

STANDARDS FOR DAYCARE
(Sections 300 through 399)

300. STANDARDS FOR DAYCARE.

01. Daycare Standards. In addition to meeting the rules and minimum standards required in Sections 000 through 199 of these rules, each owner, operator, or applicant seeking licensure from the Department as a daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, must also meet the requirements under Title 39, Chapter 11, Idaho Code, and Sections 300 through 399 of these rules.

02. Minimum Age of Applicant. An individual, submitting an application to the Department to be licensed for a daycare center, group daycare facility, or family daycare home, must be a minimum of eighteen (18) years of age. (4-7-11)

301. TYPES OF DAYCARE LICENSES.

Subject to meeting all requirements under Title 39, Chapter 11, Idaho Code, and the rules and minimum standards in this chapter, the Department will determine the type of daycare license required by an owner or operator providing daycare by counting each child in attendance, regardless of relationship to the person or persons providing the care. The following types of daycare licenses may be issued by the Department.

01. Daycare Center License. A daycare center license is issued for a place or facility providing daycare, where thirteen (13) or more children, regardless of relationship to the person or persons providing the care, are in attendance. (4-7-11)

02. Group Daycare Facility. A group daycare facility license is issued for a place or facility providing daycare, where seven (7) to twelve (12) children, regardless of relationship to the person or persons providing the care, are in attendance.

03. Family Daycare Home. A family daycare home is not required to be licensed. However, a family daycare home may voluntarily elect to be licensed by the Department.

302. -- 308. (RESERVED).

309. CRIMINAL HISTORY AND BACKGROUND CHECK FOR DAYCARE STANDARDS.

01. Criminal History and Background Check for Daycare Centers and Group Daycare Facilities. Each owner, operator, or applicant seeking licensure for a daycare center, group daycare facility, or a family daycare home must submit evidence that is satisfactory to the Department that the following individuals have successfully completed and received a clearance for a Department criminal history and background check under the provisions of Sections 39-1105 and 39-1113, Idaho Code:

- a.** Owners, operators, and staff; (4-7-11)
- b.** All other individuals thirteen (13) years of age or older who have unsupervised direct contact with children; or (4-7-11)
- c.** All other individuals thirteen (13) years of age or older who are regularly on the premises. (4-7-11)

02. Juvenile Justice Records. The criminal history and background check for any individual under eighteen (18) years of age, must include a check of the juvenile justice records, as authorized by the minor and his parent or guardian. Records must be checked for each jurisdiction in which the individual has resided since becoming thirteen (13) years of age through eighteen (18) years of age. Each owner, operator, or applicant is responsible for requesting a check of the juvenile justice record, paying for the costs of a check of the juvenile justice records, and submitting them to the Department for review. A check of the juvenile justice records must include the following:

(4-7-11)

- a. Juvenile justice records of adjudication of the magistrate division of the district court; (4-7-11)
- b. County probation services; and (4-7-11)
- c. Department records. (4-7-11)

03. Criminal History and Background Check for Family Daycare Homes. Under Section 39-1114, Idaho Code, any person providing daycare for four (4) or more children in a family daycare home is required to comply with the requirements of Sections 39-1105 and 39-1113, Idaho Code.

04. Criminal History and Background Check for Private Schools and Private Kindergartens. Under Section 39-1105, Idaho Code, any person who owns, operates, or is employed by a private school for educational purposes for children four (4) through six (6) years of age or a private kindergarten is required to comply with the requirements of Sections 39-1105 and 39-1113, Idaho Code.

05. Cost of Criminal History and Background Check and Juvenile Justice Records. Each individual who requests and obtains a Department criminal history and background check is responsible for the cost of the criminal history and background check and check of juvenile justice records.

06. On-going Duty to Report Convictions. Following completion of a criminal history and juvenile justice background check and clearance, additional criminal convictions and juvenile justice adjudications for disqualifying crimes under Section 39-1113, Idaho Code, must be self-disclosed by the individual to the owner or operator of a daycare center, group daycare facility, or family daycare home. The owner or operator must report these additional convictions and adjudications to the Department within five (5) days of learning of the conviction or adjudication. (4-7-11)

310. -- 320. (RESERVED).

321. APPLICATION FOR DAYCARE LICENSE OR RENEWAL.

Any individual applying for licensure as a daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department must be at least eighteen (18) years of age. The applicant must apply on forms provided by the Department and must provide information required by the Department set forth in the following Subsections 321.01 through 321.10.

01. Completed and Signed Application. A completed application form signed and dated by the applicant. (4-7-11)

02. Licensing Fee. The applicant must pay the appropriate licensing fee prior to the issuance of a daycare license by the Department.

03. Inspection Reports. The following reports must be submitted to the Department with the application: (4-7-11)

- a. Proof that the proposed facility meets local building code, where required; (4-7-11)
- b. Proof that the proposed facility meets local electrical code, where required; (4-7-11)
- c. Proof that the proposed facility meets fire code, where required; and (4-7-11)
- d. Proof that the facility meets local planning and zoning requirements. (4-7-11)

04. Proof of Insurance. The applicant must provide proof of current fire and liability insurance coverage for the daycare facility.

05. Criminal History and Background Clearance. Evidence that the applicant and all individuals

required to have a criminal history and background check have received a clearance from the Department required in Section 309 of these rules.

06. Statement to Comply. The applicant must provide a written statement that these rules have been thoroughly read and reviewed and the applicant is prepared to comply with all of its provisions.

07. Statement Disclosing Revocation or Disciplinary Actions. A written statement that discloses any revocation or other disciplinary action taken or in the process of being taken against the applicant as a daycare provider in Idaho or any other jurisdiction, or a statement from the applicant stating he has never been involved in any such action. (4-7-11)

08. Other Information as Requested. The applicant must provide other information that may be requested by the Department for the proper administration and enforcement of the provisions of this chapter.

09. Additional Requirements for License Renewal. A daycare license must be renewed every two (2) years. The daycare operator must submit to the Department the renewal application, fee, and all required documentation in this section of rule at least forty-five (45) days prior to the expiration of the current daycare license. (4-7-11)

10. Termination of Application Process. Failure of the applicant to cooperate with the Department in the application process may result in the termination of the application process. Failure to cooperate means that the information requested is not provided within ninety (90) days, or not provided in the form requested by the Department, or both.

322. -- 324.

(RESERVED).

325. ISSUANCE OF LICENSE.

01. Department Action. The Department will order a health and safety inspection of the daycare facility once the application for licensure is complete and the licensing fee has been paid.

02. Issuance of a Regular License. If the Department determines the applicant is in compliance with the rules and minimum standards set forth in these rules, the Department will, within sixty (60) days from the date the completed application is submitted, issue one (1) of the following licenses:

a. Daycare Center License, stating the type of facility, the number of children who may be in attendance, and the length of time the license is in effect;

b. Group Daycare Facility License, stating the type of facility, the number of children who may be in attendance, and the length of time the license is in effect; or

c. Family Daycare Home License, stating the type of facility, the number of children who may be in attendance, and the length of time the license is in effect.

03. Issuance of Provisional License. A provisional daycare license may be issued for a period of time not to exceed one hundred eighty (180) days provided this does not effect the health, safety, and well-being of any child in daycare at the home or facility and the Department determines that a licensing standard cannot be met but is expected to be corrected within six (6) months. A provisional daycare license automatically expires after one hundred eighty (180) days and can only be issued one (1) time in any twelve-month period.

04. Denial of Licensure. If the Department determines the applicant is not in compliance with the rules and minimum standards set forth in this chapter and further determines not to issue a regular license or provisional license, the Department will, within thirty (30) days from the date the completed application is submitted, issue a letter of denial of licensure stating the basis for the denial.

05. Incomplete Application. The Department is not required to take any action on an application until the application is complete.

06. Notification of License Renewal. The Department will notify the licensed daycare operator at least ninety (90) days prior to expiration of the license.

07. List of Licensed Daycare Facilities. The Department will maintain a list of all licensed daycare facilities for public use.

326. -- 329. (RESERVED).

330. STAFF AND OTHER INDIVIDUAL RECORD REQUIREMENTS.

Each owner or operator of a daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department must maintain a current list covering the previous twelve-month period of all staff and other individuals thirteen (13) years of age or older who have unsupervised direct contact with children, or are regularly on the premises. The list must specify, at a minimum, the following:

- 01. Legal name.** (4-7-11)
- 02. Proof of Age.** (4-7-11)
- 03. Phone Number.** (4-7-11)
- 04. Record of Training.** (4-7-11)
- 05. Verification of Criminal History and Background Check Clearance.** (4-7-11)
- 06. Results of Juvenile Justice Records.** The results of juvenile justice records, when applicable. (4-7-11)
- 07. Certification.** Verification of Pediatric Rescue Breathing, Infant-Child CPR, and First Aid Treatment certification from a certified instructor, when applicable.
- 08. Record of Hours.** The times, dates, and records of hours on the premises each day. (4-7-11)

331. CHILD RECORD CONTENT REQUIREMENTS.

Each owner or operator of a daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, must maintain a record for each child in attendance covering the previous twelve-month period. The record must contain, at a minimum, the following:

- 01. Child's Full Name.** (4-7-11)
- 02. Date of Birth.** (4-7-11)
- 03. Parent or Guardian's Name, Address, and Contact Information.** (4-7-11)
- 04. Emergency Contact Information.** (4-7-11)
- 05. Child's Health Information.** (4-7-11)
 - a.** Immunization record or waiver of exemption form or statement; (4-7-11)
 - b.** Any medical conditions that could affect the care of the child; (4-7-11)
 - c.** Medications the child is taking or may be allergic to. (4-7-11)

06. Record of Attendance. The times, dates, and record of attendance each day. (4-7-11)

332. -- 334. (RESERVED).

335. CHILD-STAFF RATIOS AND MAXIMUM GROUP SIZES.

The Department determines the maximum allowable ratio of children to staff and maximum group size as described in the tables provided in Subsections 335.01 and 335.02 of this rule.

01. Daycare Centers Child-Staff Ratios and Maximum Group Size.

DAYCARE CENTERS CHILD-STAFF RATIOS AND MAXIMUM GROUP SIZE Based on Age of Youngest Child TABLE 335.01		
Ages and Counts Based on Age of Youngest Child	Child:Staff Ratio	Maximum Group Size
A child or children birth to two (2) years of age	6:1 or 12:2	12
All children at least two (2) years of age	8:1 or 16:2	16
All children at least three (3) years of age	10:1 or 20:2	20
All children at least four (4) years of age	12:1 or 24:2	24
All children at least five (5) years of age	18:1 or 36:2	36

(4-7-11)

02. Group Daycare Facilities and Licensed Family Daycare Homes - Child-Staff Ratios and Maximum Group Size.

GROUP DAYCARE FACILITIES AND LICENSED FAMILY DAYCARE HOMES CHILD-STAFF RATIOS AND MAXIMUM GROUP SIZE Based on Age of Youngest Child TABLE 335.02		
Ages and Counts Based on Age of Youngest Child	Child:Staff Ratio	Maximum Group Size
No child or children under the age of two (2)	12:1	12
One (1) or two (2) children under the age of two (2) years	10:1 or 12:2	10 or 12
Three (3) or more children under the age of two (2) years	9:1 or 12:2	9 or 12

(4-7-11)

03. Compliance with Child-Staff Ratios and Maximum Group Sizes. Child-staff ratios and maximum group sizes must be maintained at all times during all hours of operation when children are in attendance

and when transporting children.

a. Each child in attendance is counted by the Department as one (1) child for the purposes of determining compliance with child-staff ratios;

b. The ratio of children to staff and maximum group size in mixed age groups is determined by the age of the youngest child in attendance;

c. Each adult staff member who is providing direct care for a child or children is counted by the Department as one (1) staff member for the purposes of counting the number of staff on-duty and determining compliance with child-staff ratios; and

d. Each staff member sixteen (16) and seventeen (17) years of age under the supervision of an adult staff member, when providing direct care for a child or children, may be counted by the Department as one (1) staff member for the purposes of counting the number of staff on-duty and determining compliance with child-staff ratios. (4-7-11)

04. Supervision of Children. The owner or operator and all staff are responsible for the direct care, protection, supervision, and guidance of children through active involvement or direct observation. In addition to meeting all of the minimum requirements of child-staff ratio and maximum group size, the owner or operator of a daycare center, group daycare facility, or family daycare home licensed by the Department must ensure that at least one (1) adult staff member is:

a. Awake and on duty on the premises at all times during regular business hours or when children are in attendance, and

b. Currently certified in pediatric rescue breathing, infant-child CPR, and first-aid treatment. (4-7-11)

05. Napping Children. Napping children who are not within sight of a staff member must be within easy hearing distance at all times.

06. Overnight Daycare. For daycare operators providing overnight care of children, the following must apply: (4-7-11)

a. A sleeping child must sleep on the same level as the staff member who must be able to hear the child; and (4-7-11)

b. A staff member must be awake and on duty to release and receive a child. (4-7-11)

336. -- 339. (RESERVED).

340. DAYCARE CENTER TRAINING REQUIREMENTS.

Each owner or operator of a daycare center licensed by the Department must receive and ensure that each staff member receives and completes four (4) hours of ongoing training every twelve (12) months after the staff member's date of hire.

01. Child Development Training. Training must be related to continuing education in child development. (4-7-11)

02. Documented Training. It is the responsibility of the owner or operator of the daycare center to ensure that each staff member has completed four (4) hours of training each year. The training must be documented in the staff member's record.

03. Pediatric Rescue Breathing, Infant-Child CPR and First Aid Treatment Training. Pediatric rescue breathing, infant-child CPR, and first aid treatment training will not count towards the required four (4) hours of annual training.

04. Staff Training Records. Each owner or operator of the daycare center is responsible for maintaining documentation of staff's training and may be asked to produce documentation at the time of license renewal. (4-7-11)

342. -- 344.

(RESERVED).

345. MANDATORY REPORTING OF ABUSE, ABANDONMENT, OR NEGLECT.

Under Section 16-1605, Idaho Code, daycare personnel, including the owners, operators, staff, and any other person who has reason to believe that a child has been abused, abandoned, or neglected or is being subjected to conditions or circumstances which would reasonably result in abuse, abandonment, or neglect, must report or cause to be reported within twenty-four (24) hours, such conditions or circumstances to the Department or the proper law enforcement agency.

346. VISITATION AND ACCESS.

01. Visitation Rights. Parents and guardians have the absolute right to enter the daycare premises when their child is in the care of the daycare operator. Failure or refusal to allow parental or guardian entry to the daycare premises or access to their child may result in the suspension or revocation of a daycare license.

02. Denied or Limited Visitation Rights by Court Order. If a parent or guardian has been granted limited or has been denied visitation rights by a court of competent jurisdiction, and the daycare operator has written documentation from the court, Subsection 346.01 of this rule does not confer a right to visitation upon the parent or guardian. (4-7-11)

03. Department Access. The owner or operator of a daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, must allow the Department access to the premises for re-inspection at any time during the licensing period.

347. -- 349.

(RESERVED).

350. FIRE SAFETY STANDARDS.

Each daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, must comply with the fire safety standards outlined in Subsections 350.01 and 350.02 of this rule.

01. Inspections. Inspections must be completed by the local fire official or designee. For a daycare located outside of the area of authority outlined in Section 39-1109, Idaho Code, the Department can designate an approved inspector for daycare licensing purposes only.

02. Unobstructed Exits. Required exits must be located in such a way that an unobstructed path outside the building is provided to a public way or area of refuge.

a. Exit doors must open from the inside without the use of a key or any special knowledge or effort. (4-7-11)

b. There must be at least two (2) exits located a distance apart of not less than one-half (1/2) the diagonal dimension of the building or portion used for daycare, but not to exceed seventy-five (75) feet. An exception may be made for the following:

i. The distance between exits may be extended to ninety (90) feet if the building is totally protected throughout with smoke detectors; or

ii. The distance between exits may be increased to one hundred ten (110) feet if the building is equipped with an automatic fire sprinkler system.

c. The required dimensions of exits must not be less than thirty-two (32) inches of clear exit width

and not be less than six (6) feet, eight (8) inches in height. An exception for sliding patio doors will be accepted as a required second exit in a family daycare home and group daycare facilities only.

d. Sleeping room exits must be provided with at least one (1) emergency egress window having at least a minimum single net clear opening of five point seven (5.7) square feet, minimum height twenty-four (24) inches, minimum width twenty (20) inches, and maximum finished sill height not over forty-four (44) inches. (4-7-11)

i. Approved egress windows from sleeping areas must be operable from the inside without the use of separate tools. (4-7-11)

ii. In lieu of egress windows, an approved exit door is acceptable. (4-7-11)

iii. An approved piece of furniture or platform, if anchored in place, may be approved to sit in front of a window if the sill height is over forty-four (44) inches.

e. Where children are located on a story below the level of exit discharge (basement), there must be at least two (2) exits, one (1) of which must open directly to the outside. More than one (1) exit from the basement opening directly to the outside may be required, depending on the structure of the building, in order to ensure the safety of the occupants.

f. Where children are located on a story above the level of exit discharge, there must be two (2) exits, one (1) of which must open directly to the outside and be in compliance with building codes.

351. FACILITY CAPACITY AND DETERMINING OCCUPANT LOAD.

Occupant load is determined by the local fire official or designee.

01. Area for Daycare Use Only. The local fire official or designee will only use those areas used for daycare purposes when determining the occupant load.

02. Facilities with an Occupancy Load of Fifty or More. Facilities with an occupancy load of fifty (50) or more occupants must meet the requirements in Section 350 of these rules in addition to Subsections 351.01 through 351.03 of this rule.

a. Exit doors must swing in the direction of egress. (4-7-11)

b. Exit doors from rooms, if provided with a latch, must have panic hardware installed. (4-7-11)

03. Exit Signs. Exit signs must be installed at required exit doorways and wherever else necessary to clearly indicate the direction of egress.

352. FIRE EXTINGUISHERS AND SAFETY REQUIREMENTS.

Each daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, must comply with the fire extinguisher and safety requirements in this section of rule as applicable for size and type of facility. (4-7-11)

01. Portable Fire Extinguisher. There must be an approved portable fire extinguisher (minimum 2A-10BC) mounted securely in a visible location not to exceed five (5) feet from the floor to the top of the extinguisher and not more than seventy five (75) feet travel distance to an extinguisher and maintained properly.

02. Kitchen Area. An approved fire extinguisher must be present or a hood-type fire suppression system must be installed in the kitchen area.

03. Fire Extinguishers. Approved fire extinguishers must be maintained properly. (4-7-11)

04. Facilities Over Three Thousand Square Feet. Each daycare facility over three thousand (3,000)

square feet is required to have additional fire extinguishers as approved by the local fire official or designee.

05. Fire Alarm System. Each daycare facility with over fifty (50) children, must have an approved fire alarm system installed.

06. Smoke Detectors. Smoke detectors must be installed and maintained in the following locations: (4-7-11)

a. On the ceiling or wall outside or each separate sleeping area in the immediate vicinity of bedrooms; (4-7-11)

b. In each room used for sleeping purposes; and (4-7-11)

c. In each story within a facility including basements. (4-7-11)

d. If there is a basement, there must be a smoke detector installed in the basement having a stairway which opens from the basement into the facility. Such detector must be connected to a sounding device or other detector to provide an alarm which is audible in the sleeping area.

07. Automatic Sprinkler Systems. An automatic sprinkler system must be provided in all daycare facilities greater than twenty thousand (20,000) square feet in area or when the number of children under the age of eighteen (18) months exceeds one hundred (100).

353. FIRE SAFETY AND EVACUATION PLANS.

Each daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, must have an approved fire safety and evacuation plan prepared. Fire evacuation and safety plans must include the following: (4-7-11)

01. Evacuation. Procedures and policies for accounting for staff and children after an evacuation is completed. (4-7-11)

02. Assembly Point. Evacuation plan and assembly point for children and staff. (4-7-11)

03. Locations of Facility Exits. (4-7-11)

04. Evacuation Routes. (4-7-11)

05. Location of Fire Alarms. (4-7-11)

06. Location of Fire Extinguishers. (4-7-11)

07. Annual Review. Fire safety and evacuation plans must be reviewed or updated annually and available in the facility for reference and review.

08. Frequency of Fire and Emergency Evacuation Drills. Fire and evacuation drills must be conducted on a routine schedule and all staff and children must participate.

354. -- 359. (RESERVED).

360. HEALTH STANDARDS.

Each daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, must comply with the health standards in Subsections 360.01 through 360.19 of this rule. Health inspections will be completed by a qualified inspector designated by the Department.

01. Food Source. Food must be from an approved source as defined in IDAPA 16.02.19, "The Idaho

Food Code.” Food must not be served past expiration or “use by date.”

02. Food Preparation. Food for use in daycare facilities must be prepared and served in a sanitary manner with sanitized utensils and on surfaces that have been cleaned, rinsed, and sanitized prior to use to prevent cross-contamination.

a. Frozen food must be thawed in the refrigerator, under cold running water, or as part of the cooking process. Food must be cooked to proper temperatures according to IDAPA 16.02.19, “The Idaho Food Code.” (4-7-11)

b. Individuals preparing food must use proper hand-washing techniques, minimize bare hand contact with food, and wear clean clothes.

03. Food Temperatures. Potentially hazardous foods must be kept refrigerated at forty-one degrees Fahrenheit (41°F) or below, held hot at one hundred thirty-five degrees Fahrenheit (135°F) or more, and reheated or cooled at safe temperatures according to IDAPA 16.02.19, “The Idaho Food Code.” Refrigerators must be equipped with an accurate thermometer.

04. Food Storage. All food that is served in daycare facilities must be stored in such a manner that protects it from potential contamination. There must be no evidence of pests present in the daycare facility.

05. Food Contact Surfaces. Food contact surfaces must be kept clean and sanitized, including counters, serving tables, high chair trays, and cutting boards.

06. Dishwashing Sanitizing. Dishes, glasses, utensils, silverware and all other objects used for food preparation and eating must be sanitized using appropriate sanitizing procedures.

07. Utensil Storage. Clean utensils must be stored on clean shelves or drawers and not subject to recontamination. Sharp knives and other sharp objects must be kept out of reach of children.

08. Garbage. Garbage must be kept covered or inaccessible to children. (4-7-11)

09. Hand Washing. Children and facility staff must be provided with individual or disposable towels for hand drying. The hand washing area must be equipped with soap and warm and cold running water.

10. Diaper Changing. Diaper changing must be conducted in such a manner as to prevent the spread of communicable diseases. A diaper-changing area must be separate from food preparation and serving areas and have easy access to a hand-washing sink.

11. Sleeping Areas. Children sleeping at the facility must have separate cots, mats, or beds and blankets. (4-7-11)

12. Restrooms, Water Supply, and Sewage. All daycare facilities must have restrooms. (4-7-11)

a. Each facility must have at least one (1) flushable toilet and at least one (1) hand washing sink with warm and cold water per restroom.

b. Plumbing and bathroom fixtures must be in good condition. (4-7-11)

c. In addition, daycare centers must comply with requirements of the International Building Code incorporated by reference in Section 004 of these rules.

13. Water Supply. The facility's water supply must meet one (1) of the following requirements: (4-7-11)

a. Be from a public water system which is maintained according to IDAPA 58.01.08, “Idaho Rules

for Public Drinking Water Systems,” at the time of initial application and application for license renewal; or

b. Be from a private source, such as well or spring, and must be tested annually for bacteria and nitrate, and approved by the Department.

c. Water used for consumption at a daycare facility must be from an acceptable source,. Temporary use of bottled water or boiled water may be allowed for a period specified by the by the Department.

14. Sewage Disposal. Facility sewage must be disposed of through a public system, or in the absence of a public system, in a manner approved by the local health authority, according to IDAPA 58.01.03 “Individual/Subsurface Sewage Disposal Rules.”

15. Use of Alcohol and Illegal Drugs. Alcohol and illegal drugs must not be used by operators, children, staff, volunteers, or visitors at daycare facilities or in the presence of children during hours of operation or in vehicles while transporting children.

a. Any individual under the influence of alcohol or drugs must not be permitted at or in the daycare facility. (4-7-11)

b. Illegal drugs are prohibited by law and therefore must not be allowed on the premises of a licensed daycare facility at anytime whether the facility is open or closed.

16. Smoke Free Environment. Children must be afforded a smoke-free environment during all daycare hours, whether indoors or outdoors. While children are in care, the operator and all staff must ensure that no smoking or other tobacco use occurs within the facility, in outdoor areas, or in vehicles when children are present. (4-7-11)

17. Medication. No person can administer any medication to a child without it first being authorized by a parent or caretaker. All medications, refrigerated or unrefrigerated, must be in a locked box or otherwise inaccessible to children.

18. Adequate Heat, Light and Ventilation. A daycare facility must have adequate heat, light and ventilation. Window and doors must be screened if used for ventilation.

19. Immunizations. Daycare operators must comply with the immunizations requirements provided in IDAPA 16.02.11, “Immunization Requirements for Children Attending Licensed Day Care Facilities in Idaho.” (4-7-11)

361. MISCELLANEOUS SAFETY REQUIREMENTS.

Each daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department must comply with the miscellaneous safety standards in Subsections 361.01 through 361.07 of this rule.

01. Telephone. An operable telephone or cell phone must be available on the facility at all times and the following conditions must apply:

a. The telephone number used to meet this standard must be made available to parents and guardians. (4-7-11)

b. Emergency phone numbers to include 911, an adult emergency substitute operator, as well as the address and phone number of the facility, must be posted by the telephone or in a location that is immediately visible at all times. (4-7-11)

03. Heat Producing Equipment. A furnace, fireplace, wood-burning stove, water heater and other flame or heat-producing equipment shall be installed and maintained as recommended by the manufacturer. Fireplaces and wood burning stoves shall be protected on all surfaces by screens or other means.

04. Portable Heating Devices. Portable heating devices must be limited and approved for use and location by the Fire Inspector prior to use within a facility.

05. Storage of Weapons, Firearms, and Ammunition. Firearms or other weapons which are stored at a daycare facility must be kept in a locked cabinet or other container that is inaccessible to children, including a locked gun safe, while children are in attendance.

a. Ammunition must be stored in a locked container separate from firearms. (4-7-11)

b. Matches, lighters, and any other means of starting fires must be kept away from and out of the reach of children. (4-7-11)

c. Other weapons that could cause harm to children must be stored out of reach of children. (4-7-11)

06. Animals and Pets. Any pet or animal present at the facility, indoors or outdoors, must be in good health, show no evidence of carrying disease, and be a friendly companion of the children. The operator must maintain the animal's vaccinations and vaccination records. These records must be made available to the Department upon request. (4-7-11)

07. Storage of Hazardous Materials. Cleaning materials, flammable liquids, detergents, aerosol cans, pesticides, and other poisonous and toxic materials must be kept in their original containers and in a place inaccessible to children. They must be used in such a way that will not contaminate play surfaces, food, food preparation areas or constitute a hazard to the children.

362. -- 364.

(RESERVED).

365. BUILDINGS, GROUNDS, FURNISHINGS, AND EQUIPMENT.

Each daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department must comply with these minimum standards in Subsections 365.01 through 365.08 of this rule.

01. Appliances and Electrical Cords. All appliances, lamp cords, exposed light sockets and electrical outlets must be protected to prevent electrocution.

02. Balconies and Stairways. Balconies and stairways accessible to children must have substantial railings as required by the state-adopted International Building Code that is incorporated by reference in Section 004 of these rules. (4-7-11)

03. Stairway Protection. Where an operator cares for children less than three (3) years of age, stairways must be protected to prevent child access to stairs.

04. Hazard Areas Restrictions. Based on the age and functioning level of children in care and the type of hazard, any outdoor hazard area must be restricted to prevent easy access to the hazard.

05. Fueled Equipment. Fueled equipment including, but not limited to, motorcycles, mopeds, lawn-care equipment and portable cooking equipment may not be stored or repaired in areas where children are present. (4-7-11)

06. Water Hazards. Above and below ground pools, hot tubs, ponds, and other bodies of water that are on the daycare facility premises must provide the following safeguards:

a. The area surrounding the body of water must be fenced and locked in a manner that prevents access by children and meets the following requirements:

i. The fence must be at least four (4) feet high with no vertical opening more than four (4) inches wide and be designed so that a young child cannot climb or squeeze under or through the fence. The fence must surround all sides of the pool and have a self-closing gate that has a self latching mechanism in proper working

order that is out of the reach of young children.

ii. If the house forms one (1) side of the barrier for the pool, all doors that provide unrestricted access to the pool must have alarms that produce an audible sound when the door is opened.

b. Furniture or other large objects must not be left near the fence in a manner that would enable a child to climb on the furniture or other large object and gain access to the pool. If the area surrounding a pool, hot tub, pond or other body of water is not fenced and locked, there must be a secured protective covering that will prevent access by a child.

c. Wading pools and buckets must be empty when not in use. (4-7-11)

d. Children must be under direct supervision of an adult staff member who is certified in pediatric rescue breathing, infant-child CPR, and first aid treatment while using a bath tub, pool, hot tub, pond, or other body of water. (4-7-11)

e. A minimum of a four (4) foot high fence must be present that prevents access from the daycare facility premises, if the daycare premises are adjacent to a body of water.

07. Indoor Play Areas and Toys. The indoor play areas must be clean, reasonably neat and free from accumulation of dirt, rubbish or other health hazards.

08. Outdoor Play Areas and Toys. Any outdoor play area must be maintained free from hazards such as wells, machinery and animal waste.

a. If any part of the play area is adjacent to a busy roadway, drainage or irrigation ditch, stream, large holes, or other hazardous areas, the play area must be enclosed with a fence in good repair that is at least four (4) feet high without any holes or spaces greater than four (4) inches in diameter.

b. Outdoor equipment, such as climbing apparatus, slides and swings, must be anchored firmly and placed in a safe location and in accordance with the manufacturer's instructions.

c. Outdoor play areas must be designed so that all parts are always visible and are easily supervised by a staff member.

d. Toys, play equipment, and any other equipment used by the children must be of substantial construction and free from rough edges and sharp corners. Unguarded ladders on slides must be kept in good repair and well maintained.

e. Toys and objects with a diameter of less than one (1) inch (two point five (2.5) centimeters), objects with removable parts that have a diameter of less than one (1) inch (two point five (2.5) centimeters), plastic bags, styrofoam objects and balloons must not be accessible to children ages three (3) and under or children who are known to place such objects in their mouths.

366. -- 389. (RESERVED).

390. CONTINUED COMPLIANCE, REPORTING CHANGES, AND CRITICAL INCIDENTS.

Each daycare owner or operator must remain in compliance at all times with fire, safety, and health requirements as required in this chapter of rules.

01. Posting of License and Other Information. (4-7-11)

a. A daycare license issued by the Department to operators meeting the standards in these rules must be posted in plain view where it can be seen by parents and the public upon entering the facility.

b. A daycare must post contact information of the Department and the statewide number to file

daycare complaints.

02. Reporting Changes. The Department must be notified of any changes that would affect the terms of licensure or could affect the health, well-being, or safety of children.

03. Critical Incidents. A daycare operator must report any of the following to the Department within twenty-four (24) hours:

a. Serious injury or death of a child at the facility; (4-7-11)

b. Any arrests, citations, withheld judgments, or criminal convictions of disqualifying crimes associated with Section 39-1113, Idaho Code, of an operator or any other individual regularly on the premises of the facility and provide documentation that the individual is not working with children or is not on the premises.

391. -- 394. (RESERVED).

395. FAILURE TO COMPLY.

01. Misdemeanors to Operate Without a License. It is a misdemeanor to operate a daycare center or group daycare facility within this state without first obtaining a daycare license from the Department or to operate a daycare center or group daycare facility without posting the license in a place easily seen by a parent or the general public. (4-7-11)

a. The Department may grant a grace period of no more than sixty (60) days to allow the daycare facility to come into compliance with the minimum standards in this chapter and with Title 39, Chapter 11, Idaho Code. (4-7-11)

b. The operator or owner must agree to begin the application process as described in Section 321 of these rules within one (1) business day of identification by the Department that a daycare owner or operator is not in compliance with Title 39, Chapter 11, Idaho Code or this chapter of rules.

02. Misdemeanor to Operate a Family Daycare Home for Four or More Children Without Obtaining a Criminal History Check. It is a misdemeanor to operate a family daycare home caring for four (4) or more children without obtaining the required criminal history check in Section 39-1105, Idaho Code. In the event of an initial citation for violation of the provisions of Section 39-1115, if a person makes the applications required within twenty (20) days, the complaint will be dismissed. Operating a family daycare home for four (4) or more children after failure to pass the required criminal history check is a misdemeanor.

03. Misdemeanor to Provide Daycare if Guilty of Certain Offenses. It is a misdemeanor to provide daycare services if found guilty of any offenses listed in Section 39-1113, Idaho Code.

396. -- 399. (RESERVED).