

HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 6

BENEFIT, EMPLOYMENT AND SUPPORT SERVICES DIVISION

CHAPTER 895

LICENSING OF INFANT AND TODDLER CHILD CARE CENTERS

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Historical Note: The chapter is consistent with the general child care licensing requirements which are contained in chapter 17-892, Hawaii Administrative Rules. [Eff 1/25/82; am 7/15/83, am 9/30/85]

§17-895-1 Definitions. For the purpose of this chapter:

"Acting director" means a person who assumes the responsibilities of director of the child care facility in the absence of the director.

"Approved child development or early childhood training courses" means child development or early childhood courses taken from accredited institutions of higher learning and other agencies or organizations authorized by the department which are automatically accepted. Other courses, workshops, or seminars may be approved by the department provided the agency or organization is recognized by the department as having child care expertise, has submitted a description of the course, workshop, or seminar which fully describes the subject matter covered, the total hours of training and name of the qualified trainer (see "qualified trainer").

"Caregiver" means any person who works with the guidance of the lead caregiver and director to carry out the program of the center.

"Child" means any person who has not reached the age of eighteen.

"Child care" means those situations where a person or organization has agreed to assume and has been entrusted with the responsibility for the child's supervision, development, safety, and protection apart from the parent or guardian for any part of a twenty-four hour day.

"Child care aide," "aide," or "child care assistant" means any person who helps the lead caregiver or caregiver with all aspects of the planned program.

"Child care center (CCC)" or "group child care center (GCCC)" means a place, other than a private home, maintained by any individual, organization, or agency for the purpose of providing child care. The term child care center or group child care center shall include child nurseries, nursery school groups, preschools, child play groups, parent cooperatives, drop-in child care centers, group child care homes, or other similar units operating under any name.

"Child care facility" - see child care center and family child care home.

"Child development associate (CDA)" means any person credentialed by the council for early childhood professional recognition (national association for the education of young children) to assume primary responsibility for a group of young children in a developmental early childhood program.

"Compliance" means conformity in fulfilling formal or official requirements of chapter 895.

"Council for early childhood professional recognition (national association for the education of young children)" means the agency contracted by the U. S. Department of Health and Human Services to grant the child development associate (CDA) credential.

"County building code" means the building code used by the applicable counties.

"Demonstration project" means any place providing child care which is operating with special approval of the department for exemptions to specific licensing or registration rules.

"Director," "principal," "lead caregiver," or "operator" means the person at the facility having responsibility for the administration of a child care center and its program.

"Drop-in care" means child care where children are permitted to arrive and leave at irregular, non-scheduled times during the facility's operating hours.

"Drop-in child care center" means a center which accepts children for drop-in care.

"Emergency" means an unforeseen combination of circumstances which calls for immediate action.

"Family child care home (FCCH)" means any private home maintained by an individual which provides child care to three and no more than six children at the same time during any part of a twenty-four hour day and where the relationship of child and family child care home provider is not by blood, marriage, or adoption.

"First aid kit" means materials and equipment in one location in a suitable container for meeting medical emergencies. A first aid kit shall be of the type approved by the American red cross, American medical society, or the state department of health.

"Form 14" means a printed form made available by the state department of health or the state department of education to record a child's immunizations and health record.

"Group child care home (GCCH)" means a facility that may be an extended or modified family child care home which provides child care to no more than twelve children during any part of a twenty-four hour day. Group child care homes are licensed under the rules for group child care centers.

"Guardian" means a person other than a child's parents who has legal authority over and responsibility for a child.

"Handicapped child" means a child who is medically determined blind, deaf, mentally retarded, emotionally disturbed, orthopedically or otherwise chronically handicapped.

"Ill" or illness" is a subjective term which shall be defined by each provider with regard to admitting or not admitting sick children to child care.

"Infant" means a child who is six weeks to twelve months of age.

"Lavatory" means a vessel or basin for washing which is in conformity with plumbing codes in force in the state.

"Lead caregiver," "teacher," "teacher-director," or "lead teacher" means a person responsible for planning and implementing all or part of the program activities, preparing program materials, and supervising and training other staff.

"License" or "regular license" means a certificate of approval issued by the state department of human services authorizing the operation of a child care facility.

"Local sanitary codes" means the specific rules set up by a county, the state department of health, or a comparable federal agency, which govern aspects of health and safety.

"Minor deficiencies" means deficiencies which do not involve risk to life, health, or safety of the children enrolled at the child care center.

"New hire" means a person seeking to be a child care provider for the first time in the state of Hawaii, either as an applicant or prospective employee of a child care facility.

"Night care" means child care provided to children who stay at night or overnight at a group child care center, group child care home, or family child care home. Care shall not be provided for twenty-four consecutive hours.

"Panic hardware" means a standard device on doors which permits quick and safe exits upon emergencies (e.g. push bars and plates).

"Policy" means a principal plan for the management of a child care facility.

"Primary caregiver" means the individual in the infant and toddler child care center to whom the care of a specific child and family is assigned. Primary care is defined as direct care, verbal and physical interactions, primary responses to infant's or toddler's physical and emotional needs while in the center, and continued interaction with parents regarding the infant's or toddler's experiences.

"Provider" means any person whose duties include direct care, supervision, and guidance of children in child care.

"Provisional license" or "temporary permit" means a temporary license issued at the discretion of the department for a maximum period of six months to any child care facility which is unable to conform to all the rules at the time the license is issued.

"Qualified nutrition consultant" means a dietitian or nutritionist who meets the advanced educational requirements for membership in the American Dietetic Association and is eligible for registration; or one who has a master's degree in Public Health Nutrition or Nutritional Sciences.

"Qualified trainer" means a person who has twelve credits in early childhood or child development or related fields such as human development, psychology, social work, or nursing and a combined total of three years of experience in training adults who work with children or has six credits in early childhood or child development or related fields such as human development, psychology, social work, or nursing, and a

combined total of five years of experience in training adults who work with children.

"Regularly" means the typical or normal pattern of the child care center, group child care home, or family child care home, or a practice or schedule that is routine and uniform and is not subject to unexplained or irrational variations.

"Re-hire" means an applicant or prospective employee of a child care facility who is seeking to operate or be employed in a child care facility following termination of employment of more than six months and who has been out of state during this break in employment.

"Rules" means the rules developed by the department of human services to set minimum standards of care and safety for the protection of children in care.

"Single service utensils" means the supplies or equipment used once to serve food (e.g. paper plates, cups, disposable forks).

"Staff member" means administrative, child care, clerical, and maintenance personnel who are employed by the child care facility.

"State advisory committee on child care services" means a group of people appointed by the department of human services to advise the department on matters regarding child care, including child care rules.

"Substitute" means a person who serves as a replacement for no more than ten consecutive working days in the same position when the regular staff person is absent on an emergency or unplanned basis.

"Supervision" means the act of being within sight or hearing distance of the children to insure their safety and protection.

"Temporary hire" means a person who serves as a replacement when the regular staff person is absent on a planned basis.

"Temporary permit" - see provisional license.

"Toddler" means a child who is twelve to thirty-six months of age.

"USDA child care food program" means the food standards established by the United States Department of Agriculture.



"Volunteer" means a person offering services to a child care facility without remuneration, except for reimbursable personal expenses allowed by the facility. [Eff 11/07/91; am and comp **DEC 19 2002** ] (Auth: HRS §346-162) (Imp: HRS §§346-151, 346-162)

SUBCHAPTER 1

LICENSING PROCEDURE

§17-895-2 Application. (a) A completed application to operate an infant and toddler child care center must include the following:

- (1) A signed department application form;
- (2) A written statement of operation policies;
- (3) Verification that the facility meets the applicable county codes;
- (4) Completed employment history clearance forms;
- (5) Results of the criminal history clearance and child abuse/neglect check as indicated in (A) and (B) below:

- (A) Applicants and employees shall provide such criminal history records, child abuse/neglect history, employment information, and consent to conduct such checks as may be required by state or federal law. Such information and consent shall be given upon forms supplied by the department.
- (B) The department shall conduct criminal history, employment history and child abuse/neglect history checks on all applicants and background checks on all applicants and their employees; applicants shall conduct employment history and background checks on prospective employees.

(b) The date of application shall be the date a signed application form and all required information and documentation are received by the department.

(c) Notification of the disposition of the completed application for certificate of approval shall

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be issued no later than ninety days from the date the completed application as defined in section 17-895-2(a) is received.

(d) If the department fails to issue a notification of the disposition of the application within ninety days, the application shall be deemed approved and a license shall be issued. [Eff 11/7/91; am and comp **DEC 19 2002** ] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005, 5751, 9833)

§17-895-3 Inspection and issuance of license.

(a) In exercising its authority to license child care facilities or renew, suspend, or revoke the license, the department shall analyze the qualifications of providers of child care, review the facility's written policies and program provisions, and inspect the child care facility. Authorized representatives of the department and parents or guardians of the children in care may visit a child care facility at any time during the hours of operation for purposes of observing, monitoring, and inspecting the facilities, activities, staffing, and other aspects of the child care facility. The department may call on political subdivisions and governmental agencies for appropriate assistance within the agencies' authorized fields.

(b) The applicant or licensee shall cooperate with the department by providing access to its facilities, records, and staff. Failure to comply with reasonable requests may constitute grounds for denial, suspension, or revocation of license.

(c) After the initial licensure, the licensee shall ensure that new employees and rehires comply with section 17-895-2(a)(5).

(1) New employees shall be fingerprinted within five working days of employment.

(2) Any applicant, employee or rehired employee who has left the state for six consecutive months or more is required to be fingerprinted again within five working days of beginning employment.

(d) Annual criminal history record checks and child abuse/neglect checks shall be conducted. The applicants and employees shall provide consent to the

department to conduct a state name check and child abuse/neglect history check no later than five working days of the employment anniversary date or the anniversary date of the last consent to a state name check.

(e) The department shall request the applicant or licensee to terminate the employment of an employee who has a criminal history, employment history, or child abuse/neglect history which poses a risk to children in care. Any such request shall be in writing and shall state the criminal conviction, employment history, or child abuse/neglect history which indicates a risk to children. The standard to be applied in disqualification of an applicant or an employee based on these checks shall be:

(1) Except as stated in section (B) below, felony convictions of any offenses against the person as provided in Hawaii Revised Statutes chapter 707 shall result in immediate disqualification.

(A) These offenses include, but are not limited to:

- (i) murder in the first and second degree;
- (ii) manslaughter;
- (iii) negligent homicide in the first and second degree;
- (iv) negligent injury in the first degree;
- (v) assault in the first degree;
- (vi) reckless endangering in the first degree;
- (vii) terroristic threatening in the first degree;
- (viii) kidnapping;
- (ix) unlawful imprisonment in the first degree;
- (x) custodial interference in the first degree;
- (xi) sexual assault in the first, second, and third degree;
- (xii) incest;
- (xiii) promoting child abuse in the first and second degree;

- (xiv) extortion in the first and second degree; and
  - (xv) extortion when a firearm, explosive, or any dangerous weapon is immediately available and is physically used as part of the threat.
- (B) In the case of second degree assault convictions, immediate disqualification shall occur for only those convictions within the last five years from the date of the most recent criminal history record check.
- (2) Felony conviction of an offense against property rights as provided in Hawaii Revised Statutes chapter 708 shall result in immediate disqualification when the crime leading to the conviction involved use of a weapon, threatened harm, or violence to achieve the crime, and the conviction was within the last five years from the date of the most recent criminal history record check. These offenses include, but are not limited to:
- (A) burglary in the first degree;
  - (B) criminal property damage in the first degree;
  - (C) robbery in the first and second degree.
- (3) Conviction of an offense against the family as provided in Hawaii Revised Statutes chapter 709 shall result in immediate disqualification when the conviction was within the last five years from the date of the most recent criminal history record check. These offenses include, but are not limited to:
- (A) concealing the corpse of an infant;
  - (B) abandonment of a child;
  - (C) endangering the welfare of a minor in the first and second degree;
  - (D) compensation by an adult of juveniles for crimes;
  - (E) endangering the welfare of an incompetent person; and

- (F) abuse of a family or household member.
- (4) Conviction of an offense against public health and morals as provided in Hawaii Revised Statutes chapter 712 shall result in immediate disqualification when the conviction was within the last five years from the date of the most recent criminal history record check. These offenses include, but are not limited to:
  - (A) promoting prostitution in the first, second, and third degree;
  - (B) loitering for the purpose of engaging in or advancing prostitution;
  - (C) displaying indecent matter;
  - (D) promoting pornography;
  - (E) promoting pornography for minors;
  - (F) open lewdness;
  - (G) promoting a dangerous drug in the first, second, third, and fourth degree;
  - (H) promoting a harmful drug in the first, second, third, and fourth degree;
  - (I) promoting a detrimental drug in the first, second, and third degree;
  - (J) commercial promotion of marijuana in the first and second degree;
  - (K) promoting a controlled substance in, on, or near schools or school vehicles;
  - (L) promoting intoxicating compounds; and
  - (M) promoting intoxicating liquor to a minor.
- (5) Confirmation by the department that the applicant or the employee was the perpetrator of abuse or neglect shall result in immediate disqualification.
- (6) Confirmation by the department that the applicant or the employee was the perpetrator of threatened harm shall result in immediate disqualification for a five-year period starting from the date that the child abuse case record was closed. An applicant may request, at the discretion of the licensing social worker, that the case be presented to a panel constituted by the department which shall make a final decision of whether the

confirmed threatened harm warrants immediate disqualification or an exception should be granted.

- (7) For any other situations that have not been listed in this section the department may disqualify an applicant or employee after assessing whether the caregiver poses a risk to the health, safety, or well-being of the children in care. When making an assessment, the criteria to be used shall include, but not be limited to, the following:
- (A) The nature of the incident;
  - (B) When the incident occurred;
  - (C) Patterns of behavior which are considered reckless or negligent and resulted in or could have resulted in injury to the person or others; and
  - (D) Evidence of rehabilitation.

(f) When the applicant does not terminate the employment of the employee when requested under this section, the applicant shall notify the department no later than seven working days of receipt of the request. Such notification shall be in writing and shall state the reason or reasons for the decision.

(g) Refusal to terminate the employment of an employee when requested under this section shall be grounds for revocation or suspension of a license.

(h) Rules prescribed herein are minimum standards.

(i) The department shall issue a license under the following conditions:

- (1) A regular license shall be issued if the result of the department's evaluation indicates compliance with the applicable rules as established by the department; or
- (2) A provisional license shall be issued if the result of the department's evaluation indicates that all of the applicable rules cannot be met immediately but shall be met within six months or less, and the deviations are minor deficiencies.

(j) The length of the licensing period shall be as follows:

- (1) Regular licenses shall be valid for one year for new applicants and those providers licensed for less than four years, and for two years for all other providers unless subsequently suspended or revoked. When a regular license is issued after a provisional license, the expiration date of the regular license shall be one year or two years from the issuance date of the last provisional license;
- (2) Provisional licenses may be issued for up to six months; and
- (3) Licenses shall be renewed only upon application and upon the department's approval.

(k) Each license shall clearly state the kind of program the licensee is permitted to operate, the address of the licensee, and the number and types of children who can be cared for at the facility.

(1) Implementation of two year licenses shall be accomplished by dividing a unit's caseload so that one-half of the cases fall on the even year and one-half of the cases fall on the odd years. To accomplish this, licenses one-year in length shall be issued, if necessary, to achieve an even caseload between the two years. This decision shall be within the discretion of the department. [Eff 11/7/91; am and comp

] (Auth: HRS §346-162) (Imp: HRS §§346-156, 346-161, 346-163, 346-164, 346-165; 42 U.S.C. §§2002, 2005)

§17-896-3.01 Fines. (a) The operation of a child care facility without a license is a violation and shall be punishable by a fine not to exceed the maximum amount allowable under the law.

(b) The following offenses may be punishable by a fine, not to exceed the maximum amount allowable under the law, and may also be subject to the denial, suspension, or revocation of a license:

- (1) Caring for more children than allowed by the facility's license

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- (2) Violation of the staff-child ratios;
  - (3) Improperly certifying staff credentials;
  - (4) Failure to comply with timely request for criminal history records check;
  - (5) Allowing conditions to exist which constitute an imminent danger to the health, welfare, or safety of the children; or
  - (6) Injuries to children due to staff negligence.
- [Eff and comp DEC 19 2002 ] (Auth: HRS §346-156)

§17-895-4 Denial, suspension, revocation of license, and hearings. (a) The conditions for denial, suspension, or revocation of a license and the action to be taken by the department shall be as follows:

- (1) The department shall deny, suspend, or revoke a regular or provisional license if an applicant or licensee does not comply with the rules of the department respecting child care facilities;
- (2) An applicant or licensee whose license is about to be denied, suspended, or revoked shall be given written notice by certified or registered mail addressed to the location shown on the license application;
- (3) The notice shall contain a statement of the reasons for the proposed action and shall inform the applicant or licensee of the right to appeal the decision to the director of the department, in writing, no later than ten working days after the mailing of the notice of the proposed action;
- (4) Upon receiving a timely written appeal the director of the department shall give notice of and an opportunity for a hearing before a hearing officer. On the basis of the evidence adduced at the hearing, the hearing officer shall make the final decision of the department as to whether the application or license shall be denied, suspended, or revoked; and



- (5) If no timely written appeal is made, processing of the application shall end or the license shall be suspended or revoked as of the termination of the ten day period.
- (b) The immediate suspension of the license shall be ordered if conditions exist which constitute an imminent danger to the health, welfare, or safety of the children. These risks include: the existence of a health hazard on the premises, unsafe facility conditions that cannot be immediately abated, or refusal to terminate an employee as specified in section 17-896-3. The department shall take the following actions:
  - (1) Provide the licensee written notice of the order by personal service or by certified or registered mail addressed to the location shown on the license;
  - (2) Provide a statement of the reasons for the suspension in the notice and inform the licensee of the right to petition the department to reconsider the order no later than ten working days after mailing of the notice; and
  - (3) Declare that all operations shall cease as of the date of receipt of the notice, give the licensee reasonable notice upon receiving a written petition, and provide an opportunity for a prompt hearing before a hearing officer with respect to the order of suspension of the license. On the basis of the evidence adduced at the hearing, the hearing officer shall make the final decision of the department as to whether the order of suspension shall be affirmed or reversed.

(c) At any hearing provided for by this section, the applicant or licensee may be represented by counsel and shall have the right to call, examine, and cross-examine witnesses. Evidence may be received even though inadmissible under rules of evidence applicable under court procedures. Hearing officer decisions shall be in writing, shall contain findings of fact and rulings of law, and shall be mailed to the parties to the proceedings by certified or registered mail to the last known addresses as may be shown in the application, on the license, or otherwise.

(d) Filing of a request for fair hearing does not permit the applicant or licensee to continue to care for children under this chapter.

(e) If an applicant has their regular or provisional license revoked, they shall be unable to apply for another license for:

- (1) A ninety-day period from the date that the license was revoked if the revocation was their first offense; and
- (2) Up to six months from the date that the certificate was revoked if the revocation was their second offense. [Eff 11/7/91; am and comp DEC 19 2002 ] (Auth: HRS §346-162) (Imp: HRS §346-164; 42 U.S.C. §§2002, 2005)

## SUBCHAPTER 2

### ADMINISTRATION REQUIREMENTS

§17-895-5 Age of children in care. An infant and toddler center may provide care to children aged six weeks and older. [Eff 11/7/91; comp DEC 19 2002 ] (Auth: HRS §346-162) (Imp: HRS §§346-14, 346-162; 42 U.S.C. §§2002, 2005)

§17-895-6 Statement of operation policies. (a) The facility shall have written operation policies which cover the following areas:

- (1) Admission requirements and enrollment procedures;

- (2) Ages of children accepted;
- (3) Maximum number of children permitted by license;
- (4) Specific hours of day, night, holiday, and vacation operation;
- (5) Type of child care services provided;
- (6) Whether the facility provides meals and snacks for the infant or toddler, or parents are to provide the meals and snacks;
- (7) Fees and the plan for payment, including fees for different types of services and refund policy;
- (8) Insurance coverage - each facility shall inform parents or guardians in writing of its policy regarding liability insurance; should a facility which has liability insurance coverage cancel or terminate its coverage, it shall provide written notice to the parent or guardian of each child in its facility no later than seven working days of the cancellation or termination of its coverage;
- (9) Rules concerning personal belongings brought to the facility;
- (10) Transportation arrangements and written parental permission for trips and related activities outside the facility, if applicable;
- (11) Provisions which may be made for special needs of individual children;
- (12) Policy and plan for emergency medical care;
- (13) Admission and care of sick, moderately sick, or handicapped children;
- (14) Statement of policy on administering medication;
- (15) Statement of policy and procedures for provision and management of diapers and other infant and toddler supplies;
- (16) Statement of procedures regarding sanitation practices;
- (17) Statement of grievance procedures;
- (18) Fund raising campaigns - children and staff shall not be exploited in activities which would be detrimental to the children or the program; and

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(19) Other policies or procedures which may be required by the department.

(b) Written policies and procedures shall be reviewed with each caregiver in the facility.

(c) Written policies shall be made available for review by parents or guardians at the time of enrollment of the infant or toddler.

(d) Written notification of changes in the services offered by the facility shall be provided to the department and to parents or guardians of the children enrolled in the facility at least four weeks prior to the effective date of change. [Eff 11/7/91; comp **DEC 19 2002**] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895-7 Information on owner or operator. (a) The name, address, and telephone number of the facility shall be supplied to the department.

(b) The name, business address, and business telephone number of the persons having authority over and responsibility for the overall administration and services shall be supplied to the department.

(c) The name of the owner or sponsoring agency (privately owned, church, or agency owned, etc.) of the facility shall be supplied to the department. [Eff 11/7/91; comp **DEC 19 2002**] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895-8 Information and records on each child.

(a) Admission procedures shall require that sufficient information and instruction from the parents or guardians be obtained to enable the caregiver to make decisions or act on behalf of the child.

(b) Prior to the admission of a child to a facility, the provider shall obtain in writing from the child's parents or guardians the following information:

- (1) The child's full legal name, birth date, current address, and preferred names;
- (2) The names and addresses of the parents or guardians who are legally responsible for the child;

- (3) Telephone numbers or instructions as to how the parents or guardians may be reached during the hours the child is in the facility;
  - (4) The name, address, and telephone number of person who shall assume responsibility for the child if for some reason the parent or guardian cannot be reached immediately in an emergency;
  - (5) The names, addresses, and telephone numbers of persons authorized to take the child from the facility; and
  - (6) Health information concerning the child, as required by section 17-895-20.
- (c) The information shall be available on facility forms and shall be updated as necessary. [Eff 11/7/91; comp DEC 19 2002 ] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895-9 Disclosure of information on the child.

- (a) Information pertaining to an individual child or parents or guardians of the child shall not be disclosed to persons other than the facility staff, unless the parents or guardians of the child grant written permission for the disclosure or an emergency arises.
- (b) The parents or guardians shall be informed in writing of the facility's policy regarding disclosure of information. [Eff 11/7/91; comp DEC 19 2002 ] (Auth: HRS §346-162) (Imp: HRS §346-166; 42 U.S.C. §§2002, 2005)

§17-895-10 Information and records on facility.

Written information and records on the facility shall be maintained and made available to the department. The facility shall maintain current records and information including:

- (1) Roster of enrolled children;
- (2) Daily attendance records by names of children;
- (3) Daily plan for feeding the children;
- (4) Daily schedule of activities; and

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- (5) A list of staff members, including each staff member's position or title, training, experiences, health records, references, and employment checks. [Eff 11/7/91; comp  
DEC 19 2002 ] (Auth: HRS. §346-162)  
(Imp: HRS §346-166; 42 U.S.C. §§2002, 2005)

§17-895-11 Transportation provisions. Infant and toddlers transported in vehicles by center staff, either to and from the center or for center program activities, shall be secured by approved car seats or restraints. Facility shall also comply with the requirements as stated in section 17-895-17. [Eff 11/7/91; comp  
DEC 19 2002 ] (Auth: HRS §346-162)  
(Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

### SUBCHAPTER 3

#### PROGRAM REQUIREMENTS

§17-895-12 Program provisions. (a) The program conducted in the facility shall provide for supervision of the infants and toddlers at all times and an environment and experiences which are developmentally appropriate and which promote the infant or toddler's physical, emotional, intellectual, and social well-being and the growth and integrity of the family unit.

(b) The director of the facility shall provide the department with a brief written description of the facility's program goals and activities, which shall include the following:

- (1) Provisions for the promotion of physical development, which shall include:
  - (A) Varied, developmentally appropriate physical activities; and
  - (B) Opportunities for the infants and toddlers to learn about the health, development, and care of their bodies including exercise, safety, nutrition, and hygiene, as appropriate to their age and development;

- (2) Provisions for the promotion of emotional development, which shall include:
- (A) Staff recognition of the special difficulties of infant and toddler separations and assistance to families, infants, and toddlers to make the transition from home to facility as gently as possible, such as a phased-in orientation process to allow infants and toddlers to experience limited amounts of time at the facility before becoming fully integrated;
  - (B) Assignment of each infant or toddler to a primary caregiver who shall be responsible for care the majority of the time;
  - (C) Prompt response by all caregivers to an infant or toddler's physical and emotional needs, i.e., feeding, diapering, holding, touching, and eye contact;
  - (D) Recognition and care of each infant or toddler as an individual with opportunities for individual choices, self-expression, and some personal privacy;
  - (E) Provision of constructive guidance and the setting of clearly defined limits which foster the infant or toddler's ability to be self-disciplined, as appropriate to their age and development;
  - (F) Prohibition of use of:
    - (i) physical punishment; and
    - (ii) methods of influencing behavior which are frightening, humiliating, damaging, or injurious to the infant or toddler's health or self-esteem; and
  - (G) Respect for each infant or toddler's cultural, ethnic, and family background, as well as the child's primary language or dialect;

- (3) Provisions for the promotion of intellectual development, which shall include:
  - (A) Offering of frequent, but paced, personal, verbal, and physical interaction between caregiver and infant or toddler as part of the daily routine;
  - (B) Availability of a variety of learning materials, which staff helps children to use; and
  - (C) Hands-on experiences, including both familiar and new activities, to enable the infant or toddler to learn about themselves and the world; and
- (4) Provisions for the promotion of social development, which shall include:
  - (A) Caregiver behavior and interactions which emphasize and foster attitudes of mutual respect between adults and children and between children; and
  - (B) Guidance to infants and toddlers to enable them to develop and work out ways of getting along with each other, including an appreciation of cultural and ethnic diversity, as appropriate to the infant or toddler's level of understanding.

(c) The program shall provide a balance of active and quiet activities and shall recognize the infants and toddlers' need for uninterrupted sleep.

(d) In drop-in centers, every effort shall be made to place an infant or toddler, who uses the center frequently, with the same caregiver.

(e) The program shall provide information on and access to parenting resources (i.e., bulletin boards, classes, resource libraries, handouts). [Eff 11/7/91; comp **DEC 19 2002** ] (Auth: HRS §46-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895-13 Communication between parents and caregivers. (a) Centers shall obtain from the parent or guardian a description of the infant's or toddler's daily routine and behavior patterns prior to enrollment;



(b) Centers shall develop and follow a plan for regular contact with parents or guardians to exchange information about the infant's or toddler's needs and development; and

(c) Caregivers shall relay information and concerns about the health, development, or behavior of the infant or toddler, as well as positive experiences, directly to the parents or guardians on the day of the major change, symptom, or event. [Eff 11/7/91; comp

DEC 19 2002 ] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895-14 Program materials and equipment. (a) The amount and variety of materials and equipment available and the arrangement and use of the materials and equipment shall be developmentally appropriate to the infants and toddlers in care.

(b) The quantity of materials and equipment shall be sufficient to:

- (1) Avoid excessive competition among the children and long waits for use of the materials and equipment; and
- (2) Provide for a variety of experiences and appeal to the individual interests of the infants and toddlers.

(c) Protected areas where equipment and materials will be used with minimal interference or interruption shall be provided.

(d) Materials and equipment shall be kept clean and in good repair, stored in an orderly way, and arranged to allow children to select, remove, and replace the materials and equipment either independently or with assistance, as appropriate to their age and development.

(e) Grass, soft media, or other protective measures shall be used under swings, slides, jungle gyms, and other similar outdoor play equipment.

(f) Equipment for both indoor and outdoor play shall allow children to use small and large muscles for imaginative play and creative activities.

(g) The following shall be available:

- (1) Individual provisions for safe, undisturbed sleep such as, crib, cot, or mat;

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- (2) Clean bedding for each infant and toddler;
- (3) High chairs, safety seats, or size-appropriate low seating for individual feeding;
- (4) Adequate padding for safe floor play;
- (5) Rocking or comfortable chair for infant and toddler feeding and comforting; and
- (6) Individual storage spaces for children's clothing and personal belongings. [Eff 11/7/91; comp DEC 19 2002 ] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895-15 Transition to a new facility. (a) Facility shall have a written policy to assist the infant or toddler in making a transition from the child care setting to a new type of care by communicating what will happen at the infant's or toddler's level of awareness or understanding.

(b) Provision shall be made for cooperation between caregiver and parents or other caregivers, when information is requested to assist an infant or toddler to adjust to a new environment, as allowed by section 17-895-9. [Eff 11/7/91; comp DEC 19 2002 ] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

SUBCHAPTER 4

STAFFING REQUIREMENTS

§17-895-16 Staff training, experience, and personal qualifications. (a) Each caregiving staff shall be qualified through training, experience, and personal qualities for the age group with which the person works.

(b) Staff growth and development shall be encouraged. The director shall make information about workshops, seminars, training sessions, or other courses available to all staff and volunteers.

(c) Applicants and employees shall be of reputable and responsible character and shall not have a criminal history record, employment history, or child abuse/neglect history, which poses a risk to the infants and toddlers in care as specified in section 17-895-3.

(d) The director of an infant and toddler center shall have:

(1) A Bachelor's degree in early childhood education, child development, or related field from an accredited college or university, including in all cases 30 hours of course work in infant and toddler development from an accredited teacher training institute or program; and 12 months full time experience working with children under 36 months of age in a licensed group care setting; or

(2) Two years of college education in early childhood education, child development, or related field, including in all cases 30 hours of course work in infant and toddler development from an accredited teacher training institute or program; and 24 months full time experience working with children under 36 months of age in a licensed group care setting.

(e) A lead caregiver shall have:

(1) A bachelor's degree in ECE or CD or related fields, e.g., maternal-child health, nursing, or human development, and, twelve months full time experience working with children under thirty six months of age in a licensed group care setting, and, twelve credits approved ECE or CD training courses (may be part of the bachelor's degree) including thirty hours course work in infant and toddler development from an accredited teacher training institute or program; or

(2) A high school diploma, or its equivalent and credential in child development associate program, and, twenty four months full time experience working with children under five years of age in a licensed group care setting

- of which twelve months shall have been with children under thirty six months of age, and, twelve credits approved ECE or CD training courses, including thirty hours of course work in infant toddler development from an accredited teacher training institute or program; or
- (3) Two years of college, preferably in ECE or CD or related fields, and, twenty four months full time experience working with children under five years of age in a licensed group care setting of which twelve months shall have been with children under thirty six months of age, and, twelve credits approved ECE or CD training courses including thirty hour course work in infant and toddler development from an accredited teacher training institute.
- (f) A caregiver shall have:
- (1) A high school diploma or its equivalent, and, twelve months full time experience working with children under thirty six months of age in a licensed group care setting, and, twelve credits approved ECE or CD training courses including thirty hours of course work in infant and toddler development from an accredited teacher training institute or program; or
  - (2) A high school diploma or its equivalent, and, twenty four months of full time experience working with children under thirty six months of age in a licensed group care setting, and, thirty hours of course work in infant and toddler development from an accredited teacher training institute or program; or
  - (3) No high school diploma, and, thirty six months full time experience working with children under thirty six months of age in a licensed group setting, and, thirty hours of course work in infant and toddler development from an accredited teacher training institute or program.

(g) a child care aide shall have:

- (1) A high school vocational child-care training course; or
- (2) An orientation training in the center.

(h) A twelve month non-renewable waiver may be granted to new hires, rehires, and current staff in director, lead caregiver, or caregiver positions, who meet all other requirements except the thirty hours course work in infant and toddler development from an accredited teacher training institute or program, to complete this required course work while concurrently serving in the capacity of the facility's director, leader caregiver, or caregiver.

(i) All staff member required to complete the thirty hours of course work in infant and toddler development from an accredited teacher training institute or program, as stipulated in subsections (d) through (f), shall, within two years of completion of this course work, obtain fifteen additional hours of course work in infant and toddler development from an accredited teacher training institute or program.

(j) The age requirements for staff shall be as follows:

- (1) Child care aide, volunteer, or maintenance personnel shall be at least fourteen years old, except that a child care aide, who is to be counted in the staff-child ratio, shall be at least eighteen years old; and
- (2) All other staff shall be at least eighteen years old.

(k) Volunteers shall:

- (1) Participate in an orientation to the program; or
- (2) Be a participant in a high school program which includes training in infant and toddler care; and
- (3) Meet the requirements of regular staff members to be counted in the staff-child ratio.

(l) Temporary hires shall meet qualifications of positions for which hired.

(m) Substitutes for lead caregivers and caregivers shall be at least eighteen years of age and shall have participated in an orientation program of

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the facility, and the curriculum, lesson plans, and daily activities assigned to the substitute shall be closely supervised by the center's director.

(n) Substitutes for director shall meet the qualifications of a caregiver and shall have worked in the facility for at least six months.

(o) Substitutes for aides shall meet the qualifications of an aide.

(p) Substitutes may be granted an extension to serve in the same position for more than ten consecutive days upon consultation with and approval of the department. [Eff 11/7/91; am and comp

] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895-17 Staff-child ratio and group size. (a) The staff-child ratio and group size shall be met and maintained by the facility during all hours of operation.

(b) The staff-child ratio shall be in writing and shall be available to the department.

(c) The staff member shall be on site and shall be regularly assigned to a particular group of children to be included in the staff-child ratio.

(d) The director may serve as a caregiver, and thus be included in the staff-child ratio, only when total infant and toddler facility size does not exceed sixteen. In an infant and toddler program with more than sixteen children, the director may serve as a caregiver but shall not be included in the staff-child ratio.

(1) Exception may be made and the director may be included in the staff-child ratio in cases of emergency or in special situations. In any case this inclusion in the staff-child ratio may not exceed ten hours per week.

(2) Exception may be made and the director of only those facilities which operate full day may be included in the staff-child ratio during the first hour and the last hour of the regular operational day.

(e) Custodians, cooks, and bus drivers shall not be counted in the staff-child ratio when performing regular duties.

(f) The following staff-child ratios and group size shall be used in infant and toddler programs:

	Ages of Children	Maximum Group Size Permitted			
		6	8	10	12
(1)	6 wk - 12 mo.	1:3	1:4		
(2)	12 mo. - 24 mo.	1:3	1:4	1:5	1:4
(3)	18 mo. - 36 mo.			1:5	1:6

(g) Group size refers to the specific number of children assigned to specific staff who occupy an individual classroom or well-defined physical space within a larger room; when groups are assigned space within a larger room, there shall be room dividers to ensure that children stay within their assigned group area and to keep the noise level down.

(h) The ratios and group sizes in the table above shall apply, as stated, only to homogenous age groups.

(i) Multi-age grouping is both permissible and desirable; however, the following requirements and restrictions apply:

- (1) Children who are between the ages of six weeks to eighteen months can be grouped together; when this occurs, the ratio and group size shall be those required for the youngest child in the group according to the table above; or
- (2) Children who are between the ages of six months to thirty six months can be grouped together; when this occurs, the ratio and group size shall be those required for the youngest child in the group according to the table above; or
- (3) In multi-age groups, the ratio and group size shall not exceed the ratio and group size for that of one age group higher than the youngest child in the group, and two thirds of the children must be in the oldest age group.

(j) Under no circumstances shall there be more than two children under three months of age in any group.

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(k) Children with disabilities or with special needs shall be admitted, provided their needs can be met without jeopardizing the staff-child ratio or the quality of care of the entire group. All reasonable attempts shall be made to meet their needs. [Eff 11/7/91; comp DEC 19 2002 ] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895-18 Staffing patterns. (a) There shall always be a minimum of two caregiver staff in the center when children are in care.

(b) When only one staff is required to supervise the children, as based on the staff-child ratio, the second caregiver shall be readily accessible and available to the caregiver who is supervising the children.

(c) For every group, there shall always be one staff who meets the qualifications of a lead caregiver or caregiver.

(d) When the group size requires three staff, there shall minimally be one staff who meets the qualifications of a lead caregiver and one who meets the qualifications of a caregiver.

(e) These staffing patterns shall be maintained at all times, excepting for the first hour and the last hour of the operational day when a caregiver can act in the position of a lead caregiver. [Eff 11/7/91; comp DEC 19 2002 ] (Auth: HRS §346-20) (Imp: HRS §346-20; 42 U.S.C. §§2002, 2005)

## SUBCHAPTER 5

### HEALTH STANDARDS FOR INFANTS AND TODDLERS

§17-895-19 Health policies and consultation provisions. All programs shall have one of the following provisions for health consultation to assist in developing health policies and in keeping them current:



- (1) The facility shall have on file written evidence that an arrangement has been made with a physician in private practice to provide consultation;
- (2) The facility has made a contractual arrangement with a private physician or non-profit health organization in the community to provide health care to the infants and toddlers in the program;
- (3) There is already a procedure existing in the community for the provision of health consultation service, and arrangements have been made for the use of this service; or
- (4) The infant and toddler program has a health advisory group that may serve in such a capacity. [Eff 11/7/91; comp DEC 19 2002 1 (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)]

§17-895-20 Evidence of child's health. (a) The facility shall require and obtain from the parent or guardian of each infant and toddler entering their program a health record of the infant or toddler, which consists of the following:

- (1) Written evidence of a physical clearance obtained within two months of admission to the facility;
- (2) Written evidence that the infant or toddler has received a tuberculin test indicating that the infant or toddler is free from tuberculosis in a communicable form; and
- (3) Initial and continuous written evidence that immunizations are current; or
- (4) A written statement from a licensed physician certifying that the physical condition of the infant or toddler is such that immunizations would endanger the infant or toddler's life or health; or
- (5) A written statement from a parent or guardian requesting exemption from the required immunizations on the grounds that such immunizations conflict with the parent or

guardian's bonafide religious tenets and practices.

(b) Medical clearance for care of children with special needs shall be obtained before admission into an infant and toddler facility. Special needs children mean children with any condition which requires modification of care or services not regularly available.

(c) The records of the infants and toddlers in the program shall include pertinent information about birth, health status, developmental progress, including prematurity and any special needs and efforts necessary to meet these needs. [Eff 11/7/91; comp

DEC 19 2002 ] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895-21 Emergency care provisions. (a) Every center shall have provisions for emergency care of an infant or toddler requiring treatment and for care of children who become ill after arrival, as follows:

- (1) The responsible individual in the child care center, i.e. director, caregiver or health-trained staff, has obtained the name of the nearest hospital or clinic where such care may be provided and has obtained written permission from each parent or guardian to provide emergency care to the infant or toddler at the hospital or clinic; or
- (2) The facility's health consultant has made arrangements for emergency coverage, and written permission from each parent or guardian for use of this alternative emergency coverage for their infant or toddler shall be on file at the facility.

(b) If health care is provided in the child care facility, the facility shall have on file a written permission from each parent or guardian covering all aspects of health care which is provided at the facility.

(c) An adult shall accompany the infant or toddler to the source of emergency care. The adult shall stay with the infant or toddler until the parent or parent's designee assumes responsibility for the

child's care. The selection of the adult shall not compromise the supervision of the other infants and toddlers in the program.

(d) Physical arrangements for infants and toddlers, who become ill after arrival at the facility, shall be available for their care until parents or guardians can be notified to provide alternative arrangements. [Eff 11/7/91; comp DEC 19 2002 ]  
 (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895-22 First aid and child cardio-pulmonary resuscitation (CPR). (a) The first aid requirement shall be as follows:

- (1) There shall be at least one adult caregiver with a current certificate in first aid at the facility when children are present.
  - (2) A current first aid certificate means a certificate that has not expired.
  - (3) A first aid kit, as defined by the facility's health consultant for their facility, shall be available at the facility at all times. Guidelines for a first aid kit, as developed by the state department of health, to assist a child care facility in assembling a first aid kit are found in Appendix A, "First Aid Practices and Basic Supplies," March 7, 1988, which is located at the end of chapter 17-895 and made a part of this section.
- (b) The child CPR requirement shall be as follows:
- (1) There shall be at least one adult caregiver with a current certificate in child CPR at the facility when children are present.
  - (2) The child CPR course must be provided by the american red cross, american heart association, or any organization whose child CPR certification standards are equivalent to the american red cross or american heart association standards.
  - (3) A current certificate means a certificate that has not expired.

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[Eff 11/7/91; am and comp **DEC 19 2002** ] (Auth:  
HRS §346-162) (Imp: HRS §346-162; 42 U.S.C.  
§§2002, 2005)

§17-895-23 Admission of ill infants and toddlers.

(a) Acutely ill infants and toddlers may only be admitted with adequate provision for isolation and adequate personnel to provide individual care. Acutely ill is defined as temperature above 99 degrees (axillary), 100 degrees (oral), and 101 degrees (rectal) and other symptoms, such as vomiting, diarrhea, undiagnosed general rash, contagious diseases, severe cough, or difficulty in breathing.

(b) When health policies of the facility allow ill infants or toddlers to be admitted to, or to remain in the facility, medical consultation shall be available regarding special care and medication.

(c) When medication prescribed by a physician is administered in the facility:

(1) The medication shall be kept in the original container bearing the prescription label, which shows the infant's or toddler's name, a current date, and the physician's directions for use;

(2) Medication shall be stored:

(A) In a refrigerator, if refrigeration is required; medication shall be separated from food by being enclosed in a covered container; or

(B) In a cool, dry, dark, and secured enclosure, which is inaccessible to the infants and toddlers, if refrigeration is not required.

(3) Medication shall be returned to parents or guardians when no longer in use; and

(4) There shall be an authorization signed by the parent or guardian for the facility staff to administer medication.

(d) When over the counter medication is recommended by the infant's or toddler's doctor, parent, or guardian, medication shall be administered at the facility as directed in writing by the doctor, parent, or guardian.

(e) Both the caregiving staff and the parents or guardians shall be familiar with policies of the facility relevant to ill infants and toddlers.

(f) The facility shall, in consultation with its health consultant, establish a readmission policy for children who have been absent because of illness. [Eff 11/7/91; comp **DEC 19 2002** ] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895-24 Admission of infants and toddlers with handicaps. (a) When infants and toddlers with handicaps are admitted to a facility, the facility shall provide for the special needs of each infant or toddler.

(b) The handicapped infant or toddler shall be admitted only after consultation between the infant's or toddler's source of health care and the program's health consultant. The consultation shall include written recommendations to cover the child's special needs or to define the child's participation in the program.

(c) If the infant's or toddler's health care source considers it advisable, the staff of the program shall receive training related to the nature of the child's disability before the infant or toddler is admitted to the facility.

(d) Where the nature of the infant's or toddler's handicap or the number of handicapped children in the program necessitates added care, staff and equipment shall be available to cover these requirements. [Eff 11/7/91; comp **DEC 19 2002** ] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895-25 Daily nutritional needs. (a) Meals and snacks of a quantity to complement food served at home shall be provided by the parent, guardian, or facility to meet the daily nutritional needs of the infant or toddler.

(b) In a facility providing meal service, the facility shall ensure that the minimum meal components and food amounts as required by the United States Department of Agriculture (USDA) Child Care Food

Program, as adapted for Hawaii by the state department of health, shall be provided.

(c) In a facility, where parents or guardians are allowed to provide food for their own child (i.e., formula or other foods for meals or snacks), the facility, in addition to food the child brings, shall provide the minimum amounts required by the USDA Child Care Food Program, by offering and providing children in care:

- (1) Four to eight hours - morning snack or breakfast or afternoon snack;
- (2) Eight hours or more - morning snack or breakfast and afternoon snack, unless the eight hours or more extend into the evening hours when the children may be asleep;

(d) For children twelve to thirty-six months of age, when two snacks are required, at least one of the snacks shall include the provision and offering of milk (or the individual child's formula) or its calcium equivalent.

(e) Information provided by parents, guardians, or the child's physician concerning the child's eating habits, food preferences, or special needs shall be considered in the children's feeding schedules and menus.

(f) Infants and toddlers shall not be offered foods to which they are allergic or, for religious reasons, cannot consume, and the parent or guardian of the child shall arrange for nutritious substitute foods.

(g) Signs of food sensitivity or allergy shall be reported to the parent or guardian on the day this has been observed.

(h) Infants and toddlers shall be encouraged but shall not be required to eat the food offered by the facility, as follows:

- (1) Caregiver shall be alert to and consider individual infant and toddler cues in determining amounts of food provided;
- (2) When solid foods are introduced, they shall be carefully selected and added one at a time with a few days span between each new addition; and

- (3) Food textures shall be adjusted to accommodate the individual child's chewing ability, as well as preferences.
- (i) Infants and toddlers shall not be offered foods which pose safety hazards.
- (j) Food shall not be used as a punishment or reward.
- (k) Infants and toddlers shall be personally attended while being fed.
  - (1) Infants being bottle fed shall have bottle held by the caregiver, not propped; and
  - (2) Parents or guardians may assume full responsibility for the infant's or toddler's diet.
- (l) The facility's food service shall be approved and reviewed annually by a qualified nutrition consultant engaged by the facility or provided by an appropriate community resource.
- (m) The facility shall have access to nutritional information provided by a qualified nutritionist, dietitian, or other community resources approved by the state department of health. [Eff 11/7/91; comp DEC 19 2002 ] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895-26 Drinking water provisions. Drinking water shall be offered to infants and toddlers throughout the day in sanitized bottles and cups. [Eff 11/7/91; comp DEC 19 2002 ] Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895-27 Integration of mental health concepts. Mental health aspects of infant and toddler development shall be integrated into the program as follows:

- (1) At least one parent, guardian, foster parent, or social worker shall be interviewed prior to an infant's or toddler's admission to the facility. The personal interview shall be conducted to secure pertinent information on the infant's or toddler's overall development and behavior and to acquaint the parent or

- guardian with the facility's program and policies;
- (2) The facility shall provide its staff with annual orientation to state or other mental health services for infants and toddlers, or otherwise familiarize its staff with consultative and clinical services and programs for early identification of social, emotional, intellectual, and behavioral problems of infants and toddlers; and
  - (3) The facility shall refer parents or guardians to sources of professional consultation in mental health upon the parents' or guardians' request or upon the recommendation of the facility's staff. [Eff 11/7/91; comp  
**DEC 19 2002** ] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

#### SUBCHAPTER 6

#### HEALTH STANDARDS FOR STAFF

§17-895-28 Staff health standards. (a) Evidence that staff is free from health problems, which would have a harmful effect on the infants and toddlers or which would interfere with effective functioning, shall be available at the facility as follows:

- (1) The facility shall have on file the results of an employment physical examination for each person employed in the facility and each volunteer who serves ten or more hours per week. These examinations shall have been taken within a year of beginning employment or volunteer service.
- (2) Written evidence that each employed staff and volunteer of an infant and toddler child care facility is free from communicable tuberculosis as a result of a negative tuberculin skin test or a satisfactory chest x-ray taken within twelve months before beginning child care employment shall be on file at the facility. The tests shall be



repeated in compliance with chapter 11-164, Hawaii Administrative Rules, of the state department of health; and

- (3) Each caregiving staff with an identified health problem shall provide the facility with a written statement from a physician that the caregiving staff is able to care for infants and toddlers.

(b) The facility shall have provisions for substitution of staff who is too ill to function effectively or who presents a serious health hazard to others in the facility. [Eff 11/7/91; am and comp  
**DEC 19 2002** ] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895-29 Personal health habits of staff. (a)

The facility shall have written policies, which have been developed with the assistance of the facility's health consultant and which minimally require that:

- (1) Staff with fever, other symptoms of illness, or an altered physical or mental state, shall not be allowed to work;
- (2) Staff with visible skin conditions, such as lesions, boils, or dermatitis, shall not prepare or serve food or handle utensils and feeding equipment;
- (3) Staff's appearance shall reflect good grooming habits and personal hygiene, including clean and neat hair and nails, appropriate clothing, and good oral hygiene;
- (4) Smoking shall not be allowed in the presence of the infants and toddlers, nor in any parts of the building, which are used for child care, during the hours of child care operation;
- (5) Alcoholic beverages and detrimental drugs shall not be consumed or maintained at the facility during hours of operation; and
- (6) Staff shall take appropriate measures to manage stress by maintaining good mental and physical health.

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(b) In-service training shall be provided to staff on various aspects of personal health care and healthy lifestyle, such as care of head lice (ukus), impetigo, viral infections, risk factors, and stress management.

(c) Volunteers shall be subject to the same requirements for health and personal health habits as the caregiving staff. [Eff 11/7/91; comp  
DEC 19 2002 ] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

#### SUBCHAPTER 7

#### SANITATION STANDARDS

§17-895-30 Handling of diapers, training pants, linen, and toys. (a) Diapers, training pants, and linen shall be handled in the following manner:

- (1) When disposable diapers are used, soiled diapers shall be placed in a plastic bag or a plastic lined receptacle;
- (2) When cloth diapers or training pants are used, diapers or training pants soiled with stool shall not be washed at the center; after the stool has been emptied into the toilet, using disposable plastic gloves, the diaper or training pants shall be put in a sealed plastic bag to be picked up by the child's parent or guardian at the end of the day;
- (3) Sheets, diapers, and training pants soiled with blood, body fluids, or waste shall be handled as little as possible to prevent contamination of the area and of the staff handling the linen; and
- (4) Soiled sheets, diapers, and training pants, which are transported to a laundry area outside of the facility, shall be placed in plastic bags while being transported from the child care facility to the laundry.  
Guidelines regarding diapering are in

Appendix B, "Diapering and Toilet Learning," January 1991, which is located at the end of chapter 895 and made a part of this section.

- (b) Toys shall be provided and handled in the following ways:
- (1) Each of the designated groups shall be provided with developmentally appropriate toys;
  - (2) Toys shall not be shared between different groups of children, such as between infants and toddlers;
  - (3) Only washable toys shall be used for infants and toddlers in diapers or training pants; and
  - (4) Toys shall be washed or sanitized daily. [Eff 11/7/91; comp DEC 19 2002 ] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895-31 Handwashing. (a) The facility shall have a written policy that specifies when handwashing is required for staff and children, defines handwashing procedure, and provides continuing monitoring to assure that the handwashing procedure is carried out.

(b) Handwashing policy for staff shall require that handwashing is done:

- (1) Before eating, drinking, or smoking;
- (2) Before handling clean utensils or equipment;
- (3) Before handling food;
- (4) Before and after assisting or training the child in feeding and in toileting;
- (5) After going to the bathroom;
- (6) After contact with body secretions, i.e., blood, urine, feces, mucus, saliva, or drainage from wounds;
- (7) After handling soiled diapers, clothes, equipment, or menstrual pads; and
- (8) After removing disposable gloves.

(c) Infants and toddlers, who self-feed in any manner, shall have their hands washed with soap and water before and after eating and after toileting.

(d) Handwashing does not require hot water and may be done with cold water and plain soap.

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(e) If bar soap is used, it shall be kept on racks that allow for water drainage. If liquid soap is used, the dispenser shall be replaced or cleaned, as necessary. Handwashing guidelines are in Appendix C, "Handwashing Procedures," January, 1991, which is located at the end of chapter 17-895 and made a part of this section. [Eff 11/7/91; comp DEC 19 2002 ] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895-32 Housekeeping. (a) Facilities shall have written policies for the routine cleaning and maintenance of the facility. These policies shall specify the type of disinfectant and cleaning agent used, method for cleaning, schedule for cleaning, storage of cleaning material and utensils, disposal of soiled items or spilled body fluids, and cleaning of equipment.

(b) Storage of cleaning material shall be in a secured area which is inaccessible to the infants and toddlers.

(c) Guidelines for housekeeping standards are in Appendix D, which is located at the end of chapter 17-895 and made a part of this section. [Eff 11/7/91; comp DEC 19 2002 ] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

## SUBCHAPTER 8

### ENVIRONMENTAL HEALTH STANDARDS

§17-895-33 Disaster plan for emergencies. (a) Each facility shall have a written disaster plan to cover emergencies such as fire, flood, and natural disaster. The plan shall be posted in a prominent place in the facility.

(b) The plan shall be approved by the fire inspector, the health consultant, or the red cross and shall be practiced at regular intervals.

(c) An underwriters laboratory listed fire warning device or system shall be installed in each facility. Written evidence that the device or system has been inspected and approved by a fire inspector shall be on file at the facility.

(d) A fire extinguisher shall be available in every room where infants and toddlers are cared for. [Eff 11/7/91; comp DEC 19 2002 ] (Auth: HRS §346-162) (Imp: HRS §346-162; §§2002, 2005)

§17-895-34 Accidental injury precautions. The facility shall ensure that the child care program and premises minimize the risk of accidental injury in the following manner:

- (1) Child care activities and premises shall take precautions not to expose the infants and toddlers to situations which may be hazardous to the particular age or capacity of the infant or toddler;
- (2) The program shall help infants and toddlers to increase awareness of safety practices and accident hazards and to teach them, as appropriate to their age and development, how to avoid such hazards; and
- (3) Accident prevention practices and policies shall be available in writing. The practices and policies shall be reviewed annually and the staff shall become familiar with the policies and practices. [Eff 11/7/91; comp DEC 19 2002 ] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895-35 Environmental hazards. The indoor and outdoor premises of the facility shall be free of environmental hazards, clean, and comfortable and provide for adequate space to meet the needs of the infants and toddlers as follows:

- (1) The facility shall be protected against rodents and insects;
- (2) The outdoor space shall be fenced, or shall have natural barriers or other protective

- conditions to deter infants and toddlers from getting into unsafe areas;
- (3) There shall be no open drainage ditches, wells, or holes into which infants and toddlers may fall;
  - (4) Drainage shall be adequate to prevent stagnant pools of water from accumulating;
  - (5) Garbage and trash shall be stored in covered containers out of reach of the infants and toddlers and shall be removed frequently enough to avoid creating a health hazard or nuisance;
  - (6) Open fireplaces shall not be used. Floor heaters and all heating elements, including hot water pipes, shall be insulated or installed in a manner which makes the pipes inaccessible to the infants and toddlers;
  - (7) Floor space shall be arranged to provide areas for active play, quiet rest, and individual activities;
  - (8) Furniture, equipment, and toys shall be sturdily constructed, without sharp edges, and shall present minimal hazards to the infants and toddlers; also, furniture and equipment shall be physically proportionate to the infants and toddlers' sizes;
  - (9) Lead based paint shall not be used on surfaces accessible to the infants and toddlers;
  - (10) Poisonous plants shall be out of reach of the infants and toddlers on the premises;
  - (11) Pets, animals, and fowl shall be maintained in a safe and sanitary manner at all times; and
  - (12) If a lodging house, boarding house, or any other business conflicts with the regular operation of the child care center, the lodging house, the boarding house, or other business shall not be conducted at the center. [Eff 11/7/91; comp **DEC 19 2002** ]  
(Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895-36 Water supply. (a) The water supply shall be from a source approved by the health authority and shall be under pressure. The plumbing shall be installed and maintained in a manner approved by local plumbing codes.

(b) Running water shall be available and shall be immediately adjacent and visually accessible to the care area. [Eff 11/7/91; comp DEC 19 2007 1  
(Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895-37 Toilet and lavatory facilities. Toilet and lavatory facilities shall be of a type determined by the availability of water under pressure. Approved facilities, water or non-water carriage, shall be provided for disposal of sewage and other liquid wastes. The following conditions shall apply:

- (1) Where a public sewer is available, all plumbing fixtures and building sewers shall be connected thereto;
- (2) Where a public sewer is not available, a private sewage disposal system of an approved type shall be installed and connected to all plumbing fixtures and building sewers;
- (3) Where water sewage disposal means are not available or feasible, sewage and other liquid wastes shall be disposed in an approved manner;
- (4) Where water carried sewage disposal is available, water flush toilets shall be provided. Indoor toilets shall be separated from cooking, sleeping, or eating areas;
- (5) Where water carried sewage disposal is not available, privies shall be used in accordance with local sanitary requirements and shall be designed with step stools or with holes sized to the age group;
- (6) If toilet training chairs are provided for use by children, the toilet training chairs shall be emptied promptly and sanitized after use;

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- (7) Lavatories shall be provided in quantities commensurate with toilet facilities. Hot water temperatures shall not exceed 100 degrees fahrenheit or 38 degrees celsius, at outlets accessible to children;
- (8) Toilet facilities shall be child sized, or safe, sturdy step stools shall be provided to allow standard sized toilets and lavatories to be used;
- (9) A drop sink or half tub shall be available for the bathing of children in programs for infants and toddlers; and
- (10) Laundering facilities capable of insuring an adequate supply of sanitized bedding shall be available to any program caring for infants and toddlers. [Eff 11/7/91; comp  
**DEC 19 2002** ] (Auth: HRS §346-162)  
(Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895-38 Food preparation. Food preparation shall be carried out in a kitchen with proper equipment and cleanup facilities as follows:

- (1) All dishwashing shall be performed in a sanitary manner. A domestic dishwasher shall be acceptable, but if it is not available, the dishes shall be washed and rinsed in a sanitizing solution;
- (2) In a facility where food is prepared on the premises, adequate sized equipment for the size of the program shall be available. An approved dishwasher or a three compartment sink shall be used. Both the dishwasher and the three compartment sink shall require approval by the state department of health;
- (3) When food is prepared off the premises and is transported to the child care facility from a licensed preparation source, the food shall be kept in a safe and sanitary condition;
- (4) When single service utensils are used, the utensils shall be stored and handled in a sanitary manner and discarded after a single use; and



- (5) Cooking utensils used in food preparation and service shall be cleaned and stored in a sanitary manner. [Eff 11/7/91; comp] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895-39 Food protection. (a) Food protection policies and practices, which comply with accepted practices of local sanitary codes, shall be developed and carried out in a manner that insures that all food is protected from contamination during storage, preparation, and service.

(b) Refrigeration shall be available for infant and toddler programs. [Eff 11/7/91; comp

DEC 19 2002 ] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895-40 Swimming activities and wading pools.

(a) When swimming or wading pools are part of the facility, equipment, or program, the swimming pools shall be constructed, maintained, and operated in accordance with building and health rules.

(b) When swimming or wading activities are included in the child care program, the following safety practices shall be observed:

- (1) A certified lifeguard, who may be a caregiving staff, shall be on duty at all times when swimming pools are in use;
- (2) Wading pools less than twenty-four inches at the deepest part shall be exempt from the requirements of section 17-895-40(b)(1), and the program shall comply with the following requirements:
  - (A) Wading pools shall be emptied immediately after each use; and
  - (B) Children shall be personally attended by a responsible adult at all times; and
- (3) Legible safety rules for the use of all types of pools shall be posted in a conspicuous location and read and reviewed at regular

intervals by the caregiver responsible for the care of children. [Eff 11/7/91; comp  
DEC 19 2002 ] (Auth: HRS §346-162)  
(Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

SUBCHAPTER 9

PHYSICAL FACILITY STANDARDS

§17-895-41 Building codes and space requirements.

(a) Child care facilities shall conform to the zoning, building, electrical, plumbing, and fire codes of the county or political subdivision in which the facility is located and to state rules as may be applicable to the facility.

(b) The facility shall:

- (1) Be located in a safe and reasonably quiet area or employ suitable noise control devices to limit exterior noises to the child care operation;
- (2) Have a sunny exposure and be well lighted and ventilated; and
- (3) Keep all buildings, building appurtenances, outdoor space, equipment, and all other parts of the facility repaired, safe, and sanitary at all times.

(c) The program areas specifically designated for infants and toddlers, both indoors and outdoors, shall be separated by permanent structural walls, fences or other barriers in order to:

- (1) Protect the younger children from traffic and high activity levels of older age groups;
- (2) Minimize congestion and noise pollution; and
- (3) Avoid staff specifically assigned to infant and toddler care from being pulled from infant and toddler programs into other areas at any time.

(d) The space requirements for enclosed areas are as follows:

- (1) For daytime care:
  - (A) There shall be thirty-five square feet per child of unencumbered instructional or play area exclusive of bathrooms, kitchens, cupboard space, hallways, and spaces consumed by cribs and playpens;
  - (B) The thirty-five square feet per child requirement can be based on the general square footage area of the entire center, not necessarily based on the square footage of each classroom; and
  - (C) Lanai area, which has both a roof and finished flooring, may be counted for up to thirty per cent of the required enclosed area; and
- (2) For nighttime care, there shall be fifty square feet per child, exclusive of lanai area, in rooms which are used for sleeping.
- (e) The space requirements for outdoor areas are as follows:
  - (1) The center shall maintain, or have access to, an outdoor play area of at least seventy-five square feet for each child using the outdoor area at any one time; and
  - (2) Lanai area, when not included in the required enclosed area space, may be counted for up to thirty per cent of the required outdoor space.
- (f) The facility shall be equipped with toilets and lavatories as follows:

<u>Number of children</u>	<u>Toilet(s)</u>	<u>Lavatory(ies)</u>
1 - 12	1	1
13 - 30	2	2
31 - 45	3	3
46 - 60	4	4
61 - 75	5	5

[Eff 11/7/91; comp **DEC 19 2002** ] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

SUBCHAPTER 10

PROGRAM MODIFICATIONS

§17-895-42 Program modifications for drop-in care. (a) All requirements set forth in this chapter shall be met by the provider except for section 17-895-20(a) and (c).

(b) Infants and toddlers receiving drop-in care shall be cared for in separate areas or groups from the other infants and toddlers who attend the program regularly.

(c) If a facility serves both drop-in children and children who attend regularly, the grouping of the children and the program shall be planned so that the needs of both groups are met.

(d) The facility shall have the following information in writing:

- (1) The ages of the infants and toddlers accepted for drop-in care;
- (2) The procedures for admittance and release of drop-in children; and
- (3) Arrangements for staffing and separate activities for drop-in children. [Eff 11/7/91; comp DEC 19 2002 ] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895-43 Program modifications for night care. A child care facility offering night care shall meet the requirements of this chapter and the following additional requirements:

- (1) In consultation with parents, special attention shall be given by the caregiver to provide for transition into night care;
- (2) A selection of developmentally appropriate toys for quiet activities shall be available;
- (3) Comfortable cribs, beds or cots, complete bedding and night clothes shall be available or supplied by the parents;
- (4) Cribs or beds shall be placed at least three feet apart;

- (5) Staff shall be available to assist the infants and toddlers, as required by their age and developmental level, during eating and pre-bedtime hours and during the morning period when dressing;
- (6) During sleeping hours, staff shall be within hearing distance to provide for the needs of the infants and toddlers and to respond immediately in an emergency;
- (7) An infant or toddler shall not sleep in a building detached from the main facility; and
- (8) Night care facilities shall include at least one shower, bathtub, or bathing facility for infants and toddlers. [Eff 11/7/91; comp  
DEC 19 2002 ] (Auth: HRS §346-162) Imp:  
HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895-44 Program modifications for demonstration projects. (a) An infant and toddler child care facility may establish a demonstration project for a specific purpose, or set of purposes, upon receiving written approval from the department.

(b) The facility shall submit a written proposal to the department indicating the following:

- (1) Purpose of the project;
- (2) Description of the project;
- (3) Length of the project;
- (4) Specific infant and toddler child care center rules that shall be exempted by the project; and
- (5) Justification for the proposed exemptions.

(c) The persons responsible for the project or the designated representatives shall appear in person to discuss the proposal with the department or the department's designated representatives, if requested by the department.

(d) A demonstration project, which has been approved in writing by the department, shall comply with all requirements imposed by the department at the time of its approval as follows:

- (1) The name or description of the project shall include the words "licensed demonstration project";

- (2) Providers shall be able to show that at all times the demonstration project is in compliance with the infant and toddler child care center rules, except as specifically exempted or modified in the department's written approval; and
- (3) Within the last quarter of the time specified for the demonstration project, a written report shall be submitted to the department which shall include:
  - (A) Developments, findings, recommendations, and suggestions for further study; and
  - (B) Any proposed recommendations related to the demonstration project for changing or modifying infant and toddler child care center rules with justification therefor.

(e) Proposed demonstration programs disapproved or discontinued by the department shall not be permitted any further use of the words "demonstration project" in the identifying title, logo, or material. [Eff 11/7/91; comp DEC 19 2002 ] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)