in A and B:

- A. For an activity to be approved consistent with the reasonable and prudent parent standard, the activity must:
  - 1. Maintain the health, safety, and best interests of each child or youth;
  - 2. Encourage his/her emotional and developmental growth;
  - 3. Be age or developmentally appropriate; and,
  - 4. Is otherwise appropriate for the provider to approve.
  
- B. When applying the reasonable and prudent parent standard and prior to approval of the activity, the provider shall take reasonable steps to obtain or determine:
  - 1. Adequate information about the child or youth, including the youth’s particular religious, cultural, social, or behavioral attributes and preferences;
  - 2. Behavioral and/or mental health stability of the child or youth;
  - 3. The age or developmental appropriateness of the activity; and,
  - 4. Whether the risk of reasonably foreseeable harm involved in the activity is at an acceptable level.
  
- C. The responsible county department of human or social services or DYC shall receive the same state training in applying the reasonable and prudent parent standard, and shall receive ongoing training by their respective certifying or sponsoring agencies or governing body, as needed.
  
- D. At least one trained (1) staff or administrator in a specialized group facility or Residential Child Care Facility (RCCF) shall be designated as authorized to apply the reasonable and prudent parent standard to decisions involving the participation of a child or youth in extracurricular, enrichment, cultural, or social activities.
  
- E. The rationale used to authorize an activity for a child or youth shall be clearly documented in the facility records and provided in a timely manner to the county department of human or social services or DYC using the contracted, written reporting format.
  - 1. The facility shall consult with and obtain a current copy of the policy from the responsible county department of human or social services or DYC regarding activities that are considered appropriate for the facility to approve.  
  
The responsible county department of human or social services or DYC may restrict certain activities based upon the documented exceptional needs and circumstances of a child or youth in foster care, which impact his/her unique safety needs.
  - 2. The wishes of the parents/legal custodian shall be considered, including cultural implications, whenever practical.

**12 CCR 2509-8**

3. The facility may consult with the responsible agency for guidance about individual cases.
- F. Providers shall not incur liability to the State Department or to the county department of human or social services because of an extracurricular, enrichment, cultural, or social activity approved by the provider if the provider demonstrates compliance with the reasonable and prudent parent standard. In a child welfare investigation arising out of such an activity approved by the provider, the facility shall not be founded for institutional neglect if the provider demonstrates compliance with the reasonable and prudent parent standard.