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16.06.02 - RULES GOVERNING STANDARDS FOR CHILD CARE LICENSING

000. LEGAL AUTHORITY.

Pursuant to Sections 39-1111, 39-1208, 39-1209, 39-1210, 39-1211, 39-1213, and 39-107(8), Idaho Code, the Idaho Legislature has granted authority to the Department and Board of Health and Welfare to adopt and enforce rules governing standards for licensure or certification of children's agencies, children's treatment facilities (including nonaccredited, residential schools, children's camps providing care for any one (1) child for more than nine (9) consecutive weeks in any one (1) year period, alcohol-drug abuse treatment facilities and facilities specializing in maternity care to minors), juvenile detention centers, group foster homes, foster homes, and day care centers, and certification of group day care facilities. Also included are voluntary compliance rules for licensing of group day care facilities and family day care homes. (11-22-91)

001. TITLE AND SCOPE.

The rules contained in this Chapter establish standards and procedures for the licensure or certification of foster homes, group foster homes, children's agencies children's treatment facilities (including nonaccredited residential schools, children's camps providing child care for any one (1) child for more than nine (9) consecutive weeks in any one (1) year period, alcohol-drug abuse treatment facilities and facilities specializing in maternity care to minors), juvenile detention centers, day care centers and group day care facilities. Also included are standards and procedures for voluntary compliance for licensing of group day care facilities and family day care homes. These rules are to be cited in full as the Idaho Department of Health and Welfare Rules, Title 06, Chapter 02, "Rules Governing Standards for Child Care Licensing". (12-31-91)

002. POLICY.

It is hereby declared to be the policy of this state to insure that children of this state shall receive adequate substitute parental care in the event of absence, temporary or permanent inability of parents to provide care and protection for their children or the parents are seeking alternative twenty-four (24) hour long-term care for their children. This policy is predicated upon the fact that children are vulnerable, not capable of protecting themselves, and when their parents for any reason have relinquished their care to others, there arises the possibility of certain risks to the children's lives, health and safety which the community as a whole must protect against. This requires the offsetting statutory protection of review and, in certain instances, licensing or registration. (11-22-91)

003. DEFINITIONS.

For the purposes of the rules contained in this Chapter, the following terms are used as defined below: (12-31-91)

01. Accredited Residential School. A residential school for any number of children subject to the jurisdiction of the Idaho Department of Education that has been certified as accredited according to the accrediting standards promulgated by the Idaho State Board of Education or a secular or religious accrediting association recognized by the Idaho Department of Education. (11-22-91)

02. Alcohol-Drug Abuse Treatment Facility. A residential children's treatment facility specializing in providing programs of treatment for any number children who have primary alcohol-drug abuse problems. (11-22-91)

03. Board. The Idaho State Board of Health and Welfare. (12-31-91)

04. Child. An individual less than eighteen (18) years of age, synonymous with juvenile or minor, who is not enrolled in an institution of higher education. (11-22-91)

05. Child Care. That care, control, supervision or maintenance of children for twenty-four (24) hours a day which is provided as an alternative to parental care. (11-22-91)

06. Child Care Worker. An employee who has direct personal interaction with children in the provision of child care and is included as staff in meeting the minimum staff-child ratio requirements. Other staff including, but not limited to, clerical, domestic, maintenance, and central control center staff in Juvenile Detention Centers shall not meet the definition of a child care worker. (11-22-91)

07. Children's Agency. A person as defined herein, who operates a business for the placement of children in foster homes or group foster homes or for adoption in a permanent home and who does not provide child care as part of that business. Children's agency does not include a licensed attorney or physician assisting or providing natural and adoptive parents with legal services or medical services necessary to initiate and complete adoptive placements. (11-22-91)

08. Children's Camp. A program of child care at a location away from the child's home which is primarily recreational and includes the overnight accommodation of the child and is not intended to provide treatment, therapy or rehabilitation for the child. A children's camp which only provides child care for any one (1) child for less than nine (9) consecutive weeks in any one (1) year period shall be exempt from the licensure and disclosure provisions of this chapter. A children's camp which provides child care for any one (1) child for more than nine (9) consecutive weeks in any one (1) year period shall constitute a children's treatment facility. (11-22-91)

09. Children's Institution. A person defined herein, who operates a residential facility for unrelated children, for the purpose of providing child care. Children's institutions include, but are not limited to, foster homes, group foster homes, maternity homes, juvenile detention centers and other residential facilities referenced in the Juvenile Justice Reform Act, or any facilities providing treatment, therapy or rehabilitation for children. (11-22-91)

10. Children's Treatment Facility. A children's institution, excluding foster homes, group foster homes, juvenile detention centers, residential schools and children's camps, which provides child care for thirteen (13) or more children is a facility that: (11-22-91)

a. Seeks, receives or enrolls children for treatment of special needs such as substance abuse, mental illness, emotional disturbance, developmental disability, mental retardation, or children who have been identified by the judicial system as requiring treatment, therapy, rehabilitation or supervision; or (11-22-91)

b. Receives payment, including payment from health insurance carriers, for identified treatment needs such as substance abuse, mental illness, emotional disturbance, developmental disability or mental retardation; or (11-22-91)

c. Represents to the payor of the child care services provided by the children's facility that such payment may qualify for health insurance reimbursement by the payor's carrier or may qualify for tax benefits relating to medical services; or (11-22-91)

d. A children's treatment facility is not a residential school defined in Section 39-1202(21), Idaho Code, and Subsection 003.32 but may be certified or accredited according to the accrediting standards promulgated by the Idaho State Board of Education or a secular or religious association recognized by the Idaho Department of Education; or (12-31-91)

e. A children's treatment facility also includes nonaccredited residential schools, children's camps providing child care for any one (1) child for more than nine (9) consecutive weeks in any one (1) year period, alcohol-drug abuse treatment facilities and facilities specializing in maternity care to minors. (11-22-91)

11. Contraband. Goods or merchandise, the possession of which is prohibited, i.e., weapons, drugs. (10-18-88)

12. Custodian Of The Records. The custodian of the rule-making records of, and coordinator of rule-making activities for, the Department and Board. (12-31-91)

13. Day Care. The care and supervision provided for compensation during part of a twenty-four (24) hour day, for a child or children not related by blood or marriage to the person or persons providing the care, in a place other than the child's or children's own home or homes. (3-10-88)

14. Day Care Center. A place or facility providing day care for compensation for thirteen (13) or more children. (3-10-88)

15. **Department.** The Idaho Department of Health and Welfare. (1-1-82)
16. **Director.** Director of the Idaho Department of Health and Welfare or his designee. (12-31-91)
17. **Family Day Care Home.** A home, place, or facility providing day care for six (6) or fewer children. (3-10-99)
18. **Foster Care.** Child care by a person not related to the child, in lieu of parental care, in a foster home. (11-22-91)
19. **Foster Home.** A home which accepts, for any period of time, with or without compensation, six (6) or fewer children who are not related to the foster parent as members of the household for the purpose of providing substitute parental care. (11-22-91)
20. **Group Care.** Foster care of a number of children for whom care in a family setting is not available or appropriate, in a dormitory or cottage type setting, characterized by activities and discipline of a more regimented and a less formal nature than found in a family setting. (11-22-91)
21. **Group Day Care Facility.** A home, place, or facility providing day care for seven (7) to twelve (12) children. (3-10-88)
22. **Group Foster Home.** A residential facility that provides group child care for seven (7) but not more than twelve (12) children as an alternative to parental care. (11-22-91)
23. **Hearing Coordinator.** The coordinator of all contested case hearings for the Department and Board. (1-1-82)
24. **Juvenile Detention Center.** A physically restrictive facility for juveniles pending court adjudication or subsequent to court adjudication as defined in Section 16-1802(j), Idaho Code. (11-22-91)
25. **Medical Professionals.** Persons who have received a degree in nursing and/or medicine and are licensed to practice that profession under the laws of Idaho such as a licensed practical nurse, registered nurse, nurse practitioner, physician's assistant and medical doctor. (11-22-91)
26. **Nonaccredited Residential School.** A residential school for any number of children that is not certified or accredited pursuant to Section 39-1207, Idaho Code, or has lost accreditation and is subject to the jurisdiction of the Department as a children's treatment facility pursuant to Section 39-1210, Idaho Code, unless and until accreditation is certified by the Idaho Department of Education. (11-22-91)
27. **Organization.** A children's agency, children's treatment facility or juvenile detention center operated by a person or persons. (11-22-91)
28. **Person.** Any individual, group of individuals, associations, partnerships or corporations. (11-22-91)
29. **Placement.** Finding a suitable licensed foster home or suitable adoptive home for a child and completing the arrangements for a child to be accepted into and adjusted to such home. (11-22-91)
30. **Representative.** An employee of the Department. (11-22-91)
31. **Residential Facility.** Any facility where child care is provided as defined in Section 39-1202, Idaho Code, and which provides day and night accommodation. (11-22-91)
32. **Residential School.** A residential facility for any number of children which: (11-22-91)
- a. Provides a planned, scheduled, regular, academic or vocational program for students in the elementary, middle or secondary grades as defined in Section 33-1001, Idaho Code; and (11-22-91)

- b. Provides services substantially comparable to those provided in nonresidential public schools where the primary purpose is the education and academic pursuits of the students; and (11-22-91)
- c. Does not seek, receive or enroll students for treatment of such special needs as substance abuse, mental illness, emotional disturbance, developmental disability or mental retardation; and (11-22-91)
- d. Does not receive payment, including payment from health insurance carriers, for identified treatment needs such as substance abuse, mental illness, emotional disturbance, developmental disability, or mental retardation; and (11-22-91)
- e. Does not represent to the payor of child care services provided that such payment may qualify for health insurance reimbursement by the payor's carrier or may qualify for tax benefits relating to medical services; and (11-22-91)
- f. Is not: (11-22-91)
- i. A college or university; or (11-22-91)
- ii. A children's camp as defined in Section 39-1202, Idaho Code; or (11-22-91)
- iii. A public or private day school in which the children leave the facility each day at the conclusion of the academic, vocational and school supervised activities. (11-22-91)

33. Seclusion. An unlocked room within a facility designed to temporarily isolate an individual in order to gain emotional/physical control by means of structure and minimal stimulation. (11-22-91)

34. Secure. Locked, as in a locked, physically restrictive juvenile detention center. (11-22-91)

35. Security Risk. An individual who presents the possibility by actions, behavior or emotional reaction that harm of self or others, or escape from physical control may result. (11-22-91)

36. Soft Restraints. Mechanical restraints not made of metal, but of leather and cloth or other combinations of fibers, utilized to control the range of motion of an individual. (10-18-88)

004. -- 099. (RESERVED).

100. LICENSING AND CERTIFICATION.

Child care licensing and certification apply to the care of children under eighteen (18) years of age and require the enforcement of standards for the licensing or certification of foster homes, group foster homes, children's agencies, juvenile detention centers, children's treatment facilities (including nonaccredited residential schools, children's camps providing care for any one (1) child for more than nine (9) consecutive weeks in any one (1) year period, alcohol drug abuse treatment facilities and facilities specializing in maternity care to minors (Sections 39-1208, 39-1209, 39-1210 and 39-1211, Idaho Code), and day care centers, and the certification of group day care facilities caring for children less than twelve (12) years of age. Voluntary compliance for licensing of group day care facilities and family day care homes is also provided for facilities and homes caring for children less than twelve (12) years of age (Section 39-1111, Idaho Code). (11-22-91)

01. Purpose Of Child Care Licensing And Certification. The purpose of licensing and certification is to ensure insofar as possible that persons providing substitute parental care to children are physically and emotionally suited to do so, that the care given protects the health, safety and well-being of the children and that the physical surroundings present no hazards to the proper care of children. (11-22-91)

02. Responsibility For Licensing And Certification. The Director is responsible for establishing procedures for the investigation and disposition of all applications for a license or certification for the care of children in foster homes, group foster homes, day care homes, group day care facilities, day care centers, children's agencies, children's treatment facilities, and juvenile detention centers. (12-31-91)

a. The Director delegates to the regional offices the responsibility for accepting and investigating all applications for day care and foster home licensing. (11-22-91)

b. The Director delegates to the Bureau of Juvenile Justice the responsibility for accepting and investigating all applications for group foster homes, children's agencies, juvenile detention centers, children's treatment facilities, (including alcohol-drug abuse treatment facilities, nonaccredited residential schools, children's camps providing care for any one (1) child for more than nine (9) consecutive weeks in any one (1) year period, and facilities specializing in maternity care to minors). (11-22-91)

c. Within each region and the Bureau of Juvenile Justice, procedures shall be established to assure that all activity related to licensing or certification is accomplished. (11-22-91)

03. Exemptions From Licensure. (11-22-91)

a. Pursuant to Sections 39-1103 and 39-1211, Idaho Code, the occasional or irregular care of a neighbor's, relative's, or friend's child or children by a person not ordinarily engaged in child care is exempt from licensure requirements for day care and foster homes. (11-22-91)

b. Pursuant to Section 39-1213(b), Idaho Code, foster homes which have been approved by a licensed children's agency are exempt from licensure requirements, provided the standards for approval by such agency are no less restrictive than the rules and standards established by the Board and that such agency is maintained and operated in conformity with the rules and standards of the Board. (11-22-91)

04. Certification In Lieu Of Licensure. Child care facilities and children's agencies operated by the Department which come within the definitions of Sections 39-1208 through 39-1210, Idaho Code, need not be licensed but must meet all the requirements of Sections 39-1208 through 39-1210, Idaho Code, and will be certified annually by the Bureau of Juvenile Justice as meeting all the requirements. It is the responsibility of the Bureau of Juvenile Justice to assure that all such facility and agency administrators are aware of the need for annual certification and that the evaluation of each facility and agency is completed according to the appropriate rules for licensure. Nonaccredited residential schools pursuant to Sections 39-1207 and 39-1210, Idaho Code, shall be certified in accordance with Section 620. (12-31-91)

101. APPLICATIONS FOR LICENSE OR CERTIFICATION.

Applications for a license or certification are to be submitted on the prescribed forms. The form "Register of Applications for Child Care Licenses" (HW 0282), may be used to ensure that action is initiated on all applications within thirty (30) days. (11-22-91)

01. Licensing And Certification Studies. The study prepared by the licensing social worker is the basis upon which a license or certification is issued or denied. Therefore, the study must contain information regarding each item of the standards, rules and regulations for the particular type of facility or agency. For the specific information needed for each type of facility, see Sections 300 through 620. Staff other than social workers may be authorized to issue day care licenses and certifications. (12-31-91)

02. Inspection By Environmentalists. District Health Department environmentalists will make inspections upon request to determine the adequacy of child care facilities in relation to sanitation. Inspections will be requested by the applicant from the environmentalist who serves that particular county. The kind of information needed for day care is specified in Section 300; for foster homes, Section 400; for group foster homes, Section 500; and for children's agencies, children's treatment facilities (including facilities specializing in maternity care, alcohol-drug abuse treatment facilities, nonaccredited residential schools and children's camps providing child care for any one (1) child for more than nine (9) consecutive weeks in any one (1) year period) and juvenile detention centers, Sections 600, 618, 620, and 621. (12-31-91)

03. Inspection By Fire Department. (12-31-92)

a. Inspection by a state certified fire inspector certified by the Idaho State Fire Marshall's Office will be requested by the applicant to determine the adequacy of fire safety in child care facilities. For more specific

information, see Section 300 for day care; Section 400 for foster homes; Section 500 for group foster homes; Section 600 for children's agencies, children's treatment facilities and juvenile detention centers; Section 618 for alcohol-drug abuse treatment facilities; and Section 620 for nonaccredited residential schools. (11-22-91)

- b. A written report stating the findings and recommendations of the fire department will be requested. (2-9-78)
- c. It is the responsibility of the facility to arrange for and, if a fee is charged, to pay for the fire inspection. (11-22-91)

04. Transfer Of Records. When a foster family moves to another region and wishes to continue child care, the region in which the home was licensed will bring the narrative up to date, process the revocation, and forward the entire original record to the other region. A copy of the letter of transmittal will be placed in the case folder which will be filed in the closed file. (11-22-91)

- a. When the family applies in another region, a new application will be completed. (11-22-91)
- b. The new study will supplement the original study and will be concerned primarily: (11-22-91)
 - i. With the new living arrangements in terms of their conformity to the standards, rules and regulations; and (2-9-78)
 - ii. With significant changes which would affect the family's ability to provide adequate care for children. (2-9-78)
- c. The "Child Care Vendor License Activity Report" (HW 0301) turnaround will be utilized to show change of address or other pertinent changes. (2-9-78)

05. Licensing of Children's Agencies, Children's Treatment Facilities, Juvenile Detention Centers, Children's Camps And Group Foster Homes And Certification Of Nonaccredited Residential Schools. Licensing of children's agencies, children's treatment facilities, juvenile detention centers, children's camps providing child care for any one (1) child for more than nine (9) weeks in any one (1) year period, group foster homes and certification of nonaccredited residential schools will be completed by the Bureau of Juvenile Justice staff. The standards, rules and regulations for operation are specified in Sections 500 through 620. (12-31-91)

- a. Licensing and certification studies will follow the format of the standards and will conclude with a specific recommendation regarding the terms of the license or certification. (11-22-91)
- b. Licensing and certification records will be maintained in the central office within the Bureau of Juvenile Justice. (11-22-91)
- c. All children's agencies, children's treatment facilities, juvenile detention centers and group foster homes must comply with applicable city and/or county ordinances. (11-22-91)

06. Licensing Of Foster Homes And Day Care Facilities. Licensing of foster homes and day care facilities will be completed by regional staff. Standards, rules for operation are specified in Sections 300 through 400. Licensing records will be maintained in the regional offices. (12-31-91)

102. DISPOSITION OF APPLICATIONS.

Upon receipt of the application, study and "Child Care Vendor License Activity Report" (HW 0301), the licensing supervisor will review the material, and sign the "Child Care Vendor License Activity Report" (HW 0301) if the action is approved. (11-22-91)

01. Approval Of Application. The license or certification shall be issued according to the terms specified on the HW0301 form and will be mailed to the applicant. (11-22-91)

- a. Regular License. A regular license or certification will be issued to any child care facility found to

- be in conformity with the rules governing the facility in accordance with Sections 300 through 620. (12-31-91)
- i. The license or certification will specify: (11-22-91)
 - (1) Whether it is for full time or day care; and (1-1-82)
 - (2) The number of children who may receive care at any one time; and (2-9-78)
 - (3) Age range and gender, if there are conditions in the facility making such limitations necessary. (11-22-91)
 - ii. The regular license or certification for children's agencies and twenty-four (24) hour a day child care residential facilities will be in effect for one (1) year from the date of issuance unless suspended or revoked. (11-22-91)
 - iii. A regular license or certification for day care shall be in effect for two (2) years from the date of issuance unless suspended or revoked. (11-22-91)
 - iv. If the license for a foster home is for a specific child only, the name of the specific child will be shown on the foster home license. (11-22-91)
- b. **Provisional License or Certification.** A provisional license or certification may be issued under certain circumstances when a certain standard which does not affect the health and safety of any child cannot be met but can reasonably be expected to be corrected within six (6) months and a plan for such a correction is approved by the licensing supervisor. (11-22-91)
- i. The provisional license or certification will be in effect for only six (6) months. (11-22-91)
 - ii. Only one (1) provisional license or certification will be issued to a facility in any twelve (12) month period of time pursuant to Section 39-1216, Idaho Code, and for day care facilities defined in Section 39-1102, Idaho Code. (11-22-91)
- c. **Limited License.** A limited license for a foster home may be issued for the care of a specific child only in a home which may not meet the requirements for a license, provided that: (11-22-91)
- i. The child is already in the home and has formed strong emotional ties with the foster parents; and (1-1-82)
 - ii. It can be shown that his continued care in the home would be more conducive to his welfare than would removal to another home. (1-1-82)
- 02. Denial Of Application.** If a license is being denied, the action shown on the "Child Care Vendor License Activity Report" (HW 0301) will be statistically recorded in Central Office and the turnaround returned to the office of origin. The legal basis for denial of an application is failure or refusal on the part of the applicant to comply with any of the provisions of the Child Care Licensing Reform Act or the Basic Day Care License Act, or with any of the standards, rules and regulations established thereunder. (11-22-91)
- a. Licensing and certification records must set forth clearly in what ways the facility or agency is not in conformity with the rules governing the facility (see Sections 300 through 620). (12-31-91)
 - b. The basis for not achieving conformity within six (6) months must be clearly stated. (2-9-78)
 - c. The study must substantiate the recommendation for denial. (2-9-78)
 - d. When an application is denied, a letter signed by the licensing supervisor will be sent directly to the applicant by registered or certified mail, advising him of the denial, setting forth the standards, rules and regulations which are the basis for denial. (2-9-78)

e. In the event that a child care facility or agency provides care or placement services for children after a license or certification has been denied, see Section 108. (12-31-91)

03. Withdrawal Of Application. An applicant for a child care or day care license or certification can withdraw the application before it is processed. (11-22-91)

a. If a formal application has been signed, the withdrawal is to be made in writing and must be recorded to provide complete information in the event of later questions regarding the disposition of the application and in the event of reapplication. (1-1-82)

b. In the event of a withdrawal of application, a brief summary of the events leading up to the withdrawal will be prepared and forwarded to the licensing supervisor along with the written request by the applicant and the recommendation of the worker. (2-9-78)

c. A copy of the summary and recommendation will be filed in the record in the field. (2-9-78)

d. Following action on the recommendation, the licensing supervisor will forward the "Child Care Vendor License Activity Report" (HW 0301) to the worker to show action taken. (1-1-82)

103. REVISITS, RELICENSES AND RECERTIFICATIONS.

The law places upon the operator the responsibility for applying for renewal of a license or certification. (11-22-91)

01. Notification Of Expiration. The document control unit for the Department's Division of Family and Children's Services will provide the Regional Office and the Bureau of Juvenile Justice a list of all licenses and certifications which will expire in ninety (90) days. Letters of notification of expiration will be sent to all appropriate facilities and agencies together with a new application form. (12-31-91)

02. Deadline For Reapplication. The application for renewal must be filed prior to the expiration date. (11-22-91)

03. Final Disposition. A relicense or recertification study performed according to Section 104 will be completed; and the study, together with the form "Child Care Vendor License Activity Report" (HW 0301), will be forwarded to the licensing supervisor. (12-31-91)

04. Expiration Due To Voluntary Lack Of Reapplication. If the operator does not apply for relicense or recertification, the licensing social worker will prepare a brief narrative statement showing when notice was sent, stating the operator did not reapply and that the license or certification expired as of a certain date. Day care staff, other than social workers, may be authorized to prepare the narrative statement. (11-22-91)

a. This narrative report will be due in the office of the licensing supervisor as of the expiration date of the license or certification. (11-22-91)

b. A letter will then be sent to the operator advising him that the license or certification is not being renewed. (11-22-91)

c. "Child Care Vendor License Activity Report" (HW 0301) turnaround will be completed to show termination of the license or certification as a voluntary expiration. (11-22-91)

05. Mandatory Visitations. Pursuant to Section 39-1217, Idaho Code, the Department must visit each child care facility or agency as often as it deems necessary or desirable. The Department shall revisit each facility or agency at least every six (6) months for the purpose of determining whether it "consistently maintains conformity with the standards established under the authority conferred" by the Child Care Licensing Reform Act. This provision does not apply to day care facilities. (11-22-91)

a. A revisit study performed according to Section 104 will be completed and the study and "Child

Care Vendor License Activity Report" (HW 0301) submitted as specified in Section 103.03. (12-31-91)

b. The document control unit for the Department's Division of Family and Children's Services will provide the Regional Office and the Bureau of Juvenile Justice a list of all revisits due in the coming month. (12-31-91)

104. REVISIT, RELICENSE AND RECERTIFICATION STUDIES.

Revisit, relicense, and recertification studies shall document how the child care facility or agency continues to meet standards. Consideration must be given to each point of the standards, including a review of the previous study and original application to determine what changes have occurred. (11-22-91)

01. Review Of Terms. At the time of each revisit, relicense or recertification, the worker will review the register showing the children provided care to ensure that the operator has stayed within the terms of the license or certification. (11-22-91)

02. Details Of Study. The revisit or relicense study for foster homes must show children for whom care was given. This must be done either in the body of the study or by including a copy of the register with the study. Except for day care, the licensing social worker must review the register for other types of child care facilities and document whether the operator remained within the terms of the license or certification. (11-22-91)

105. SUSPENSION OF LICENSE OR CERTIFICATION.

01. Suspension For Circumstances Beyond Control Of Operator. When circumstances occur over which the operator has no control including, but not limited to, illness, epidemics, fire, flood, or contamination, which temporarily place the operation of the child care facility or agency out of conformity with the law or with any of the rules, regulations or standards, the license or certification must be suspended until the nonconformity is remedied. (11-22-91)

02. Suspension For Repeated Infractions. The license or certification may also be suspended for repeated infractions of the rules. Such suspension will lead to revocation if the operator fails to satisfy the Director that the methods have been corrected sufficiently to assure conformity. (12-31-91)

03. Notification Of Suspension. (12-31-91)

a. The operator will be notified of the suspension by registered or certified mail, and the letter will set forth the rules which are the basis for the suspension. (11-22-91)

b. The licensing social worker will prepare a full narrative report of the facts in support of the recommendation for suspension of the license or certification and will route the report to the licensing supervisor. For day care, the narrative report may be completed by authorized staff other than social workers. (11-22-91)

c. "Child Care Vendor License Activity Report" (HW 0301) must be completed to show such suspension as well as the removal of the suspension when circumstances indicate the facility is now in conformity. (2-9-78)

106. REVOCATION OF LICENSE OR CERTIFICATION.

The license or certification applies only to the individual and the premises specified. Therefore, any change of management or location renders the license or certification null and void. The licensing social worker will promptly pick up the license or certification and transmit it to the licensing supervisor with a narrative report of the circumstances, including a recommendation for revocation. If a license or certification is revoked, the operator will be notified by registered or certified mail, and the letter will set forth the rules which are the basis for the revocation. For day care, authorized staff other than social workers, may initiate the recommendation for revocation to the licensing supervisor. (11-22-91)

01. Department -- Initiated Revocation. When the licensing social worker becomes aware of any condition in the child care facility or agency which makes revocation of the license or certification appear necessary, he will obtain and record fully all pertinent information in support of his recommendation for revocation and will

route the report to the licensing supervisor. Authorized staff, other than social workers, may initiate the revocation report for day care to the licensing supervisor. (11-22-91)

02. Operator -- Initiated Revocation. In other instances, the operator may notify the licensing social worker or authorized staff for day care requesting the license or certification be revoked, or if it is expiring, not be renewed. The worker will prepare the narrative and "Child Care Vendor License Activity Report" (HW 0301) to show termination. (11-22-91)

107. APPEAL FROM DECISION.

The regulation of hearing procedures within the Department is governed by Idaho Department of Health and Welfare Rules, IDAPA 16.05.03, "Rules Governing Contested Cases and Declaratory Rulings". (12-31-91)

108. ACTION AGAINST FACILITIES AND AGENCIES.

01. Investigation Of Complaints. Whenever the Department receives a complaint regarding licensed or certified and unlicensed or uncertified child care facilities and agencies, it will conduct an investigation pursuant to the complaint. The investigation may include further contact with the complainant, scheduled or unannounced visits to the facility or agency, collateral contacts including interviews with the victim, parents or guardian, facility or agency administrator, staff, consultants, children in care, other persons who may have knowledge of the complaint, and inspections by fire or health officials. (11-22-91)

a. The complaint and the details of the investigation, including any decisions or disposition is to be based on facts. If it is necessary to record opinions or hearsay, the record must identify the statements as such and must indicate the source of such statements and the reasons they were included. (11-22-91)

b. If an initial preliminary investigation indicates that a more complete investigation must be made, the facility or agency operator will be informed of the investigation, and any action to be taken. (11-22-91)

02. Penalties. (11-22-91)

a. Foster Homes, Group Foster Homes, Children's Agencies, Children's Treatment Facilities, (including nonaccredited residential schools, children's camps providing care for any one (1) child for more than nine (9) consecutive weeks in any one (1) year period, alcohol-drug abuse treatment facilities and facilities specializing in maternity care to minors) and Juvenile Detention Centers. Pursuant to Section 39-1220, Idaho Code, any person who is convicted of operating any one (1) of the aforementioned agencies or facilities in this section without first obtaining a license or certification shall be guilty of a misdemeanor. (11-22-91)

i. The Department must, upon showing good cause to the prosecuting attorney, maintain an action in the name of the state for injunction or other process against the person (Section 39-1222, Idaho Code). If the prosecuting attorney fails or refuses to act within sixty (60) days of notification, the attorney general is authorized to act pursuant to Section 39-1221, Idaho Code. (11-22-91)

ii. Any child receiving care in an unlicensed foster group home or children's treatment facility may be removed from it upon order of the Magistrate Court and returned to his home or placed in the custody of the Department if the child's custodial parent is not available (Section 39-1221, Idaho Code). (11-22-91)

b. Day Care Facilities. Sections 39-1115 and 39-1116, Idaho Code, provide penalties for the operation of certain unlicensed day care facilities. If complaints and an investigation indicate that children are subject to harm, that fact should be reported in writing with substantiating evidence to the prosecuting attorney. (10-18-88)

109. -- 149. (RESERVED).

150. LICENSING AND CERTIFICATION PROCEDURES FOR CHILD CARE FACILITIES.

The Department will provide applicants with a copy of the rules governing the type of facility to be licensed or certified. (11-22-91)

01. Form Of Application. Pursuant to Section 39-1214, Idaho Code, an application for a license or

certification for a child care facility or agency is to be filed with the Department in such a manner and on such forms as the Department requires (see Section 101). (12-31-91)

02. Contents Of License And Certification. The license or certification will specify the following: (11-22-91)

- a. The maximum allowable number of children to receive care; and (1-1-82)
- b. Where applicable, the age range and gender of the children to receive care; and (11-22-91)
- c. The type of facility or agency being licensed or certified; and (11-22-91)
- d. For agencies, the scope of placement services they are authorized to provide. (11-22-91)

03. Restrictions On Applicability. A license or certification applies only to the individual and facility, or person and premises, designated. A license issued in the name of a facility or agency applies only to the services and geographic area specified in the license or certification. Any change of management or address renders the license or certification null and void, and the operator must immediately return the license or certification to the Department. (11-22-91)

04. Special Licensing Provisions. A license can be issued for care limited to a specific child in a foster home which may not meet the requirements for a license, provided that: (1-1-82)

- a. The child has been living in the home for a sufficient length of time to be able to document that he has received proper and adequate care; and (1-1-82)
- b. It can be shown that his continued care in the home would be more conducive to his welfare than removal to another home; and (1-1-82)
- c. Limited licenses are not to be issued for day care homes, day care centers, group foster homes, children's agencies, juvenile detention centers or children's treatment facilities. (11-22-91)

05. Responsibilities Of Operator. An operator must conform to the terms of the license or certification. In addition: (11-22-91)

- a. The operator is responsible for knowing the standards and rules applying to the type of facility or agency covered by the license or certification (see Section 300 for day care; Section 400 for foster homes; Section 500 for group homes; and Section 600 for children's agencies, juvenile detention centers and children's treatment facilities including Section 618 for alcohol-drug abuse treatment facilities; and Section 620 for nonaccredited residential schools) and for conforming to them at all times; and (12-31-91)
- b. The operators of child care facilities and agencies are responsible for ensuring that all staff members are familiar with applicable rules governing the facility or agency (see Sections 300 through 620); and (12-31-91)
- c. The operator must immediately notify the Department of: (11-22-91)
 - i. Any changes or circumstances which may affect the operator's continued eligibility for a license or certification; and (11-22-91)
 - ii. Of any change of address or management; and (1-1-82)
- d. The operator must immediately return his license or certification to the Department under any of the following circumstances: (1-1-82)
 - i. Change of management or address; or (1-1-82)

- ii. Upon suspension or revocation of the license or certification by the Department; or (11-22-91)
- iii. Upon voluntary discontinuation of operation. (11-22-91)

06. Effective Period Of Licenses And Certifications. Pursuant to Sections 39-1106 and 39-1214, Idaho Code, licenses and certifications will be issued for one (1) or two (2) year periods, subject to suspension or revocation for cause (see Subsection 150.10). (12-31-91)

a. When an applicant is temporarily unable to meet a standard, a provisional license or certification (see Subsection 102.01.b.) can be issued for a period not to exceed six (6) months, except that not more than one (1) provisional license or certification can be issued to the same child care facility or agency within any twelve (12) month period beginning from the date the provisional license or certification is issued, pursuant to Section 39-1216, Idaho Code. (12-31-91)

b. When a provisional license or certification is issued, the Department will list the deficiencies and time allowed for their correction. (11-22-91)

07. Licensing And Certification Visitations. Pursuant to Section 39-1217, Idaho Code, for the purpose of determining whether the facility or agency consistently maintains conformity with the rules, standards (see Sections 400 through 620) and terms of license or certification a representative of the Department will visit, and must be given access to, the premises of each child care facility and agency as deemed necessary or desirable by the Department but, in any event, at intervals not to exceed six (6) months. (12-31-91)

08. Local Option. If a city or county is enforcing day care center standards which are at least as stringent as those contained in Sections 300 through Subsection 300.13, then the provisions of Sections 39-1101 through 39-1117, Idaho Code, shall not apply. (12-31-91)

09. Renewal Of License Or Certification. An application for renewal of a license or certification must be made by the operator on the form furnished by the Department, and filed prior to the expiration date of the license or certification currently in force. When such application for renewal has been made in the proper manner and form, the existing license or certification will, unless officially revoked, remain in force until the Department has acted on the application for renewal. (11-22-91)

10. Nonrenewal, Denial, Revocation, Or Suspension Of License Or Certification. If, upon investigation, it is found that an applicant or operator has failed or refused to comply with any of the provisions of the Basic Day Care License Law, Sections 39-1101 through 39-1117, Idaho Code, or the Child Care Licensing Reform Act, Sections 39-1208 through 39-1224, Idaho Code, or with any applicable rules contained in this chapter, the Director can deny, suspend, revoke, or not renew a license or certification. (12-31-91)

a. The Department may also deny, suspend, revoke, or not renew a license or certification for any day care facility, child care facility or agency when: (11-22-91)

i. The facility or agency is not in compliance with applicable provisions of the Idaho Code, these rules and minimum standards, or any condition of a provisional license or certification. (11-22-91)

ii. The applicant or person proposed as chief executive officer has been found guilty of or received a withheld judgement for a sex crime as defined in Title 18, Chapter 66, Idaho Code; rape as defined in Title 18, Chapter 61, Idaho Code; injuring a child as defined in Section 18-1501, Idaho Code; selling or bartering a child as defined in Section 18-1511, Idaho Code; sexually abusing a child as defined in Section 18-1506, Idaho Code; and sexually exploiting a child as defined in Section 18-1507, or 18-1508, Idaho Code. (11-22-91)

iii. The applicant or the person proposed as chief executive officer except for day care facilities: (11-22-91)

(1) Without good cause, fails to furnish any data, statistics, records or information requested by the Department, or files fraudulent returns thereof; (10-18-88)

- (2) Has been found guilty of or is under investigation for fraud, deceit, misrepresentation or dishonesty associated with the operation of a facility or agency; (11-22-91)
- (3) Has been found guilty of or is under investigation for the commission of any felony; (10-18-88)
- (4) Has failed to exercise fiscal accountability toward a client and/or the Department regarding payment for services; or (10-18-88)
- (5) Has knowingly permitted, aided or abetted the commission of any illegal act on the premises of the facility or agency. (11-22-91)
 - b. The notice of such action: (10-18-88)
 - i. Must be in writing; and (1-1-82)
 - ii. Must include notice of the right to a hearing (see Section 996.). (12-31-91)

11. Use And Dissemination Restrictions For FBI Criminal Identification Records. According to the provisions set forth in Title 28, CFR, Section 50.12, governmental entities authorized to submit fingerprints and receive FBI identification records described in Subsections 300.09, 410.06.b., 528.03.b., 611, 615.07, 618.08.b., and 620.03.a.iv. must: (12-31-91)

- a. Notify the applicant or individual fingerprinted that the fingerprints will be used to check the criminal history records of the FBI; (11-22-91)
- b. In determining the suitability for licensing or employment provide the applicant or individual the opportunity to complete or challenge the accuracy of the information contained in the FBI identification record; (11-22-91)
- c. Afford the applicant or individual fifteen (15) days to correct, complete, or decline the FBI identification record; (11-22-91)
- d. Advise the applicant or individual who wishes to correct the FBI identification record that procedures for changing, correcting, or updating are set forth in Title 28, CFR, Section 16.34. (11-22-91)

151. -- 299. (RESERVED).

300. STANDARDS FOR DAY CARE.

01. Purpose. The stated legislative purpose of Sections 39-1101 through 39-1117, Idaho Code, enacted in 1987 and as amended in 1990, 1992 and 1994, is to provide for minimum statewide day care licensing for children less than twelve (12) years of age. The purpose is to provide a statement of policy, provide exemption, define terms, designate licensing authorities and authorize the promulgation of rules. Persons with certain criminal backgrounds are prohibited from working in day care centers. Responsibilities for regulatory authority are divided between the Board, the state fire marshal, and the district health departments. As stated in Section 39-1101, Idaho Code, "It is declared to be the policy of the state to establish a minimum statewide system for the protection of children in day care centers. This system is intended to establish minimum standards, while still leaving primary responsibility for evaluation and selection of day care services with parents. The minimum standards established by this chapter shall not be construed as preempting more stringent regulation by county or city ordinance." (8-26-94)

02. Fee Charged. Effective July 1, 1992, fees shall be charged at the time of initial application for a basic day care license or certification. The fees will be used to cover the expenses for fire inspections, health inspections and criminal history checks. The initial application fees shall not be refundable. Basic day care licenses and certifications shall be valid for a period of two (2) years. (12-25-92)

- a. Fees shall also be charged at the time of application for renewal of a license or certification. An application for renewal must be filed every two (2) years prior to the expiration of a current basic day care license or

certification in order for the current license or certification to remain valid, pending the completion of the appropriate inspections. Application fees for renewal shall not be refundable. (3-10-88)

b. Fees for initial application and renewal of basic day care licenses and certifications shall be paid directly to the inspecting fire and health agencies, except for the criminal history checks which will be paid directly to the Department. (3-10-88)

c. The applicable license fee payable to the Department upon initial application or a renewal shall be reduced for any day care facility which provides evidence that at least fifty percent (50%) of its staff is certified in infant/child first aid and cardiopulmonary resuscitation. (12-25-92)

i. To receive such refund of monies paid to the Department for licensure or renewal, the applicant or owner/operator of such facility shall submit to the Department day care licensing unit, at any time during the period of a valid license or certificate for day care, written documentation of the number of staff in the facility and that at least fifty percent (50%) of that staff is certified in infant/child first aid and cardiopulmonary resuscitation. (12-25-92)

ii. Upon receipt of valid documentation that fifty percent (50%) of the staff of that facility is so certified, a payment equal to twenty-five percent (25%) of the licensing fee paid shall be made to the applicant or owner/operator of such licensed facility. (12-25-92)

03. Initial Application Fees For Basic Day Care License. Effective July 1, 1992, all unlicensed and previously licensed day care centers caring for thirteen (13) or more children are required to submit an initial application for a basic day care license. The maximum fees for both unlicensed and previously licensed centers shall not exceed one hundred dollars (\$100) for a state license. (12-25-92)

a. The following fees will be included with the initial application for a basic day care license: (12-31-91)

i. Criminal History Check - forty-five dollars (\$45) per person payable to the Department, when applicable. (12-25-92)

ii. Health Inspection - thirty-five dollars (\$35) payable to the Health District. (12-31-91)

iii. Fire Inspection - up to twenty dollars (\$20) payable to fire inspector or fire inspection agency. (12-31-91)

iv. The fee of forty-five dollars (\$45) for the criminal history check will be charged for each licensing applicant, owner, operator, employee and volunteer at the day care center requiring a criminal history check and shall be separate and apart from the application fees for health and fire inspections. The fees for criminal history checks shall be the responsibility of the individual or day care center with which they are associated. (12-25-92)

b. Posting of license in a conspicuous place at the day care center is required. (3-10-88)

c. The Department shall obtain a criminal history check on only those applicants, owners, operators, employees or volunteers who have direct contact with the children in care and on all other individuals twelve (12) years of age or older who have unsupervised direct contact with children in care. "Volunteers" when used in this chapter shall mean only those persons who have direct unsupervised contact with children in care for more than twelve (12) hours in any one month. (8-26-94)

04. Application Fees For Renewal Of Basic Day Care License. Effective July 1, 1992 a basic day care license must be renewed every two (2) years. The application fee for renewal of a license shall not exceed sixty dollars (\$60). The following fees will be included with an application for renewal of a basic day care license: (12-25-92)

a. Department - ten dollars (\$10) payable to the Department. (12-25-92)

b. Health Inspection - thirty dollars (\$30) payable to the Health District. (12-31-91)

c. Fire Inspection - up to twenty dollars (\$20) payable to fire inspector or fire inspection agency.
(12-31-91)

d. It will be the responsibility of the applicant, owner, or operator of a day care center to ensure that a criminal history check is initiated within ten (10) days for staff having direct contact with children to include employees and volunteers and all other individuals twelve (12) years of age or older who have unsupervised direct contact with children in care. (8-26-94)

05. Initial Application Fees For Certification. Effective July 1, 1992, all unlicensed and previously licensed group day care facilities caring for seven (7) to twelve (12) children shall not be required to be licensed but shall be certified by obtaining a fire inspection and criminal history check for staff. (8-26-94)

a. The following fees shall be included with the initial application for a state certification: (12-31-91)

i. Fire Inspection - up to twenty dollars (\$20) payable to fire inspector or fire inspection agency.
(12-31-91)

ii. Criminal History Check - forty-five dollars (\$45) per person payable to the Department, when applicable. (12-25-92)

iii. The fee of forty-five dollars (\$45) will be charged for each certification applicant, owner, operator, employee or volunteer at the group day care facility requiring a criminal history check and shall be separate and apart from the application fee for a fire inspection and shall be the responsibility of the individual or group day care facility. (12-25-92)

b. The fire inspection certification and verification of the required criminal history check shall be available for inspection on the premises. (8-26-94)

c. The Department shall obtain a criminal history check on only those applicants, owners, operators, employees, or volunteers and all other individuals twelve (12) years of age or older who have unsupervised direct contact with children in care. (8-26-94)

06. Application Fee For Renewal Of Certification. A certification must be renewed every two (2) years. The application fee for renewal of a certification shall not exceed thirty dollars (\$30). The following fee will be included with the application for renewal of certification: (12-25-92)

a. Department - ten dollars (\$10) payable to the Department. (12-25-92)

b. Fire Inspection - up to twenty dollars (\$20) payable to fire inspector or fire inspection agency.
(12-31-91)

c. It will be the responsibility of the applicant, owner or operator of a group day care facility to ensure that any employees and volunteers having direct contact with children have, upon employment or assignment, a criminal history check initiated within ten (10) days for staff. (8-26-94)

07. Voluntary Compliance By Group Day Care Facilities For Basic Day Care License. A group day care facility may elect voluntarily to secure a basic day care license and must meet the same requirements as for day care centers. Group day care facilities wishing to apply for a basic day care license must comply in all cases with the requirements of a fire inspection, health inspection and criminal history check. Group day care facilities electing to secure a basic day care license shall be charged the same fees as for day care centers. (8-26-94)

08. Family Day Care Homes. Effective March 1, 1988, all family day care homes caring for six (6) or fewer children are not required to have a basic day care license or certification. A family day care home may, however, elect voluntarily to secure a basic day care license and must meet the same requirements as for day care centers. Family day care homes wishing to apply for a basic day care license must comply with the requirements of a

fire inspection, health inspection and criminal history check, when required. Family day care homes electing to secure a basic day care license shall be charged the same fees as for day care centers. (3-10-88)

09. Procedure For Criminal History Checks. The Department is hereby authorized to obtain and submit criminal history checks with fingerprints on applicants, owners, operators, employees and volunteers of day care centers, group day care facilities and family day care homes, when the home wishes to voluntarily comply with the requirements for a basic day care license. Such identification records resulting from submission of fingerprints shall be used only for the official use of the requesting party. Criminal background checks on all individuals under the age of eighteen (18) years of age shall include a check of the juvenile justice records of adjudications of the magistrate, division of the district court, county probation services and department of health and welfare records as authorized by the minor and his parent or guardian. There shall be no additional fee charged for this criminal background check. There shall also be a check of the statewide child abuse register regarding all of the above-named persons. (8-26-94)

a. All completed criminal history checks will be routed to the Department's Division of Management Services, Criminal History Unit, Boise, Idaho, who will report to the appropriate regional office of the Department whether the licensing or certification applicant, owner, operator, employee or volunteer has been found guilty of a relevant offense in the state's courts, in any other state's courts or in any federal court of any offense involving neglect or any physical injury to, or other abuse, of a child pursuant to Section 39-1113, Idaho Code, including: (8-26-94)

- i. Injuring a child, Section 18-1501, Idaho Code. (12-25-92)
- ii. The sexual abuse of a child under sixteen (16) years of age, Section 18-1506, Idaho Code. (12-25-92)
- iii. The ritualized abuse of a child under eighteen (18) years of age, Section 18-1506A, Idaho Code. (12-25-92)
- iv. The sexual exploitation of a child, Section 18-1507 or 18-1507A, Idaho Code. (12-25-92)
- v. Lewd conduct with a child under the age of sixteen (16) years, Section 18-1508, Idaho Code. (12-25-92)
- vi. The sale of barter of a child for adoption or other purposes, Section 18-1511, Idaho Code. (12-25-92)
- vii. Murder, Section 18-4001 or 18-4003, Idaho Code. (12-25-92)
- viii. Voluntary manslaughter, Section 18-4006, Idaho Code. (12-25-92)
- ix. Rape, Section 18-1601 or 18-6108, Idaho Code. (12-25-92)
- x. Incest, Section 18-6602, Idaho Code. (12-25-92)
- xi. Forcible sexual penetration by use of foreign objects, Section 18-6608, Idaho Code. (12-25-92)

b. Criminal history checks or similar provisions to the above named offenses in any other jurisdiction shall be retained for a period of not less than three (3) years. After a criminal history check has been completed on an individual, a check shall not be repeated unless the individual has resided outside the state of Idaho for any period since the original criminal history check was completed. (12-25-92)

c. A copy of the criminal history check shall be released, if the information is necessary to be disclosed in a licensing or certification action or in response to a valid subpoena issued by a court of competent jurisdiction, or only to the individual named therein upon written release given to the Department, provided the individual also releases the state from all liability. Basic day care licenses, certifications and/or day care provider permits shall be used as a means of verifying that no record has been found pursuant to Sections 39-1113 and 39-1115(3), Idaho Code, on licensing and certification applicants, owners, operators, employees and volunteers requiring

criminal history checks. (12-10-92)

10. Temporary Basic Day Care Licenses, Certifications, And Day Care Provider Permits. (3-10-88)

a. Temporary basic day care license, temporary certifications and temporary day care provider permits may be issued by the Department to licensing or certification applicants pending the completion of the necessary day care inspections or criminal history checks. Temporary day care provider permits may also be issued by the Department to day care providers who are owners, operators, employees and volunteers pending the completion of the criminal history check. All temporary basic day care licenses, temporary certifications and temporary day care provider permits shall be issued under the following conditions: (3-10-88)

i. Shall be issued for a period not to exceed one hundred twenty (120) days, unless otherwise extended by the Department. (3-10-88)

ii. Applicants, owners, operators, employees and volunteers requiring a criminal history check properly completing and signing a notarized self-declaration certifying that they have never been found guilty of or received a withheld judgement for any of the crimes enumerated in Sections 39-1113 and 39-1115(3), Idaho Code, pending the completion of the criminal history check. (11-22-91)

iii. All temporary basic day care licenses and certifications are conditional upon satisfactory facility inspections and applicants' satisfactory criminal history checks. (3-10-88)

iv. All temporary day care provider permits are conditional upon satisfactory criminal history checks. (3-10-88)

b. If a criminal history check on an applicant for licensing or certification or a currently licensed or certified day care facility discloses an owner, operator, employee or volunteer with a guilty conviction or a withheld judgement pursuant to Sections 39-1113 and 39-1115(3), Idaho Code, the individual shall be suspended immediately from continued employment or volunteering. The day care facility and individual shall be in violation of these rules and subject to a misdemeanor if the individual is retained after receiving notice by certified mail from the Department that the individual has been found guilty of or received a withheld judgement for an offense pursuant to Sections 39-1113 and 39-1115(3), Idaho Code. (11-22-91)

11. Responsibilities Of Applicants, Owners Or Operators. It will be the responsibility of the applicant, owner or operator of a day care facility to maintain a personnel record on each employee and volunteer at the facility having direct contact with children. The personnel record shall include date of initial employment or assignment, date of termination or extended leave from employment or assignment, a copy of the day care provider permit and any other information which may be necessary to establish facility and personnel compliance with Section 39-1105, Idaho Code. It shall also be the responsibility of the applicant, owner or operator of a day care facility to ensure new employees and volunteers having direct contact with children, and all other individuals twelve (12) years of age or older who have unsupervised direct contact with children, submit to the Department within ten (10) days from the date of initial employment or assigned self-declaration certifying they have not been found guilty of or received a withheld judgement for the crimes pursuant to Section 39-1115(3), Idaho Code. Two (2) fingerprint cards (FD-258) with fingerprints for personnel requiring criminal history checks shall also be completed within ten (10) days from the date of initial employment or assignment. (8-26-94)

12. Immunizations Required. Pursuant to Section 39-1118, Idaho Code, the immunizations required and the manner and frequency of their administration are referenced in Idaho Department of Health and Welfare Rules, IDAPA 16.02.11, "Immunization Requirements For Children Attending Licensed Day Care Facilities in Idaho". (12-31-91)

13. Employee Training. The owner operator of a day care center shall ensure through documentation that each employee receives four (4) hours of ongoing training every twelve (12) months after the employee's hire date. (8-26-94)

14. Preemption. These rules do not preempt more stringent local regulation or requirements.(3-10-88)

301. -- 399. (RESERVED).

400. STANDARDS FOR FOSTER HOMES.

01. Evidence Of Income And Resources. The foster family must have sufficient regular income to maintain the family home so far as essential needs are concerned without the payment made for the care of the child. (10-1-72)

02. Record Keeping And Reporting. (12-31-91)

a. A permanent record must be kept for each child to identify him, to enable the foster parent to communicate with the placing agency, parents, or guardian, and, in an emergency, with the physician designated by them. (1-1-82)

b. The record must include the child's full name; month, day and year of birth; full names and address of parents, guardian or agency which placed him; the date accepted for care; and the date the child left the foster home. (10-1-72)

c. These records must be complete and current at all times and must be made available at any time for inspection by a representative of the Department. (10-1-72)

401. -- 404. (RESERVED).

405. PROVISIONS FOR SAFETY AND ADEQUATE PHYSICAL CARE OF CHILDREN UNDER CARE.

01. The Home And Its Environs. (12-31-91)

a. The home must have sufficient room to accommodate the family and the foster children. A home may be considered overcrowded when there is more than one (1) person per room, excluding closets, bathrooms, and corridors. (1-1-82)

b. Areas which present a hazard to the children in care must be fenced. (1-1-82)

c. Rooms used for the care of children or as play rooms must be comfortably heated, lighted, and ventilated. (1-1-82)

d. Rooms must be comfortably furnished. (10-1-72)

e. Provision must be made for the proper care of clothing and personal belongings. (10-1-72)

f. There must be no fire hazards. (1-1-82)

i. Fireplaces must be protected by screens; and (1-1-82)

ii. The home must be equipped with one (1) or more properly-placed smoke or heat detectors; and (1-1-82)

iii. The foster home must have accessible exits and an escape plan in case a fire does occur; and (1-1-82)

iv. An inspection by a certified fire inspector may be required at the discretion of the Department using the Uniform Fire Code and the home will be considered by the 1991 Uniform Building Code as a Group R-3, Congregate Residence (ten (10) persons or less). (11-22-91)

g. There must be adequate provision for the proper care and protection of food. (10-1-72)

h. If the milk used is not pasteurized or from a licensed raw milk dairy, there must be annual assurance that the cows or goats are free from tuberculosis, brucellosis, and other infections. (1-1-82)

i. The milk must be handled and stored in a sanitary manner. (1-1-82)

j. The water supply in homes where water is obtained from a source other than a public water system must be approved by the District Health Department at the time of application for a Child-Care License and for renewal of such license. (1-1-82)

k. There must be adequate toilet and bathing facilities. Toilets must be kept in proper repair and in good sanitary condition. (1-1-82)

l. The home must be kept reasonably clean and sanitary including, but not limited to, absence of noticeable buildup of dirt, dust, rubbish, mildew, mold, odors, and insects. (1-1-82)

m. The house and yard must be free from safety hazards including, but not limited to, sharp objects, dangerous machinery and tools, and broken glass. (1-1-82)

n. Guns and ammunition must be stored in a locked cabinet, closet, drawer, or other container. (1-1-82)

o. A telephone is required, except in rural areas where telephone service is not generally available. (1-1-82)

02. Sleeping Arrangements. (1-1-82)

a. Children must have individual beds. A double bed may be occupied by two (2) brothers or two (2) sisters of comparable age when that arrangement is familiar and acceptable to the children and when no health, behavior, or other reasons exist to make this undesirable. (1-1-82)

b. Children must not sleep in the same room with an adult, except that infants under the age of one (1) year may sleep in a room with the foster parents. (1-1-82)

c. No child over five (5) years of age will sleep in the same room with any person of the opposite sex. (10-1-72)

d. Each bed must have a clean comfortable mattress, pillow, and adequate linen and bedding. (1-1-82)

e. No child is to sleep in an unfinished basement or attic or in a room commonly used for other than bedroom purposes. (1-1-82)

f. No child is to sleep in a detached building, except in the case of an older child preparing for emancipation when it can be documented that the child's needs can best be met by that situation. (1-1-82)

g. Not more than three (3) children are to sleep in one (1) room. (1-1-82)

h. Floor space must be sufficient to provide two (2) feet between beds. (1-1-82)

i. No home will be licensed when the sleeping arrangements for the foster child will force sleeping arrangements which are not in reasonable conformity with these rules. (1-1-82)

03. Physical Care Of The Child. (1-1-82)

a. The diet must be well balanced and adequate to meet the nutritional needs of the children and must be served at regular hours. (10-1-72)

- b. Clothing of foster children must be clean, in good repair and of a quality which will not distinguish the foster child from other children in the family and the neighborhood. (1-1-82)
- c. Children must each have toilet articles, such as combs and toothbrushes. (1-1-82)
- d. When any child shows signs of illness the foster parent must consult a licensed physician as soon as possible and follow the recommended treatment. (1-1-82)
- e. Discipline must meet the needs of each child and must be humane. (10-1-72)
- i. Authority to punish must not be delegated to older children. (10-1-72)
- ii. No child may be put to bed for punishment or deprived of meals as punishment. (1-1-82)
- iii. No child may be subjected to cruel, severe, unusual or unnecessary punishment inflicted upon the body, or to verbal abuse, threats or derogatory remarks about the child or his family. (10-1-72)
- f. Foster care will not be allowed in buildings used for shelter care for adults or in homes which make it a practice to care for elderly or convalescent patients. (1-1-82)
- g. In homes licensed for preschool children, one (1) parent must be available for full-time care of the child. (1-1-82)
- h. Homes may be licensed for school age children when both parents, or the single parent, are employed. The placing agency or responsible guardian must give prior approval to the plans for child care when the children are not in school. (1-1-82)
- i. When foster parents will be absent from the home for short periods, responsible arrangements must be made for the supervision of the children by a competent person. (1-1-82)
- j. When foster parents will be absent from the home overnight or longer, the placing agency or responsible guardian must give prior approval to the child care plans. (1-1-82)

04. Number Of Foster Children. (1-1-82)

- a. The maximum number and the age group cared for must be determined by the accommodations of the home, by the experience and skill of the foster parents in providing care for children, and by the time the parents are able to devote to the children. (1-1-82)
- b. The number of children under care at one time, including day care children, must be limited to not more than six (6) children under eighteen (18) years of age, including those of the foster family. (1-1-82)
 - i. Exceptions may be made to keep a family of siblings together, or when a home offers unusual space, skill, and experience. (1-1-82)
 - ii. When there are more than six (6) children in the home, no more than two (2) may be foster children unless the foster children are all siblings. (1-1-82)
 - c. Not more than two (2) children under two (2) years of age, including those of the foster family, may be cared for in one (1) foster home. (1-1-82)

406. -- 409. (RESERVED).

410. PHYSICAL AND EMOTIONAL SUITABILITY OF FOSTER PARENTS.

Foster parents must be physically and emotionally suited to care for unrelated children and to deal with problems presented by children away from their own homes and own parents. (1-1-82)

01. Characteristics Of Foster Parents. Foster parents must have a wholesome attitude toward and an intelligent understanding of toilet training, discipline, health, sex education, and the various experiences that may have touched a child and with which he may need assistance and guidance. (1-1-82)

02. Motivation. The family's motivation in taking a child must be to contribute to his growth and development rather than primarily to their own needs. (1-1-82)

03. Affection And Security. Foster parents must be able to give the child the affection and security that he needs. (1-1-82)

04. Family Attitude. All members of the family must be willing to accept the boarding child into the home as a member of the family group. (10-1-72)

05. Home Life. There must be a harmonious home life to give children the emotional stability which they need. There must be no marital or personal problems within the family which would result in undue emotional strain in the home or be in any degree harmful to the interests of the children placed there. (10-1-72)

06. References. Foster parents must be persons of good character and habits. (10-1-72)

a. Three (3) satisfactory references will be required. One (1) may be a relative. (1-1-82)

b. All foster home parents and other non-foster parent adults residing in the foster home shall participate in a criminal history check as required by Section 39-1211, Idaho Code. The criminal history check will be conducted in accordance with Idaho Department of Health and Welfare Rules, IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks". (12-10-92)

07. Health Of Family Members. All members of the household must be in such physical and mental health as will not affect adversely either the health of the child or the quality and manner of his care. A report of good health from a regularly licensed professional such as a psychologist or physician will be required if this seems necessary or advisable. (1-1-82)

411. -- 499. (RESERVED).

500. STANDARDS FOR GROUP FOSTER HOMES.

The group foster home must: (8-22-76)

01. Group Foster Home Care. A group foster home provides group child care for seven (7) but not more than twelve (12) children and pursuant to Subsections 525.01.a.i. and 525.01.a.ii. must conform with the Uniform Fire Code and will be considered by the 1991 Uniform Building Code as either a Group R-1, Congregate Residence (more than ten (10) persons) or a Group R-3, Congregate Residence (ten (10) persons or less). (12-31-91)

02. Provide Evidence Of Income And Resources. Provide evidence of income and resources sufficient to maintain the home and the services offered. (8-22-76)

a. At the time of application, the group home must provide a statement setting forth the purposes and objectives of the facility. The statement must describe the children to be served according to their circumstances and the circumstances of their parents and according to their physical, mental and behavioral characteristics. The statement must describe the character and extent of services which it offers and maintains and the geographic area which is to be served. (8-22-76)

b. The group home must have a sound plan of financing which gives assurance of sufficient funds to enable it to maintain facilities and personnel necessary to achieve its purposes and objectives and maintain its services. A new home must have sufficient funds to carry it through the first two (2) months of operation and be able to furnish evidence to that effect. (8-22-76)

c. The group home will provide the Department with a budget showing details of anticipated income and expenditures for each fiscal year prior to licensure. (8-22-76)

- 03. Keep Records.** Provide such record keeping and reporting as may be required. (8-22-76)
- a. A permanent register must be maintained by the home showing the child's name, birthdate, full name and address of parents, guardian or agency which placed him, the date accepted for care, the date discharged and the name of the person or agency receiving the child at discharge. (8-22-76)
- b. Except for temporary shelter care of less than thirty (30) days, the home must maintain case records for each child accepted for care. The plan for child care record keeping must be provided in writing by the home. The content of the records will be agreed upon by the home and the Department at the time of licensure in accordance with the types of services specified in the home's Statement of Purposes and Objectives. Group home records must as a minimum contain: (8-22-76)
- i. Identifying information; (8-22-76)
- ii. Signed written agreement, contract or court order establishing the home's authority to accept and care for the child; (8-22-76)
- iii. Explanation of custody and legal responsibility for consent to any medical or surgical care and payments for care and services; and (8-22-76)
- iv. Explanation of responsibility for ongoing social services and planning for discharge and after care. Group home records of social services provided may be maintained at the group home or with the agency utilizing the facility. (11-22-91)
- c. Records must be kept in a locked file or locked area apart from the living area of the children and must be maintained in a manner which will assure the child's and family's right to privacy. (8-22-76)
- d. Records must be complete and current at all times and must be made available at any time for inspection by a licensing representative of the Department. (8-22-76)
- e. The licensee must provide the Department at the end of each six (6) months a complete record of all children given care within that period. (8-22-76)

501. -- 524. (RESERVED).

525. PROVISIONS FOR SAFETY AND ADEQUATE PHYSICAL CARE OF CHILDREN UNDER CARE.

- 01. Fire Protection.** An annual inspection and approval by a local fire inspector, certified by the Idaho State Fire Marshall's Office, together with a written report of the inspection is required. If the home is located in an area where the local fire department does not have an authorized fire inspector, an inspection by the nearest fire inspector certified by the State Fire Marshall's Office must be secured by the home. (11-22-91)
- a. The group foster home must conform with the Uniform Fire Code and will be considered by the 1991 Uniform Building Code as either: (11-22-91)
- i. Group R-1, Congregate Residence (more than ten (10) persons); or (11-22-91)
- ii. Group R-3, Congregate Residence (ten (10) persons or less); (11-22-91)
- b. The heating plant must be properly located, regularly inspected, and kept in good repair at all times. (8-22-76)
- c. All electrical wiring and electrical appliances must be installed and inspected in accordance with the state adopted National Electrical Code by the Department of Labor and Industrial Services or authorized local jurisdiction. (11-22-91)

d. There must be on each floor a fire extinguisher, easily accessible, approved by the Underwriters Laboratories, Inc. Each extinguisher must be serviced and tagged at least annually by an authorized extinguisher servicing agency. (8-22-76)

e. Fire drills for the children must be held at least monthly. (8-22-76)

f. Flammable liquids must not be stored in the buildings in which children are housed or in areas accessible to children. Trash must not be allowed to accumulate in the basement, closets, or elsewhere in the buildings. (8-22-76)

g. Fireplaces and open-faced heaters must be protected by screens and there must be no other fire hazard. (8-22-76)

02. Sanitation. (8-25-76)

a. Annual inspection and approval by the District Health Department will be required, together with a written report of this inspection. The report must cover the following food service rules: (8-22-76)

i. Food care; (8-22-76)

ii. Personal health of staff; (8-22-76)

iii. Equipment and utensils; (8-22-76)

iv. Cleaning, sanitizing and storage of food equipment and utensils; (8-22-76)

v. Sanitary facilities and controls; and (8-22-76)

vi. Construction and maintenance of physical facilities. (8-22-76)

b. There must be adequate toilet and bathing facilities. Toilets must be kept in proper repair and in good sanitary condition. There must be at least one (1) toilet, bath or shower and washstand to six (6) children. (8-22-76)

c. Windows must be properly screened and the house adequately ventilated and lighted. (8-22-76)

d. The house and premises must be kept clean and sanitary. (8-22-76)

e. Provisions must be made for the isolation and special care of any members of the household who become ill. (8-22-76)

03. The Home And Its Environs. (8-22-76)

a. The group home must be in a residential or rural area to avoid hazards to the safety of children. (8-22-76)

b. The group home must be in a district where children can attend a school which is reasonably accessible. The home must also be in a location accessible to medical care, visits from parents and from representatives of the Department. (8-22-76)

c. The home must have sufficient room to accommodate children in a comfortable, safe, and sanitary way and have sufficient space and suitable facilities for indoor and outdoor play. For toddlers, an enclosed yard is preferable; if not enclosed, supervision to provide adequate protection at all times must be given. Adequate fencing of play space will be required if there is any other hazard to safety from which a child must be protected. (8-22-76)

d. Basement rooms must not be used for the care of children or as play rooms unless they are dry,

adequately heated, lighted, and ventilated, and have adequate floor covering. (8-22-76)

e. Rooms must be comfortably furnished and provision must be made for the proper care of clothing and personal belongings. (8-22-76)

f. The home schedule must provide children enrolled in school with time for study. Well-lighted quiet space must be provided for this purpose. (8-22-76)

g. The home must be adequately heated. (8-22-76)

h. Foster children must sleep in bedrooms with ample light and ventilation and must be under close supervision and within call of an adult at night. No foster children may sleep in an unfinished attic, stairhall, or room commonly used for other than bedroom purposes. No foster child may sleep in a detached building unless the provision for close supervision and within call of an adult at night are met to the satisfaction of the Department. (8-22-76)

i. Children must have individual beds. A double bed may be occupied by two (2) brothers, or two (2) sisters of comparable age when no health, behavior, or other reasons exist to make this undesirable. Each bed must have a good spring, a clean, comfortable mattress, and adequate bedding; for infants and bedwetters, rubber sheeting or satisfactory substitute must be provided. Space must be sufficient to meet the occupancy standards of state and local building codes. (8-22-76)

j. Children may not sleep in the same room with an adult, and no child over the age of one (1) year may sleep in a room with the houseparents except in case of the child's illness, when nursing care is needed. (8-22-76)

k. No child over five (5) years may sleep in the same room with any person of the opposite sex. The only exception to this rule would be for severely and profoundly handicapped and nonambulatory children. (8-22-76)

l. Reasonable precautions must be taken to prevent small children from having access to machinery, tools, irrigation ditches, medicine chests, and other hazards to their safety. (8-22-76)

m. Balconies and stairways accessible to children must be protected by substantial railings. (8-22-76)

n. Gates must be provided at the head of each flight of stairs to which children under the age of five (5) have access and must be closed at all times. (8-22-76)

o. Screens on all windows must be sufficiently strong and securely fastened to prevent falls from open windows. (8-22-76)

p. Railings must be provided for the beds of all children under the age of two (2) years. (8-22-76)

04. Physical Care Of Children. (8-22-76)

a. The diet must be well balanced and adequate to meet the nutritional needs of children and must be served at regular hours. Consultation will be available from a qualified nutritionist or food service specialist. (8-22-76)

b. Clothing of foster children must be kept clean and in good repair. Individual combs, toothbrushes, wash cloths, and towels must be provided and provision made for keeping them separate. (8-22-76)

c. The houseparents must have current information as to where and how to reach the child's parents, guardian or legal custodian. (8-22-76)

d. The houseparents must have a clear understanding with the parents or agency as to notification of illness, attendance at well-baby clinics, and arrangements for medical care. It is the houseparents' responsibility to make provisions with the parents or agency regarding funds for necessary medical services and to secure the name of

the physician to be called in case of an emergency. (8-22-76)

e. Discipline must meet the needs of each child and must be humane. The home's policy regarding discipline must be established in writing. (8-22-76)

i. Authority to discipline may not be delegated to other children. (8-22-76)

ii. No child may be put to bed or be deprived of meals as punishment. Any practice of placing a child in a closed room must be limited to furnished rooms of adequate space, light and ventilation. Closets, attics, unfurnished basements or out buildings may not be used for confinement purposes. Staff counseling must be available and utilized throughout the time of confinement and all confinement must be documented in accordance with the written policy of the home. (8-22-76)

iii. No child may be subject to corporal punishment or cruel, severe, unusual or unnecessary punishment or to verbal abuse, threats or derogatory remarks about the child or his family. (8-22-76)

f. Homes licensed for boarding care of children may not accept convalescent patients. Homes used for the care of aged persons are not to be used for the care of children. (8-22-76)

05. Number Of Children. (8-22-76)

a. Age and sex of the children for whom the group home is equipped to care for will be determined by consideration of the sleeping arrangements and other factors affecting the safety and welfare of children. The number of children under care at one (1) time must be limited to not more than twelve (12) children, including any children of the group home parents residing at the home. (8-22-76)

b. There must be at least one (1) houseparent or other employee substituting for the houseparent on duty during waking hours for every eight (8) children under care. If there are nine (9) to twelve (12) children in care, an additional staff person must be on duty a minimum of eight (8) hours per day during high activity periods such as waking or breakfast and/or dinner and evening. The home must also assure that competent relief staff are available to allow for vacations and time off for regular houseparent staff. (8-22-76)

c. There must be sufficient domestic maintenance workers so that those employed to give direct care to children may not have their duties interfered with by other responsibilities to the extent that they are unable to give adequate supervision to children in their care. (8-22-76)

526. -- 527. (RESERVED).

528. PHYSICAL AND EMOTIONAL SUITABILITY OF HOUSEPARENTS.

Houseparents must be physically and emotionally suited to care for unrelated children and to deal with problems presented by children away from their own homes and own parents. (1-1-82)

01. Characteristics Of Houseparents. Houseparents must have understanding of the problems of childhood and sympathy for them. They must be able to give the child the affection and security that he needs. Their motivation in taking a child must contribute to his development rather than primarily to their own needs. They must have a "wholesome" attitude toward and intelligent understanding of toilet training, discipline, health, sex education and the various experiences that may have touched a child and with which he may need assistance and guidance. Houseparents must, as a minimum, have one (1) year of experience in the care of unrelated children or will have completed a minimum of eighty (80) hours of training in nutrition, child development, health care, emergency procedures and group process. (1-1-82)

02. Home Life. If married houseparents are employed, there must be a harmonious home life to give children the emotional stability which they need. There must be no marital or personal problems within the home which would result in undue emotional strain in the home or be in any degree harmful to the interests of the children placed there. (8-22-76)

03. Staff Screening. The household must not include persons whose presence is inimical to the welfare

of children. Houseparents and child care staff must be people of good character and habits. (1-1-82)

a. Three (3) satisfactory references will be required for the operators of the facility. (1-1-82)

b. All group foster home house parents and other personnel and volunteers with group foster homes shall participate in a criminal history check as required by Section 39-1211, Idaho Code. The criminal history check will be conducted in accordance with Idaho Department of Health and Welfare Rules, IDAPA 16.05.06, "Rules Governing Mandatory History Checks". (12-10-92)

c. The director or operator must establish, in writing, an effective screening procedure for all staff to be employed in the facility. The screening procedure must address the health, character and basic skills necessary to the appropriate care of children. Use of the procedures in the hiring of all staff shall be documented and the documentation kept on file for at least six (6) months, or as long as the staff person works at the facility. (1-1-82)

04. Health Of Family Members. All members of the household must be in such physical and mental health as will not affect adversely either the health of the children or the quality and manner of their care. A written report of good health from a regularly licensed physician will be required for all staff handling food or employed in child care at the time of employment and annually thereafter. The report must verify that the employee is free from infectious or contagious disease and is physically and emotionally fit to discharge his duties properly. (8-22-76)

529. -- 599. (RESERVED).

600. STANDARDS FOR CHILDREN'S AGENCIES, CHILDREN'S TREATMENT FACILITIES AND JUVENILE DETENTION CENTERS.

01. Children's Treatment Facilities. A children's treatment facility provides child care for thirteen (13) or more children and pursuant to Subsections 607.03.a. and 607.03.c. must conform to the Uniform Fire Code and will be considered by the 1991 Uniform Building Code as either: (12-31-91)

a. Nonsecure (unlocked), Group R-1, Congregate Residence (more than ten (10) persons); or (11-22-91)

b. Secure (locked), Group I-3 (for any number of persons). (11-22-91)

02. Juvenile Detention Centers. All juvenile detention centers pursuant to Subsections 607.03.a., 607.03.d.i. through 607.03.d.iv. must conform to the Uniform Fire Code and will be considered by the 1991 Uniform Building Code as secure (locked), Group I-3 (for any number of persons). (12-31-91)

03. Assure Organizational Stability. Children's agencies, children's treatment facilities and juvenile detention centers must assure the organizational stability of their organization which may require incorporation under the laws the state of Idaho. All children's adoptive agencies must be incorporated as nonprofit under Chapter 3, Title 30, Idaho Code, as required by Section 16-1506, Idaho Code. (11-22-91)

a. Except for those agencies or facilities operated by a public or governmental entity, children's agencies, children's treatment facilities, and juvenile detention centers incorporated under the laws of a foreign state or required to be incorporated under the laws of Idaho must file a copy of their Articles of Incorporation with the Department. (11-22-91)

b. Adoption agencies are required to be incorporated as nonprofit under Idaho law, or can register in the state of Idaho as nonprofit or incorporated as a nonprofit agency out-of-state. (11-25-89)

c. Except for those agencies or facilities operated by a public or governmental entity, children's agencies, children's treatment facilities, and juvenile detention centers must have written bylaws which define board structure and organization as well as detailing the philosophy and program. A copy of such constitution and bylaws must be filed with the Department. (11-22-91)

d. For public or governmental children's agencies, children's treatment facilities and juvenile

detention centers, a written statement shall be required and filed with the Department defining board structure and organization including a detailed description of the philosophy and program. (11-22-91)

e. The board of directors for children's agencies, children's treatment facilities, and juvenile detention centers or governing body of those agencies and facilities operated by a public or governmental entity must select and employ an executive to serve at its pleasure and to whom the responsibility for administration of the organization will be delegated. (11-22-91)

f. The boards or governing bodies for children's agencies, children's treatment facilities and juvenile detention centers shall have responsibility for adopting the plans and policies of the organization, but neither the governing board, nor committees, nor members thereof, shall assume the executive duties of administration without the consent of the Department. (11-22-91)

04. Provide Statement. Each children's agency, children's treatment facility, and juvenile detention center shall provide a statement setting forth the organization's purposes and objectives and describing the character and extent of the services which it provides and the geographical area to be served. At time of application for a license or certification, the organization must provide the Department with a copy of a statement promulgated by the board which will set forth: (10-18-88)

a. The purposes and objectives of the organization. This statement shall describe the types of children to be served according to their identified service needs, physical, mental and behavioral characteristics and the requirements for their safety and physical care. (11-22-91)

b. The character and extent of services. This statement shall include the character and extent of services which it offers and maintains including, but not limited to, juvenile detention, residential care, foster family care, adoption services, family services, and the services that are provided for children in care. (10-18-88)

c. The geographical area which is to be served by the organization. Any limitations on services due to geographical location must be described. (10-18-88)

d. Any children's agency, children's treatment facility, or juvenile detention center that provides for the temporary care of children who require secure custody in physically restricting (locked) facilities pursuant to the provisions of the Juvenile Justice Reform Act or other Idaho statutes shall be licensed as a juvenile detention center. This requirement does not encompass seclusion rooms or jails. (11-22-91)

i. The organization shall provide a statement of policy setting forth its purposes and objectives describing the character and extent of the services which it offers as a juvenile detention center as covered in Subsections 600.04.d.ii. through 600.04.d.v. (11-22-91)

ii. The organization shall describe the children to be served in detention according to their status under the Juvenile Justice Reform Act or other Idaho statutes: preadjudicated or postadjudicated, violent or nonviolent offender, traffic, fish and game or watercraft violation, contempt of court, habitual status offender, or runaway from foreign jurisdiction. This statement will describe the children to be served according to their physical, mental and behavioral characteristics and according to the requisites for their safety and physical care while they are in secure custody. Juvenile detention shall not be used as a holding facility for abused, neglected and dependent children or for status offenders except as provided above. (11-22-91)

iii. The organization shall describe the character and extent of services which it offers and maintains including, but not limited to, family services, social work with children in custody, educational services, diagnostic and evaluation services, community service programs, probation services, support and follow-up services, and job placement services. (10-18-88)

iv. The organization shall describe the geographical area which is to be served by the detention center. If the organization accepts referrals of any kind for children who are residents of a foreign state, or if the organization serves as a secure custody facility for children who are wanted in a foreign state or who have run away from home, the organization shall comply with the Interstate Compact on Juveniles, Chapter 19, Title 16, Idaho Code. (11-22-91)

v. The organization shall describe any transportation services offered, and shall provide a statement setting forth policies and procedures for vehicle security, safety, emergency transportation, applicable costs and who shall bear those costs. (10-18-88)

05. Provide Evidence Of Income And Resources. Children's agencies, children's treatment facilities, and juvenile detention centers shall provide evidence of income and resources sufficient to maintain the organization and personnel necessary to achieve its purposes and objectives and to maintain its services. (11-22-91)

a. The organization will describe the facilities and personnel employed. (10-18-88)

b. The organization must have a plan of financing which gives assurance of sufficient funds to enable it to maintain facilities and personnel described as necessary. The organization must present evidence of sufficient funding assured to carry it through the next year of operation and be able to furnish evidence to that effect. At the beginning of each fiscal year the organization must provide the Department with evidence showing details of anticipated income and expenditures for that year. (10-18-88)

601. -- 604. (RESERVED).

605. STAFF REQUIREMENTS.

The implementation of the standard requirement for necessary personnel will require as a minimum: (1-16-64)

01. Administration. A full time executive employed by and responsible to the board who is competent to administer the children's agency, children's treatment facility, or juvenile detention center. The experience and educational qualifications of the administrator for the organization are specified in writing by the appointing authority and shall include, at a minimum, a bachelor's degree in an appropriate discipline, two (2) years experience working with children or juveniles, and three (3) years in staff supervision and administration and/or the completion of a career development program which includes work-related experience, training, or college credits providing a level of achievement equivalent to the bachelor's degree. (11-22-91)

02. Professional Staff. Sufficient child care workers for meeting acceptable standards of practice and quality of the services which the organization undertakes to provide. (10-18-88)

03. Clerical Staff. Adequate clerical services for keeping correspondence, bookkeeping and files current and in good order. (10-18-88)

04. Other Staff. (11-22-91)

a. A minimum staff-child ratio of one (1) child care worker to six (6) children shall be maintained during waking hours when children are present for facilities providing treatment and at least one (1) child care worker awake and on duty and within easy call of children throughout sleeping hours in each building at the treatment facility housing children's sleeping quarters. (11-22-91)

b. A minimum staff-child ratio of one (1) child care worker to six (6) children shall be maintained during waking hours when children are present at facilities providing juvenile detention and a minimum of two (2) child care workers awake and on duty at all times when children are housed in juvenile detention, one (1) of whom must be female, when females are housed in the facility and one (1) of whom must be male, when males are housed in the facility. (10-18-88)

c. Sufficient domestic and maintenance workers so that direct care staff will not have their duties interfered with by other responsibilities to the extent that they are unable to give adequate supervision to children in their care. (10-18-88)

d. Each children's agency or children's treatment facility, other than juvenile detention centers, caring for children must provide for adequate social services to direct plans for intake, discharge, after care, and plan of treatment for each child while in the facility or receiving agency services. (11-22-91)

e. At the time of employment and thereafter as circumstances may require, each employee must

obtain a written statement from a licensed physician that the employee is free from infectious or contagious disease and that the employee is physically and mentally fit to discharge his duties properly. The organization shall have procedures to identify and utilize appropriate isolation of employees if indicated. (10-18-88)

606. (RESERVED).

607. FACILITY REQUIREMENTS.

The minimum standards for physical plant facilities, sanitation and safety for children's agencies, children's treatment facilities and juvenile detention centers which provide group care of children are: (11-22-91)

01. Facilities And Equipment. (11-22-91)

a. The facility must be easily accessible to school facilities, hospitals, churches, recreational facilities, and other community resources. (10-18-88)

b. The facility and equipment including heating and ventilation must conform to the requirements of state and local building codes. (10-18-88)

c. Buildings, grounds, furnishings and equipment must be kept clean and in good repair. (10-18-88)

d. For children's treatment facilities, the cottage plan must be followed in new construction. If existing congregate buildings are used, as many of the elements of family home life as possible must be provided. (11-22-91)

e. Floor coverings must be sanitary and easily kept clean. (10-18-88)

f. If the facility is on the grounds of any type of corrections facility, it shall be a separate self-contained unit. (11-22-91)

g. The population in housing or living units must not exceed the rated capacity of the facility as defined in Subsections 607.02 and 607.03. (12-31-91)

h. Facilities providing group care must be designed and constructed so that juveniles can be grouped in accordance with a classification plan; i.e., the facility should have a sufficient number of rooms or living units in an appropriate configuration so that the various categories of juveniles can be housed separately. This may include the separation of younger and older juveniles, and juveniles accused of, or adjudicated for, serious personal injury offenses. (10-18-88)

i. Children's treatment facilities, juvenile detention centers and any foster homes or adoptive homes licensed or approved by a children's agency shall not house both children and adult clients. (11-22-91)

02. Sanitation. (11-22-91)

a. Annual inspection and approval by the District Health Department will be required. A written report of this inspection shall be maintained in the files of the organization. Such inspection shall be made with reference to: (10-18-88)

i. Idaho Department of Health and Welfare Rules, IDAPA 16.02.19, "Rules Governing Food Sanitation Standards for Eating and Drinking Establishments (UNICODE)". (12-31-91)

ii. Idaho Department of Health and Welfare Rules, IDAPA 16.01.03, "Rules for Individual/Subsurface Sewage Disposal Rules". (12-31-91)

iii. Idaho Department of Health and Welfare Rules, IDAPA 16.01.08, "Idaho Rules for Public Drinking Water Systems". (12-31-91)

iv. Garbage disposal shall be approved by the District Health Department. (10-18-88)

- v. Any other relevant rules. (10-18-88)
- b. There must be adequate, clean, and easily accessible bathroom facilities, including bathtubs or showers, washstands, and toilets which comply with acceptable public health practices as determined by the District Health Offices. There must be at least one (1) toilet to eight (8) children, one (1) washstand to five (5) children, and one (1) bath or shower to twelve (12) children. Separate bathroom facilities must be provided for boys and for girls if the children are over the age of six (6) years. Separate bathrooms must be provided for the staff. (10-18-88)
- c. Sleeping rooms must have sufficient window space for adequate light and ventilation. Each child must have a separate bed, with substantial support, comfortable nonneoprene mattress and nonneoprene bedding. Locked seclusion rooms in any facility and juvenile detention facilities shall have fire-safe mattresses and bedding. Floor space must be sufficient to provide three (3) feet between beds at the sides, and two (2) feet at the ends. Over and under bunk beds may not be used for children under ten (10) years of age. The maximum number of children for each room will be determined in relation to the floor space, but it is desirable that not more than four (4) children be in a sleeping area. Separate sleeping rooms must be maintained for boys and girls. (10-18-88)
- d. There must be sufficient indoor and outdoor space to allow children to participate in a wide range of physical and individual activities. (10-18-88)
- e. For children's treatment facilities, there must be a well-drained outdoor recreation area that is at least two hundred (200) square feet per child. (11-22-91)
- f. For juvenile detention centers, there must be a well-drained outdoor recreation area that is at least one hundred (100) square feet per child. (11-22-91)
- 03. Fire Protection.** (11-22-91)
- a. Children's treatment facilities and juvenile detention centers must conform with the Uniform Fire Code and fire inspections shall be carried out by a state certified fire inspector on an annual basis and before the facility or center is allowed to be occupied. (11-22-91)
- b. Fire drills and disaster drills for the children and staff must be held and logged at least monthly and escape plans must be posted in conspicuous places on each floor level of the facility. (10-18-88)
- c. Children treatment facilities will be considered by the 1991 Uniform Building Code as either: (11-22-91)
- i. Nonsecure (unlocked), Group R-1, Congregate Residence (more than ten (10) persons); or (11-22-91)
- ii. Secure (locked), Group I-3 (for any number of persons); permitted only in buildings of Type I or Type II, Fire Resistive Construction, or within a one (1) story building of either Type II one (1) hour, Type III one (1) hour, or Type V one (1) hour construction provided that the floor area does not exceed three thousand and nine hundred (3,900) square feet between separation walls of two (2) hour fire resistive construction with openings protected by fire assemblies having one and one-half (1 1/2) hour fire protection rating; (11-22-91)
- d. Specific requirements for juvenile detention centers: (11-22-91)
- i. All juvenile detention centers will be considered by the 1991 Uniform Building Code as secure (locked), Group I-3 (for any number of persons), pursuant to Subsection 607.03.c.ii. (12-31-91)
- ii. All buildings used for the purpose of juvenile detention centers, whether they be new or remodels, shall be reviewed by the Building Division of the Idaho Department of Labor and Industrial Services. (11-22-91)
- iii. The fire inspections as required under the Uniform Fire Code, as adopted by the state fire marshal, with authority delegated to the local fire chief, shall be carried out by a state certified fire inspector on an annual basis and before the center is allowed to be occupied. (10-18-88)

iv. A license will not be issued until the center is in compliance with the 1991 Uniform Building Code, the Uniform Fire Code and health rules enumerated in Subsection 607.02. Copies of the permits shall be kept by the licensing agency. (12-31-91)

04. General Safety Provisions. (10-18-88)

a. Reasonable precautions must be taken to prevent children from having access to machinery, tools, irrigation ditches, medicine chests and other hazards to their safety. (10-18-88)

b. Balconies and stairways accessible to children must be protected by substantial railings. (1-16-64)

c. All windows must be sufficiently strong and securely fastened to prevent unauthorized opening of the windows. (10-18-88)

d. All prescriptions and over-the-counter medications must be stored in a locked cabinet and administration must be recorded by authorized personnel and in accordance with physician's orders. (10-18-88)

e. All facilities must have emergency plans for the contingency of hostage or risk situations. (10-18-88)

608. -- 609. (RESERVED).

610. RECORDS AND REPORTS.

Organizations must provide such record keeping and reporting as may be required by the organization's services and by the Department's licensing responsibility. (10-18-88)

01. Record Keeping -- Financial. (12-31-91)

a. The organization must maintain financial records showing the amounts of all income, expenditures, assets and liabilities which are based upon generally accepted accounting principles. (10-18-88)

b. An audit of all financial accounts must be made by an accountant at least once a year. A copy of the audit report must be furnished to the Department. (10-18-88)

02. Record Keeping -- Child Care. (10-18-88)

a. A permanent register of all children accepted for care must be kept and must include for each child the full name, sex, birthdate, name and address of parents or guardian, name and address of person, court or organization placing him, dates of admission and discharge and name and address of person or organization to whom discharged. Each entry in the record must be signed by the person making that entry. (10-18-88)

b. Except for the provision of temporary shelter care or juvenile detention of children or as otherwise provided by contract with the Department, facilities must maintain case records for each child accepted for care. These records must include: (10-18-88)

i. The following identifying information: The child's full name, birthdate, birthplace, and religion of parents and child. Parents' full names, including mother's maiden name; addresses; date and place of marriage; if deceased, date, place and cause of death; if divorced or separated, date and place of same; names, addresses and ages of other children in the family; names and addresses of near relatives; (10-18-88)

ii. Date and source of intake; (1-16-64)

iii. Intake and social study; (1-16-64)

iv. Signed written agreement, contract or court order establishing authority to accept and care for child, including authority to consent to necessary medical and surgical care; (1-16-64)

- v. Explanation of custody and legal responsibility for child; (1-16-64)
 - vi. Evaluation of the child's physical, social and emotional development and of any special problems and needs he may present including medical, surgical and dental care, and a copy of the child's medical provider number, if any; (10-18-88)
 - vii. Plan for the care of the child in relation to his problems and needs including specific goals and objectives with projected dates for achievement, and projected discharge plan and date; (10-18-88)
 - viii. Chronological or summary recording of services provided to or on behalf of the child and summary of the child's progress under care; (1-16-64)
 - ix. School reports including grades and adjustment; (10-18-88)
 - x. Individual medical records for each child, including reports of the admission examination and a complete and continuous record of the illnesses, immunizations, communicable diseases, follow-up treatments and periodic re-examinations and recommendations (except juvenile detention and shelter facilities); (10-18-88)
 - xi. Record of dental examinations and treatment; (1-16-64)
 - xii. Reports of psychological tests or psychiatric examinations and follow-up treatment if obtained; (1-16-64)
 - xiii. Record of contacts with the child's own family; (1-16-64)
 - xiv. Discharge and plan for after care; (1-16-64)
 - xv. For children in placement, a permanent record shall be maintained to include the dates of visits to the child in the facility and by whom made, and visits by the child to family, relatives or friends. (10-18-88)
- c. The organization making foster home placements must keep individual foster home records for each foster home used by the organization. These will include a placement sheet, showing names of children placed in the home, with dates of placement and removal; report of foster home study; and reports of regular evaluations of the home. (10-18-88)
- d. The organization making adoptive placements must maintain a case record of each adoptive applicant from the time of application for a child through disposition of the application or through the completed placement, legal adoption and/or termination of service and must include an account of the adoptive home study. When a child has been placed for adoption, the record must include identifying information; the date of placement; any reports received from physicians, psychiatrists or psychologists; an account of the circumstances of the placement and the ensuing supervision; and an account of the information given to the adopting parents about the child and his natural family. Copies of all relevant documents must be included in the record. (10-18-88)
- e. Juvenile detention centers must maintain, in addition to the requirements of Subsection 610.02.a., the following: (12-31-91)
- i. Court case number, if any; detention facility admission number; legal status (authority for placement in detention); name of attorney, if any; name, title and signature of delivering officer; specific charge(s); race; religion; health status; medical consent forms; driver's license, social security and medical card numbers, if applicable; date of petition; court and disposition, if any; inventory of property, cash, or valuables; and emergency contact. (10-18-88)
 - ii. Records of all court appearances; signed releases of information; instances of information released; law violations and unusual incidents; incidents of injury or illness; names of visitors and dates and times of visits; telephone calls received by juveniles and telephone calls made out of the facility by juveniles; the name and telephone number of the assigned probation officer or social worker; grievances filed by a juvenile and grievance

disposition; reports of transfer or discharge; and the juvenile's acknowledgment of rules and grievance procedures. Statistical reports must be provided as required by statute or rules. (10-18-88)

iii. Records of all medical care, illnesses, doctors, dentists and other health care professionals seen. A log must be maintained of all medication, whether prescribed or over-the-counter and of any first aid administered. (10-18-88)

iv. Entries into juvenile records must be dated and signed and shall be maintained until the individual reaches the age of twenty-five (25). (10-18-88)

f. Representatives of the Department under specific authorization by the organization's administrator must be granted access to all records and must treat them confidentially. The use of all information thus acquired from the records and reports must be restricted to purposes connected with the licensing responsibility of the Department. (10-18-88)

g. Case records must be kept in a safe and secure location. Policies and procedures must be established to insure the confidentiality of case records. (10-18-88)

03. Record Keeping -- Personnel. (10-18-88)

a. The organization must maintain personnel records which contain: (10-18-88)

i. A record of a pre-employment physical examination and any subsequent reexamination of staff having regular contact with the children or juveniles. (11-22-91)

ii. Documentation of a criminal background check. Refer to Section 611. (12-31-91)

iii. A record of the date of birth, address, Social Security number, date of employment and separation or termination for all employees. (10-18-88)

iv. Copies of all written warnings, reprimands and reasons for separation or termination. (10-18-88)

v. Documentation of an employee's qualifications for the position he was employed for. (10-18-88)

vi. Written performance evaluations at least annually. (10-18-88)

vii. Records shall be made available to the sheriff or other law enforcement agency in any criminal investigation. (11-22-91)

b. Written personnel policies shall, at a minimum, contain: (10-18-88)

i. A table of organization showing clear lines of authority and responsibility. (10-18-88)

ii. A description of the duties and responsibilities for each position, together with the minimum qualifications for that position. (10-18-88)

iii. A clear statement of nondiscrimination. The organization shall establish and implement an affirmative action plan which offers equal opportunities to all persons in all phases of employment. This affirmative action plan shall ensure equal opportunities for all persons regardless of race, religion, age, gender or ethnic origin. The nature of some program operations dictate that gender-sensitive job assignments should be duly reviewed to ensure compliance with bona fide occupational qualification exceptions recognized in Title VII of the Civil Rights Act. (11-22-91)

iv. A description of the training program to develop and upgrade staff skills. Each organization shall have a written policy regarding employee training. Mandatory initial training and mandatory ongoing training shall be identified as well as the availability of training to maintain and/or upgrade skills. Supervisory, support and direct

service staff will receive fundamental as well as advanced training in designated areas. Individual training records will be maintained on all employees. (11-22-91)

v. Allocation of role responsibility in the event of absence. There shall be a written policy addressing the provision for coverage of job responsibilities in the event of absence from work. (11-22-91)

vi. Policies regarding confidentiality. Each organization shall have a written policy regarding the safe-keeping and confidentiality requirements with reference to client records. Employees will be individually instructed regarding professional standards for maintaining confidentiality of records. (10-18-88)

611. MANDATORY CRIMINAL HISTORY CHECK.

All owners, administrators, operators, employees and volunteers with children's agencies, children's treatment facilities, juvenile detention centers and state operated facilities shall participate in a criminal history check as required by the Child Care Licensing Reform Act, Title 39, Chapter 12, Idaho Code. The criminal history check will be conducted in accordance with the Idaho Department of Health and Welfare Rules, IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks". (12-10-92)

612. PROVISIONS FOR SAFETY AND PHYSICAL CARE OF CHILDREN.

Organizations must assure the safety and physical care of children for whom the organization assumes or accepts responsibility. The safety and physical care of children for whom the organization assumes or accepts responsibility is to be one of the purposes and objectives of the organization. Facilities and personnel necessary to achieve the organization's purposes and objectives as described include the following requirements for the safety and physical care of children for whom the organization assumes or accepts responsibility. (11-22-91)

01. Clothing. Clothing must be provided, or be available, of a quality and quantity related to the age and needs of the child and in the case of a child in placement to the standards of the the community in which he is living. (10-18-88)

02. Activities. Each child must have opportunity for a variety of constructive leisure-time activities, exercise and recreation. (10-18-88)

03. Health Services. (10-18-88)

a. The following health services must be provided by children's agencies and children's treatment facilities: (11-22-91)

i. There must be a physical examination within thirty (30) days of admission by a physician licensed to practice medicine in the state of Idaho. The admission examination must include a thorough physical examination of the child and a written report by the physician of his findings and recommendations. A medical history and record of immunizations received must be obtained from a family physician or parent if at all possible. (11-25-89)

ii. The organization must make provision for immunizations and annual examinations. (10-18-88)

iii. The organization must make provision for initial dental examinations within sixty (60) days of admission and necessary treatment, including necessary prophylaxis, extraction, repair, and restoration. Examinations must be made at least annually. (10-18-88)

b. The following health services must be provided by temporary shelter and juvenile detention centers: (11-22-91)

i. Medical screening upon admission by a child care worker who has been medically trained by a medical professional to perform the screening. Screenings indicating further follow up attention shall be promptly reviewed by a medical professional; (11-22-91)

ii. A health appraisal by a medical professional for placements of more than seven (7) days duration. (11-22-91)

- c. The following services apply to all facilities including temporary shelter and juvenile detention centers: (11-22-91)
- i. The organization must make provision for the treatment of illnesses and for carrying out corrective measures and treatment, and for the administration of medication as ordered by the physician. (10-18-88)
 - ii. The organization must make provision and establish procedures for necessary hospitalization of children under its care. (10-18-88)
 - iii. There shall be a procedure to screen for possible communicable diseases at the time of admission and for appropriate isolation of children when indicated. (10-18-88)
 - iv. Additionally, the following provisions must be made by all facilities: (10-18-88)
 - (1) Staff must be familiar with signs of contagious and infectious disease and must be watchful for such signs. (10-18-88)
 - (2) There must be adequate first-aid facilities, approved by a physician, and at least one (1) staff member on duty at all times who must have received recent (within one (1) year) training in first-aid and cardiopulmonary resuscitation (CPR) such as taught by the American Red Cross or the equivalent. (10-18-88)
 - v. In juvenile detention centers, written policy and procedure provide for screening, care and/or referral for care for mentally ill or retarded juveniles. The responsible physician has designated, in advance, specific referral resources (i.e., hospitals). (11-22-91)

04. Grievance And Disciplinary Procedures. All children's treatment facilities and juvenile detention centers: (11-22-91)

- a. Shall have written grievance and disciplinary procedure which is explained and made available to children in care. All children in care shall be given a written copy of these procedures and shall sign an acknowledgement that they have received a copy and have had the procedure explained to them. The grievance procedure shall have at least one (1) level of appeal. (10-18-88)
- b. Supervision, training and discipline must be in the best interest of the children and must be humane. There shall be no humiliating, degrading, or corporal punishment of any kind. Deprivation of meals or sleep shall not be permitted. Punishment and discipline must be appropriate to the age and understanding of the child. (10-18-88)
 - i. Discipline either in the form of lock-up or disciplinary restriction shall be administered only by staff and never delegated to a minor. (10-18-88)
 - ii. Children shall not be placed in a position of attention as a means of punishment, such as standing in a corner, sitting in the middle of a room on the floor, etc. (10-18-88)
 - iii. Physical exercise beyond the point of moderation shall not be permitted. (10-18-88)
 - iv. Open humiliation before a minor's peer group shall not be permitted. (10-18-88)
 - v. No child should ever be deprived of any of the following rights as a means of discipline: (10-18-88)
 - (1) A place to sleep with a pillow, blanket, and sheets. (10-18-88)
 - (2) Complete meal. (10-18-88)
 - (3) Clean clothes. (10-18-88)
 - (4) Parental and/or attorney visits. (10-18-88)

- (5) Time necessary for personal hygiene. (10-18-88)
- (6) Minimum exercise. (10-18-88)
- (7) Telephone contact with child's attorney. (10-18-88)
- (8) The right to send and receive mail. (10-18-88)
- (9) Daily shower and access to toilet and water facilities as needed. (10-18-88)
- (10) Voluntary attendance at religious services and/or religious counseling. (10-18-88)
- (11) Clean and sanitary living conditions. (10-18-88)

05. Suicide Prevention. There shall be a written suicide prevention plan addressing the varying needs of the population. (10-18-88)

06. Diet. The diet must be well balanced and adequate to meet the nutritional needs of children, and meals must be served at regular hours. Menus shall be planned by or receive prior approval by a physician, certified dietician or nutritionist. Menus must be adhered to by those preparing meals, with any variation from planned menus noted in the records. Records of menus served must be kept on file for at least six (6) months. Staff shall be served the same meals as children. There shall be documentation that the facility's system of dietary allowance is reviewed at least annually by a dietician or nutritionist or physician to ensure compliance with recommended basic daily servings. (10-18-88)

07. Hygiene. Individual or single use towels, wash cloths, toothbrushes, combs, and other toilet articles must be provided, and individually marked, and stored separately. (10-18-88)

08. Personal Belongings. Provision must be made for the proper care of each child's clothing and personal belongings. (10-18-88)

09. Educational Requirements. All children currently enrolled in school shall continue in that school when possible, or in an appropriate alternative. An alternative shall be developed in cooperation with public schools. A child shall be compelled to participate in an educational program only in compliance with the compulsory education law, and/or prior conditions imposed by court order. (10-18-88)

a. Children must be provided educational services according to their needs and abilities during the normal school year. (10-18-88)

i. The facility schedule must provide children enrolled in school with time for study. Sufficiently well-lighted and quiet rooms must be provided for this purpose. (1-16-64)

ii. Children must be enrolled in the most normal, least restrictive educational environment appropriate to their needs, circumstances, and abilities. (10-18-88)

iii. Educational programs in detention facilities shall be designed to assist detained juveniles in keeping up with their studies. Educational programs shall be made available for a minimum of four (4) hours per day, and shall be conducted by personnel with suitable qualifications and credentials. (11-22-91)

b. Any participation of the children in the work of the facility, such as household tasks, cooking, helping care for younger children, or care of the grounds, etc. must be planned as a educational process and not for the primary purpose of supplementing or substituting for paid labor. (10-18-88)

10. Recreation Programs. Written policy and procedure shall provide a recreation and leisure-time plan that includes at least one (1) hour per day of large muscle activity and one (1) hour of structured leisure-time activities. (10-18-88)

- a. The facility shall provide adequately designed and maintained indoor and outdoor activity areas, equipment, and equipment storage areas appropriate for the age group for which it serves. There shall be a variety of activity areas and equipment so that all children can be active participants in recreation programs. (10-18-88)
- b. Each child must have opportunity for constructive leisure-time activities: (1-16-64)
 - i. Provision must be made for supervised recreation for all children in the institution, with time allowed for active play and quiet play and for both organized play and free play; (1-16-64)
 - ii. Sufficient durable equipment must be provided for both indoor and outdoor recreation for all age levels; (1-16-64)
 - iii. Facilities other than juvenile detention facilities must provide for participation in community recreation facilities offered by school, church and community groups if appropriate for the children in care. Children must be permitted to have memberships in local organizations such as Boy Scouts, Girl Scouts, YMCA and YWCA if appropriate for the children in care. Determination of appropriateness for such activities will be based upon standards of least restrictive environment. (10-18-88)

11. Mechanical Restraint. Written policy and procedure provide that instruments of restraint are never applied as punishment and are applied only with the approval of the facility administrator or designee. The facility shall have written policies on the use of mechanical restraints and those using such restraints shall be trained in their proper use. The policies must be available to minors, their parents or guardians, and referral sources at the time of admission. Such policy shall be substantially similar in content to the following current standards of good practice: (10-18-88)

- a. Restraints will be used only as a last resort when therapeutic techniques have not worked. One of the following must be demonstrated: (10-18-88)
 - i. The child is emotionally and/or physically uncontrollable and constitutes a serious and evident danger to himself or others. (10-18-88)
 - ii. The child is causing or threatening to cause serious property damage. (10-18-88)
 - iii. An attempted escape is imminent and the child is out of control. (10-18-88)
 - iv. Should the child be unable to gain control and when the present behavior or the documented past history of the child shows a clear and present danger to himself, or others, or an attempted escape is imminent or the medical restraints portion of this policy are met, then restraints may be used. (10-18-88)
 - v. Restraints will be used only when one (1) or more of the above conditions exist. (10-18-88)
 - vi. Once the child has regained control, child care workers will counsel with the child about the behavior and problems experienced. (10-18-88)
- b. Restraints shall be prohibited: (10-18-88)
 - i. When there are specified medical reasons pursuant to a licensed physician's order. (10-18-88)
 - ii. As punishment, for convenience of staff or as a substitute for program. Children are never to be restrained to a fixed object. (10-18-88)
- c. Prior to using restraints: (10-18-88)
 - i. Child care workers will use their therapeutic training skills to talk with the child to attempt to resolve the disturbance. (10-18-88)

- ii. Child care workers will inform the child that if his behavior continues, they will have to intervene to help the child regain control if the child is unable to do so independently. (10-18-88)
 - d. Use of restraints: (10-18-88)
 - i. All restraints will be soft restraints. (10-18-88)
 - ii. Restraints will be utilized in the most humane way possible; i.e., restraining the child's wrists to his sides, ankle restraints only to secure ankles together. (10-18-88)
 - iii. If the child is out of control to the degree that the child care worker determines the child may harm himself or others while the soft restraints are being applied, the worker may initially use metal handcuffs until the child can be appropriately placed in soft restraints. Generally a child should not be in handcuffs more than five (5) minutes. (10-18-88)
 - iv. When a child is placed in restraints, medical professionals will be contacted immediately. The medical professionals will make a visual check of the child to assure that the restraints are properly fastened. (10-18-88)
 - v. After one (1) hour has elapsed with the child in restraints, or should the child be released from restraints and have to be placed back in restraints, the supervisor will obtain the medical professional's opinion relative to continuation of the restraint. It will be the medical professional's responsibility to assess the problem and bring to bear any resources necessary to eliminate the problem. (10-18-88)
 - vi. A child shall be released from the restraints as soon as the restraints are no longer needed and the medical professional shall be notified of the release. (10-18-88)
 - e. Transportation of children: (10-18-88)
 - i. Handcuffs with belly chains will be used when transporting children considered to be security risks. Such determination of security risk shall be made by the person providing transportation. (10-18-88)
 - ii. When transporting children who are security risks, there must be a child care worker of the same sex in attendance. (10-18-88)
 - iii. When rest stops and meals must be provided to a child during transportation, these stops should be made in areas with a minimum exposure to the public. This helps minimize security problems and embarrassment to the child. (10-18-88)
 - iv. A child care worker will accompany the child during restroom stops. (10-18-88)
 - v. When a staff member is transporting, all children shall have their seat belts fastened and all doors locked. Under no circumstances will children be restrained to a vehicle. (10-18-88)
 - f. Reporting and documentation procedures: (10-18-88)
 - i. Documentation of procedures as noted herein should be made through notations in the facility records. (10-18-88)
 - ii. Any use of restraints requires that a report be made at the time of the occurrence on a statement form specifically describing the reasons and actions making restraints necessary. The report must be specific regarding length of time in restraints. This report shall be in writing and descriptive in detail in order to provide a clear understanding of the incident upon subsequent review. (10-18-88)
- 12. Firearms.** Firearms are not permitted in any facility except in emergency situations defined in facility policy. (10-18-88)

- 13. Seclusion Rooms.** The facility must have a written policy on use of seclusion rooms. (10-18-88)
- a. Seclusion shall not be used as punishment. Seclusion may be used as a means of intervention when the child is out of control or is in danger of harming himself or others. Seclusion shall be used only for the time needed to change the behavior compelling its use. (10-18-88)
- b. In an open setting a child shall not be locked in any room or space other than in a seclusion room which has been previously approved by the Licensing Authority. (10-18-88)
- c. Where provision is made for seclusion, whether in an open or secure setting, the following conditions shall apply: (10-18-88)
- i. All staff shall be furnished with a copy of the policies regarding the use of seclusion. This policy must specify who may approve the placement of a child in seclusion. Staff involved in the use of the seclusion shall participate in staff training related to the policies and proper implementation. (10-18-88)
- ii. No more than one (1) child shall be placed in each seclusion room. (10-18-88)
- iii. A child in seclusion shall be observed visually by staff at least every fifteen (15) minutes and the observations recorded in a seclusion log. The log shall include: name of child, time of placement in seclusion, name of staff responsible for the placement, description of specific behavior requiring seclusion, and detailed observation notes by each involved staff member and time of removal from seclusion. A detailed incident report shall be completed upon occurrence. (10-18-88)
- iv. When seclusion rooms are used there should be no more than one (1) locked door between the child and staff member, who is within hearing distance. (11-25-89)
- v. Any use of seclusion requires that a report be made upon occurrence describing the reasons and actions making use of seclusion necessary. The report must be specific regarding length of time in seclusion. This report shall be in writing and descriptive in detail in order to provide a clear understanding of the incident upon subsequent review. (10-18-88)
- 14. Juvenile Detention Facility Specific.** At any time when children are housed in the facility: (10-18-88)
- a. There shall be a minimum of two (2) child care workers awake and on duty at all times in the facility, one (1) of whom is female, when females are housed in the facility and one (1) of whom is male, when males are housed in the facility. (10-18-88)
- b. The juvenile detention facility must adopt a written policy and procedure that provides for and regulates juvenile movement. (10-18-88)
- c. Juveniles have a right to a program of supervision, care, counseling and/or placement that complies with the dispositional order of the court and that will best meet the juvenile's personal growth and development needs. While the juvenile should have the right to refuse services, the center administration must provide those services required by the dispositional order of the court or those that are legally required of all juveniles, such as school attendance. (11-22-91)
- d. A written plan must be established by the juvenile detention center and reviewed by legal counsel governing searches at the center and of juveniles to control contraband or escape plans. The written plan must provide that only professional medical personnel are to conduct any genital or anal body cavity searches for contraband. (11-22-91)
- 15. Reporting Of Child Abuse/Neglect.** To ensure the safety of the children in the facility, all suspected incidents of child abuse and/or neglect shall be reported immediately to the Department. The facility administrator shall initiate a thorough investigation and administer appropriate disciplinary action if facility staff are

involved. (10-18-88)

613. ESTABLISHING LEGAL STATUS OF CHILDREN.

Children's agencies, children's treatment facilities and juvenile detention centers must establish the legal status of each child accepted for care and the legal authority and responsibility of the organization for the child. (11-22-91)

01. Determination Of Guardianship/Custody. Upon acceptance of the child the organization must determine promptly who has legal custody or guardianship of the child and must make certain that there is a legally responsible individual to act as guardian of the child. (10-18-88)

02. When Consent Required. (10-18-88)

a. Organizations shall not accept a child for care for longer than twenty-four (24) hours, excluding Saturdays, Sundays and holidays, without the written consent of the parents, guardian or legal custodian, or without a court order, and must discharge him only to the parents, guardian or legal custodian or upon court order. (11-22-91)

b. Except for maternity care the organization must have in its files a written agreement signed by the parents, guardian or legal custodian or a copy of the court order which establishes the child's custody and authorizes care and/or placement by the organization. (10-18-88)

03. Limits Of Authority. Planning for a child must be limited to the extent of the legal authority and responsibility of the organization. Legal responsibility vested in an organization must be retained until legally terminated. (10-18-88)

04. Court Proceedings On Terminations. If termination of the parent and child relationship or the establishment of guardianship or legal custody becomes necessary by reason of unsuitability or death of a parent, the organization must bring the matter to the attention of the court. (11-22-91)

05. Limitations On Adoption Arrangements. No organization may place a child for adoption or arrange or participate in the arrangement of an adoptive placement of a child or in any manner be accessory to an adoptive placement of a child unless the organization is licensed as an adoption agency, legal custody of the child is vested in the organization and the organization has authority under the laws of Idaho to consent to the adoption of the child. (11-22-91)

614. INTAKE POLICY.

Organizations must provide a statement of intake policy which shall set forth criteria for admitting children for care or service in relation to the organization's purposes and facilities. (11-25-89)

01. Policy Development. The policy of the organization as it pertains to the admission of children for care or service must be developed with due regard to the purposes and objectives of the organization; to the establishment of the legal status of each child admitted; to the services which the organization offers and maintains and to its facilities. The statement must express the policy of the organization concerning a child in behalf of whom admission to care or service is sought but whose legal status is unclear or whose acceptance is inappropriate to the services and/or facilities of the organization. (10-18-88)

02. Description Of Facilities. The organization must describe its facilities for services and care for children. (10-18-88)

03. Intake Study. The admission policy must include the requirement that sufficient written information be received at intake which describes each child and his circumstances in such detail as may be necessary to a determination as to whether he may be accepted for care, and to enable the development and implementation of the best plan for his care. (10-18-88)

615. STUDIES OF FOSTER HOMES.

Children's agencies must provide through observation and collateral inquiry for studies of homes to determine the adequacy of foster homes in relation to the needs of the children. The standards for approval of foster homes must be substantially the same as provided for in Sections 400 through 411 for foster care. (12-31-91)

01. Social Study. A thorough and complete social study must be made of each foster home into which a child is to be placed. Such a study will include full identifying information about each member of the household, information about the compatibility of the parents and the adjustments of their own children; the reasons for accepting or wanting a child to be placed; the educational, social and cultural characteristics of members of the family, an appraisal of their feelings, attitudes and expectations in regard to accepting a child for placement, the history of any significant experiences or associations with other children, an appraisal of their capacity to provide good care and training to an unrelated child placed with them and to accept such a child as a member of the family, and information about the employment of the principal wage earners of the household. (10-18-88)

02. Suitability. For each placement the home must be selected which is best suited to meet the needs of the child. The decision to approve or disapprove a foster home for placement must be made by the social service staff of the organization placing the child. (10-18-88)

03. Monitoring. The organization must observe each placement by means of visits or by means of reports of visits to the home conducted by correspondent child care agencies. Such visits must be as often as necessary but in no instance less frequently than once every thirty (30) days in order to ensure that the child is receiving proper care and to assist the family in understanding the child and meeting his needs. (10-18-88)

04. Placements Limited To Licensed Or Approved Foster Homes. Placements for foster care must be made only in those homes currently licensed by the Department or approved by the organization to provide such care. (10-18-88)

05. Records. Records of foster care placements must be maintained and must include the foster home study, evidence that the home is licensed or approved, a list of the names, ages and dates of placement of children placed, and the dates of and reasons for the removal of the children from the home. (10-18-88)

06. Adoptive Placement Study. A study of each home considered for adoptive placement must be made to assess and determine the prospective parents' maturity and health; their capacity to provide a child with love, moral and spiritual guidance, a happy and stable home, adequate physical care and reasonable financial security. The study must include interviews with husband and wife separately and together. Appropriate medical reports must be obtained regarding the health of adoptive applicants. (11-25-89)

07. Mandatory Criminal History Check. All applicants for a children's agency adoption study shall participate in a criminal history check as required by Section 39-1211, Idaho Code. The criminal history check will be conducted in accordance with Idaho Department of Health and Welfare Rules, IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks". (12-10-92)

08. Consent To Adopt. Consent to adopt may not be given until sufficient time has elapsed following the placement to permit such observation as to assure the agency that the adoption should be completed. Such an interval may not be less than six (6) months, provided that this interval may be reduced to three (3) months if the prospective adoptive parents are compelled to leave the state as a result of transfers ordered by employers or in the case of military service personnel by military authorities. (12-10-92)

616. (RESERVED).

617. SPECIAL PROVISIONS FOR CHILDREN'S AGENCIES AND CHILDREN'S TREATMENT FACILITIES SPECIALIZING IN MATERNITY CARE.

01. Social Services And Legal Rights. Children's treatment facilities and children's agencies that specialize in maternity care to minors shall provide social services on behalf of both the mother and infant, and provide protection of the legal rights and rights to confidential treatment of minor parents and their children. (11-22-91)

a. Social work services must be available to each minor parent to assist her in making plans for her care and in making decisions that will be in the best interest of herself and her child. (11-22-91)

b. The decision for the final plan for the child rests with the minor parent, and she must not be required to sign a statement committing her to any definite plan for her unborn child. (11-22-91)

c. Staff must respect the confidence of minor parents at all times with regard to their personal affairs. (11-22-91)

d. Case records must be held confidential and information contained in them must not be disclosed contrary to Idaho Department of Health Welfare Rules, IDAPA 16, Title 05, Chapter 01, "Rules Governing the Protection and Disclosure of Records". (12-31-91)

e. The organization may not place minor parents or their babies in homes on either a temporary or permanent basis unless it is licensed by the Department to place children. (11-22-91)

02. Facilities And Personnel. (11-22-91)

a. Facilities: (11-22-91)

i. Appropriate screening and supervision will be used in determining the sleeping arrangements for all clients. Each minor parent must have a place of her own to keep personal possessions. (11-22-91)

ii. Minor parents shall have physically separate sleeping areas if located in the same building as sleeping areas for adults. (11-22-91)

iii. There must be separate space for recreational activities and opportunities for quiet and privacy for individuals. (1-16-64)

iv. There must be a variety of leisure-time equipment such as table games, radios, record players, movies, books and magazines and arts and crafts supplies. (1-16-64)

v. Adequate bathing and toilet facilities must be located near the bedrooms, with a ratio of one (1) toilet, one (1) tub or shower, and one (1) lavatory to each six (6) minor parents. (11-22-91)

vi. Rooms serving as part of the hospital unit and nursery must meet requirements of the Department, and be licensed by that Department. (1-16-64)

b. Personnel. (1-1-82)

i. There must be a registered nurse on duty in the building or on call at all times. (1-1-82)

ii. There must be competent and continuous supervision of the nursery by a registered nurse or person licensed to practice medicine and surgery in the state of Idaho. (1-16-64)

iii. Physicians employed by or used by the institution must be licensed to practice medicine and surgery in the state of Idaho. (1-16-64)

iv. There must be sufficient house staff for household management, meal planning, directing activities, and for cooking, laundry work, cleaning and maintenance. (1-16-64)

v. There must be on duty at all times one (1) attendant for every ten (10) minor parents and another attendant for every six (6) babies. (11-22-91)

03. Record Keeping And Reporting. The organization must keep case records for all minor parents which must be treated confidentially and kept in a locked file cabinet. These records must include: (11-22-91)

a. The following identifying information: The minor parent's full name, birthdate, address, and occupation. Parents' names and address; date of entering the treatment facility; report of physical examination; statement as to persons knowing of her condition who might be notified in case of an emergency; date of discharge

and plan made for the minor parent and her baby; correspondence; signed authorizations and agreements. (11-22-91)

b. Medical and nursing records must be kept by the appropriate staff members. (1-16-64)

c. Except in normal life-saving procedures a witnessed consent signed by the minor parent (in the case of a minor by her parents or guardian) authorizing necessary medical and/or surgical care and hospitalization. (11-22-91)

d. Explanation of custody and legal responsibility for the minor parent if she is a minor. (11-22-91)

e. Chronological or summarized recording of social work service provided to the minor parent. (11-22-91)

04. Safety And Physical Care. The children's treatment facility must have a person licensed to practice medicine and surgery in the state of Idaho or a medical advisory committee composed of such persons to establish a sound medical maternity program, define procedures and determine practices, and approve the physicians to be used for medical services. (11-22-91)

a. The diet must be such as to provide adequate nutrition during the prenatal and postpartum period and will be planned in consultation with the staff physician. (1-16-64)

b. Prenatal Care: (1-16-64)

i. Provision must be made for obtaining a medical and obstetric history. (1-16-64)

ii. A complete obstetrical examination must be given by a physician licensed to practice medicine and surgery in the state of Idaho. (1-16-64)

iii. Continued medical care must be provided, with periodic examinations as indicated. (1-16-64)

c. Delivery: (12-31-91)

i. Organizations providing for delivery within the facility must be licensed by the Department. (12-31-91)

ii. Organizations using local hospitals must use only those hospitals licensed by the Department. (12-31-91)

d. Postpartum Care. Every minor parent must be under the supervision of a physician licensed to practice medicine and surgery in the state of Idaho. (11-22-91)

e. Care of Infants: (1-1-64)

i. There must be a planned program of medical and nursing care of all newborn infants under the supervision of a physician licensed to practice medicine and surgery in the state of Idaho. (1-16-64)

ii. Plans for discharge must be made promptly so that an infant will not remain for a prolonged period of institutional care. (1-16-64)

f. Provision must be made for outdoor and indoor recreation in order to provide physical exercise and leisure-time activities. There must be a planned program to appeal to a variety of interests and skills, including games, music, movies, television, reading and arts and crafts. (1-16-64)

g. Work assignments must be approved by the physician and be designed to provide training and experience in performing household tasks rather than as a substitute for financing adequate staff. (1-16-64)

h. There must be house rules which define the requirements essential in a group living situation and

for orderly maintenance of the children's treatment facility. (11-22-91)

618. STANDARDS FOR CHILDREN'S TREATMENT FACILITIES PROVIDING ALCOHOL-DRUG ABUSE RESIDENTIAL TREATMENT.

Any facility providing alcohol-drug abuse residential treatment to children, either on an occasional (i.e. those facilities who primarily treat adults but who occasionally admit children) or full-time basis, shall meet the standards set forth in this section. (5-24-91)

01. Providing Treatment. An alcohol-drug abuse treatment facility may provide treatment for any number of children with primary alcohol-drug abuse problems and pursuant to Subsections 618.10.a. and 618.10.a.i. must conform with the Uniform Fire Code and will be considered by the 1991 Uniform Building Code as either a Group R-1, Congregate Residence (more than ten (10) persons) or a Group R-3, Congregate Residence (ten (10) persons or less). (12-31-91)

02. Treatment Level Described. The residential treatment program level is reserved for children who require primary alcohol-drug abuse treatment in a residential placement due to the extent of their chemical use problems, behavioral histories, psychological difficulties and environmental situations. A significant proportion of these youngsters will have tried and failed in a lesser level of care; others may have an unsupportive or aversive family environment and background. Denial may be a significant component in some of these children. Any children likely to develop a withdrawal syndrome should be stabilized prior to admission to this level of treatment. Children with medical conditions requiring continuous skilled nursing care or who present any unstable medical or psychiatric disorders are not appropriate for this level of treatment. (5-24-91)

03. Admission Criteria. The facility must provide written criteria defining the conditions which must be met for a child to be admitted to the level of care provided in the facility. (5-24-91)

04. Intake Policy. Facilities must provide a statement of intake policy which shall set forth criteria for admitting children for treatment in relation to the facilities' purposes. (5-24-91)

a. The policy of the facility as it pertains to the admission of children for care or service must be developed with due regard to the purposes and objectives of the facility, to the establishment of the legal status of each child admitted and to the services which the facility offers and maintains. The statement must express the policy of the facility concerning a child on behalf of whom admission to care is sought but whose legal status is unclear or whose acceptance is inappropriate to the services of the facility. (5-24-91)

b. The facility must describe its physical plant for services and care for children. (5-24-91)

c. The admission policy must include the requirement that sufficient written information be received at intake to describe each child and his circumstances in such detail as may be necessary to make a determination as to whether he may be accepted for care, and to enable the development and implementation of the best plan for treatment. (5-24-91)

05. Establishing Legal Status Of Children. Children's treatment facilities providing alcohol-drug abuse residential treatment must establish the legal status of each child accepted for care and the legal authority and responsibility of the organization for the child. Upon acceptance of the child the facility must determine promptly who has legal custody or guardianship of the child and must make certain that there is a legally responsible individual to act as guardian of the child. (5-24-91)

06. Administration. Any facility licensed under this section to provide alcohol-drug abuse residential treatment to children shall establish an administrative structure as required. (5-24-91)

a. A children's treatment facility for alcohol-drug abuse residential treatment must have a governing body which has the ultimate authority for the administration of the overall program. The duties of the governing body shall include, but not be limited to, the following: (5-24-91)

i. The governing body must provide a statement in writing setting forth the philosophy, purposes and objectives of the facility, the organizational structure defining the lines of authority and areas of responsibility and a

description of the character and extent of the services which the facility provides and the geographical area to be served. At the time of application for license, the facility must provide the Department with a copy of this statement. (5-24-91)

ii. The governing body must appoint a qualified administrator with authority and responsibility appropriate to the requirements of the program. The administrator shall meet the minimum standards as set forth in Subsection 618.08.a.ii. (12-31-91)

iii. The governing body must adopt administrative policies which establish the mechanism for delegation of responsibility and accountability for operation and maintenance of the treatment facility. (5-24-91)

iv. The governing body must adopt written policies for the care of children in the facility, and the rights and responsibilities of clients. (5-24-91)

v. The governing body must review and approve an annual budget to carry out the objectives of the program. (5-24-91)

vi. The governing body must review at least annually the bylaws, administrative policies, client care policies, budget and other operational policies of the facility. (5-24-91)

vii. The governing body must issue an annual report available to the public which discloses ownership as required by Subsection 618.06. (12-31-91)

viii. The governing body must maintain minutes of meeting including the date of the meeting, attendance, topics discussed, decisions made and action taken, target dates for implementation of recommendations and all program reports. (5-24-91)

ix. The governing body must insure that documents mentioned in Subsections 618.06.a.i. through 618.06.a.viii. of the facility are consistent with applicable federal and state laws and the rules as adopted by the Department. (12-31-91)

x. The governing body must insure that a copy of the documents aforementioned in Subsections 618.06.a.i. through 618.06.a.viii. shall be written, current, dated and signed by officers of the governing body and readily available to all members of the governing body, the Department and other persons in accordance with their responsibilities or involvement implementing the policies of the facility. (12-31-91)

b. The governing body must establish, and the facility shall maintain, written manuals defining policies and procedures for the management and operation of the facility, including but not limited to, administration, fiscal management, personnel management and client care. (5-24-91)

i. Manuals are to be reviewed and revised as necessary to keep current. (5-24-91)

ii. Manuals must be readily available to personnel of the facility and the Department. (5-24-91)

c. The facility shall recruit qualified personnel sufficient to provide the services needed by children in treatment and properly maintain the treatment facility. (5-24-91)

i. There must be a written job description for each position classification within the facility which shall include the job title, the definition of the position, a summary of the duties, responsibilities and the minimum qualifications and the title of the immediate supervisor; and (5-24-91)

ii. At the time of employment and thereafter as circumstances may require, each employee must obtain a written statement from a licensed physician that the employee is free from infectious or contagious disease, that the employee's immunizations are current and that the employee is physically and mentally fit to discharge his duties properly. The organization shall have procedures to identify and utilize appropriate isolation of employees if indicated. (5-24-91)

- iii. For each employee there must be a current personnel record on file which includes the following:
(5-24-91)
 - (1) Application for including or supplemented by a resume of the employee's education or training and work experience; and (5-24-91)
 - (2) Verification of the employee's professional, technical or vocational education, training, license; and (5-24-91)
 - (3) Verification of the employee's compliance with Idaho Department of Health and Welfare Rules, Title 6, Chapter 4; and (5-24-91)
 - (4) A record of a preemployment physical examination and any subsequent reexamination. (5-24-91)
- iv. A planned and supervised orientation must be provided to each new employee to acquaint him with the organization of the facility, the physical plant layout, his particular duties and responsibilities, the policies, procedures and equipment which are pertinent to his work and the disaster plan for the facility. (5-24-91)
- v. If volunteers are to be used by the facility, there must be a written policy which must include:
(5-24-91)
 - (1) Criteria for recruitment and selection of volunteers; and (5-24-91)
 - (2) Description of duties to be assigned to volunteers and criteria for assigning tasks to volunteers; and (5-24-91)
 - (3) Designation of responsibility for supervision of all volunteers and for periodic evaluation of their performance; and (5-24-91)
 - (4) A plan for the orientation and training of all volunteers appropriate for the tasks assigned; and (5-24-91)
 - (5) An individual record must be maintained for each volunteer which will document his assigned tasks, any orientation training received and any performance evaluations. (5-24-91)
- d. The facility shall provide an annual plan for staff development, training and new employee orientation. The training plan shall be developed appropriate to the level of each staff position. (5-24-91)
- e. The governing body shall be responsible for implementing a fiscal management system that reflects the fiscal experience, history and current financial position of the facility. (5-24-91)
 - i. There must be a reporting mechanism that provides information regarding the fiscal performance of the program and that shows the relationship of the budget with actual experience, including both revenues and expenses by category. (5-24-91)
 - ii. The administrator shall develop an annual written budget which must be approved by the governing body prior to the beginning of each fiscal year of operation. (5-24-91)
 - iii. There must be a report of the financial operations of the program by an independent accountant at least annually. (5-24-91)
 - iv. Where clients are charged for services, there must be a written fee schedule which must be readily accessible to clients. Policies on fees must be approved by the governing body. (5-24-91)
 - f. Children's treatment facilities for alcohol-drug abuse residential treatment shall provide evidence of income and resources sufficient to maintain the organization and personnel necessary to achieve its purposes and objectives and to maintain its services. (5-24-91)

- i. The facility shall describe the physical plant and personnel employed. (5-24-91)
- ii. The facility must have a plan of financing which gives assurance of sufficient funds to enable it to maintain facilities and personnel described as necessary. The facility must present evidence of sufficient funding assured to carry it through the next fiscal year of operation. At the beginning of each fiscal year the organization must provide the Department with evidence showing details of anticipated income and expenditures for that year. (5-24-91)
- g. At least thirty (30) days prior to the acceptance of the first child for treatment, all children's treatment facilities for alcohol-drug abuse shall file with the Department a disclosure report as designed by the Department and containing the information set forth in Section 39-1204, Idaho Code, as follows: (5-24-91)
 - i. The disclosure report must contain the name, address and telephone numbers for each residential facility. (5-24-91)
 - ii. The disclosure report must contain the name, address and telephone numbers for each individual in charge of each residential facility. (5-24-91)
 - iii. The disclosure report must contain the number of children that can be accommodated for child care at each residential facility and a description of the accommodations. (5-24-91)
 - iv. The disclosure report must contain whether or how the children's treatment facility seeks, receives or enrolls children for treatment of special needs such as alcohol-drug abuse, mental illness, emotional disturbance, developmental disability, mental retardation or students who have been identified by the judicial system as requiring treatment, therapy, rehabilitation or supervision. (5-24-91)
 - v. The disclosure report must contain a complete description of the child care services to be provided at each residential facility. (5-24-91)
 - vi. The disclosure report must contain whether or how the children's treatment facility expects to receive payment, including payment from health insurance carriers for identified alcohol-drug abuse treatment needs. (5-24-91)
 - vii. The disclosure report must contain whether or how the children's treatment facility represents to the payor of the child care services provided by the facility that such payment may qualify for health insurance reimbursement by the payor's carrier or may qualify for tax benefits relating to medical services. (5-24-91)
 - viii. The disclosure report must contain a description of the educational programs provided at each residential facility and their accreditation status. (5-24-91)
 - ix. An annual update disclosure report shall be filed by the facility within thirty (30) days of the anniversary of the filing of the initial disclosure report. The Department may waive the filing of an annual disclosure report by any children's treatment facility. (5-24-91)
- h. The administrator of the facility is responsible for the proper preparation, adequacy and presentation of records for all clients admitted to the facility. (5-24-91)
 - i. There must be permanent, current register of all children admitted to treatment that includes the following: (5-24-91)
 - (1) Date of admission; (5-24-91)
 - (2) Full name; (5-24-91)
 - (3) Date of birth; (5-24-91)

- (4) Home address; (5-24-91)
 - (5) Address to which the child is transferred or discharged; (5-24-91)
 - (6) Legal status; and (5-24-91)
 - (7) Primary diagnosis. (5-24-91)
 - ii. In the event that an alcohol-drug abuse residential treatment facility provides more than one (1) category of service such as outpatient or residential service, there must be a separate register for each service of the facility. (5-24-91)
 - iii. There must be an organized record system which provides for maintenance of a current complete treatment record for each child and also provides for a systematic method of identifying and filing client's records for easy access. (5-24-91)
 - iv. Confidentiality of clients' treatment records shall be maintained by storing, handling, acquiring and disseminating them under conditions which allow only authorized persons access to them in accordance with federal regulations regarding confidentiality of alcohol-drug abuse client records. (5-24-91)
 - v. Each child's treatment record must include: (5-24-91)
 - (1) Identifying and demographic data, including full name, sex, birthdate and home address; and (5-24-91)
 - (2) Date of admission; and (5-24-91)
 - (3) Name, address and telephone number of next of kin or other responsible person; and (5-24-91)
 - (4) Name of child's personal physician if any; and (5-24-91)
 - (5) A record of the findings of each health screening and any physical examination by a physician; and (5-24-91)
 - (6) A record of observation of the child's condition; and (5-24-91)
 - (7) A record of drug reactions, allergies and any written orders for a modified diet; and (5-24-91)
 - (8) Written orders for any drugs or medical treatment administered to the child by a physician to be dated and signed by the physician and a record of any administration of a drug or treatment to the child by a physician; and (5-24-91)
 - (9) A record of the child's signed voluntary admission and consent to care and treatment and a record of consent for medical treatment signed by a legal guardian or established through court order; and (5-24-91)
 - (10) A record of discharge or transfer including the date and time; and (5-24-91)
 - (11) The individualized treatment plan; and (5-24-91)
 - (12) A continued assessment of the progress of the child toward the goals and objectives outlined in the treatment plan; and (5-24-91)
 - (13) Entries signed and dated by the person making the entry. (5-24-91)
- 07. Treatment Service Requirements.** Any facility licensed by this section to provide alcohol-drug abuse residential treatment to children shall provide the following minimum components of a treatment program: (5-24-91)

- a. Treatment shall focus primarily on alcohol-drug abuse problems and related issues. Children shall be placed in group counseling sessions, educational sessions and other activities related to treatment with other children who are participants in the program of primary alcohol-drug abuse treatment. (5-24-91)
- b. Treatment shall include a documented initial treatment plan, an ongoing reassessment and a weekly update of treatment plan by a multidisciplinary treatment team. (5-24-91)
- c. Treatment shall include a minimum of twenty (20) hours of structured services every seven (7) day week to include motivational, individual, group and family counseling. (5-24-91)
- d. Treatment shall include a minimum of seven (7) hours of planned, structured, alcohol-drug specific education every seven (7) day week with literature, lectures and audiovisual materials appropriate to the age of the child. (5-24-91)
- e. Treatment shall include minimum schooling as required by Section 33-201 through 33-207, Idaho Code. (5-24-91)
- f. A plan for aftercare services for each child must be included in the admission procedures for residential treatment. This plan shall include the procedures for reintegrating the child into the family and community, and shall also include a plan for outpatient and family services as part of the aftercare program. (5-24-91)
- g. The facility shall provide for the involvement of the family in the treatment process by establishing the following minimum components: (5-24-91)
 - i. For each child in treatment, there shall be a written assessment for the necessary and appropriate level of family involvement. (5-24-91)
 - ii. For each child in treatment, the facility shall establish a written plan for family involvement based on the results of the assessment. (5-24-91)
 - iii. The facility shall provide a listing to the family of therapy or other family services that are available either through the facility itself or through other community service agencies or providers. (5-24-91)
 - iv. The family shall be involved in planning aftercare services prior to the child discharge from residential treatment. (5-24-91)
- h. The facility shall provide a minimum of seven (7) hours of planned, structured recreational/physical fitness activities every seven (7) day week that are appropriate to the child. (5-24-91)
- i. The facility shall provide a plan for recreational/fitness activities that is updated annually and specifies the types of activities. This plan shall be approved, and supervised by a certified recreational therapist. (5-24-91)
 - ii. All recreational and fitness activities shall be supervised appropriately according to the ages of the children involved and the type of activity. (5-24-91)
 - i. The facility shall have established procedures for utilization of ancillary or support services as needed. (5-24-91)
 - i. The facility shall have established written procedures for assessing medical, psychological and special educational needs of children and procedures for making decisions about accessing ancillary services. (5-24-91)
 - ii. When a child shows signs of illness, the facility must consult a licensed physician as soon as possible and follow the recommended course of treatment. Additionally, the facility shall have in place an agreement with the closest medical facility for emergency medical care. (Also see Idaho Department of Health and Welfare

Rules, IDAPA 16.03.02, Subsection 618.10.e., "Rules and Minimum Standards for Skilled Nursing and Intermediate Care Facilities," for required Health Services.) (12-31-91)

iii. The facility shall establish written criteria and procedures to provide for services of a consulting psychologist when necessary or required depending on the needs of the child. (5-24-91)

iv. The facility shall provide an assessment of needs for special education when necessary or required depending on the child. (5-24-91)

j. The facility shall establish a written policy that describes the procedures to be followed in the event a child is unable to complete the course of treatment set forth in the individual treatment plan. (5-24-91)

k. The facility shall establish a written policy for drug testing of children in treatment. (5-24-91)

l. Alcohol-Drug abuse residential treatment facilities which provide treatment to both children and adults shall provide for the separation of children and adults. Recreation, living, and sleeping areas for both children and adults shall be separate and apart such that children shall not share the same wing or the same floor of the facility as adults. Children may share common eating facilities with adults and the facility shall provide for adequate supervision of both adults and children during meals. Programs of treatment, including, but not limited to, group counseling sessions, educational programs, individual counseling, and recreation shall be separate for both children and adults. (5-24-91)

08. Staff Requirements. The following are minimum standards required for personnel in a facility providing alcohol-drug abuse residential treatment. (5-24-91)

a. Staffing. (5-24-91)

i. For facilities providing alcohol-drug abuse residential treatment, a minimum staff-child ratio of one (1) child care worker to six (6) children shall be maintained during waking hours when children are present, one (1) who is female when females are housed in the facility, and one (1) who is male when males are housed in the facility. At least one (1) child care worker must be awake, on duty and within easy call of children throughout sleeping hours in each building housing children's sleeping quarters, one (1) who is female when females are housed in the facility, and one (1) who is male when males are housed in the facility. The child care staff shall have the following combination of qualifications: (5-24-91)

(1) One (1) year experience in the care of unrelated children; or (5-24-91)

(2) Completion of eighty (80) hours of training in nutrition, child development, health care, emergency procedures and group processes; and (5-24-91)

(3) Sixteen (16) hours of training in basic alcohol-drug abuse issues, including dependency, enabling and co-dependency within sixty (60) days of employment; and (5-24-91)

(4) Basic first aid and cardiopulmonary resuscitation (CPR) certification; and (5-24-91)

(5) Qualification of the child care staff shall be verified through written documentation of work experience, education and classroom instruction. (5-24-91)

ii. The facility shall provide for a program administrator with the combination of education and experience as follows: (5-24-91)

(1) Five (5) years full-time paid experience in alcohol-drug abuse treatment with at least one (1) year in administration; or (5-24-91)

(2) Bachelor's Degree in a relevant field and three (3) years paid full-time experience with one (1) year in administration; or (5-24-91)

(3) Master's Degree and two (2) years paid full-time experience with one (1) year in administration;
and (5-24-91)

(4) Knowledge and demonstrated competence in planning, budget and other administrative duties; and
(5-24-91)

(5) Qualifications of the program administrator shall be verified through written documentation of
work experience, education and classroom instruction. (5-24-91)

iii. The facility shall provide for a clinical director who can be the same individual or position as the
program administrator. In those instances where these positions are combined, both standards shall be met. The
clinical director shall have the combination of education and experience as follows: (5-24-91)

(1) Master's Degree and five (5) paid full-time experience with three (3) years in direct alcohol-drug
abuse treatment; and (5-24-91)

(2) Knowledge and experience demonstrating competence in treatment including client evaluation,
counseling techniques, relapse prevention, case management and family systems; and (5-24-91)

(3) Working knowledge of the normal process of child and adolescent growth and development, the
effects of alcohol-drugs on a child's growth and development and family systems; and (5-24-91)

(4) Qualifications of the clinical director shall be verified through written documentation of work
experience, education and classroom instruction. (5-24-91)

iv. The facility shall provide for a program supervisor who shall be located on-site at the treatment
facility. This position can also be the clinical director. In those instances where these positions are combined, both
standards shall be met. The program supervisor shall have the combination of education and experience as follows:
(5-24-91)

(1) Five (5) years full-time paid experience in alcohol-drug abuse treatment with at least two (2) years
in direct treatment; or (5-24-91)

(2) Bachelor's Degree in a relevant field and four (4) years paid full-time experience with two (2) years
in direct treatment; or (5-24-91)

(3) Master's Degree and three (3) years paid full-time experience with two (2) years in direct treatment;
and (5-24-91)

(4) One (1) year paid full-time experience in supervision; and (5-24-91)

(5) Knowledge and experience demonstrating competence in treatment including client evaluation,
counseling techniques, relapse prevention, case management and family therapy; and (5-24-91)

(6) Working knowledge of the normal process of child and adolescent growth and development, the
effects of alcohol-drugs on a child's growth and development and family systems; and (5-24-91)

(7) Qualifications of the program supervisor shall be verified through written documentation of work
experience, education and classroom instruction. (5-24-91)

v. The facility shall provide for one (1) alcohol-drug counselor for every six (6) children in treatment
and shall have the combination of education and experience as follows: (5-24-91)

(1) Five (5) years full-time paid experience in alcohol-drug abuse treatment with two (2) years in direct
treatment with children; or (5-24-91)

(2) Bachelor's Degree in a related field and two (2) years experience in alcohol-drug abuse treatment

- with one (1) year in treatment with children; and (5-24-91)
- (3) Thirty (30) hours classroom instruction in chemical use, dependency and assessment; and (5-24-91)
 - (4) Thirty (30) hours classroom instruction in child developmental theory; and (5-24-91)
 - (5) Working knowledge of family systems as documented through experience, coursework or training; and (5-24-91)
 - (6) Qualification of the alcohol-drug counselor shall be verified through written documentation of work experience, education and classroom instruction. (5-24-91)
- vi. The facility shall provide for the services of an individual experienced in recreational therapy. (5-24-91)
- b. At the initial application for a license, all owners, operators, employees and volunteers of children's treatment facilities applying to the Department to provide alcohol-drug abuse residential treatment shall submit to a criminal history check in accordance with the provisions of Section 611. (12-31-91)

09. Additional Requirements For Licensure. In addition to meeting the requirements for licensure described in Section 611, the applicants must provide the Department full and complete information regarding ownership and report promptly any changes which would affect the current accuracy of such information. (12-31-91)

- a. Ownership information includes the identity of each person having direct or indirect ownership interest of ten percent (10%) or more in such facility or in the real property in which the facility is located. If the real property for the facility is leased, a copy of the lease shall be included with the application. (5-24-91)
- b. Ownership information includes the identity of each officer and director, if the owner of the facility is a corporation. (5-24-91)
- c. Ownership information includes the identity of each partner, if the owner of the facility is a partnership. (5-24-91)

10. Provisions For Safety And Adequate Physical Care Of Children. Facilities must assure the safety and physical care of children for whom the organization assumes or accepts responsibility. (5-24-91)

- a. An annual inspection and approval by a local fire inspector, certified by the Idaho State Fire Marshall's Office, together with a written report of the inspection is required. If the facility is located in an area where the local fire department does not have an authorize fire inspector, an inspection by the nearest fire inspector certified by the State Fire Marshall's Office must be secured by the facility. (11-22-91)
 - i. The alcohol-drug abuse treatment facility must conform with the Uniform Fire Code and will be considered by the 1991 Uniform Building Code as either: (11-22-91)
 - (1) Group R-1, Congregate Residence (more than ten (10) persons); or (11-22-91)
 - (2) Group R-3, Congregate Residence (ten (10) persons or less); (11-22-91)
 - ii. The heating plant must be properly located, regularly inspected and kept in good repair at all times. (5-24-91)
 - iii. All electrical wiring and electrical appliances must be installed and inspected in accordance with the state adopted National Electrical Code by the Department of Labor and Industrial Services or authorized local jurisdiction. (11-22-91)
 - iv. On each floor there must be a fire extinguisher, easily accessible, approved by the Underwriters

Laboratories, Inc. Each extinguisher must be serviced and tagged at least annually by an authorized extinguisher servicing agency. (5-24-91)

- v. Fire drills for the children must be held at least monthly. (5-24-91)
- vi. Flammable liquids must not be stored in the buildings in which children are housed or in areas accessible to children. Trash must not be allowed to accumulate in the basement, closets or elsewhere in the buildings. (5-24-91)
- vii. Fireplaces and open-faced heaters must be protected by screens and there must be no other fire hazards. (5-24-91)
- b. Sanitation. (5-24-91)
 - i. An annual inspection and approval by the District Health Department, together with a written report of this inspection is required. The report must cover the following food service rules: (5-24-91)
 - (1) Food care; and (5-24-91)
 - (2) Personal health of the staff; and (5-24-91)
 - (3) Equipment and utensils; and (5-24-91)
 - (4) Cleaning, sanitizing and storage of food equipment and utensils; and (5-24-91)
 - (5) Sanitary facilities and controls; and (5-24-91)
 - (6) Construction and maintenance of physical facilities. (5-24-91)
 - ii. There must be adequate toilet and bathing facilities. Toilets must be kept in proper repair and in good sanitary condition. There must be at least one (1) toilet, bath or shower and washstand to every six (6) children. (5-24-91)
 - iii. Windows must be properly screened and the house adequately ventilated and lighted. (5-24-91)
 - iv. The house and premises must be kept clean and sanitary. (5-24-91)
 - v. Provisions must be made for the isolation and special care of any residents or staff of the facility who become ill. (5-24-91)
- c. The facility and its environs. (5-24-91)
 - i. The facility must be in a residential or rural area to avoid hazards to the safety of children. (5-24-91)
 - ii. The facility must have sufficient room to accommodate children in a comfortable, safe and sanitary way and sufficient space and suitable facilities for indoor and outdoor play. Adequate fencing of play space shall be required if there is any other hazard to safety from which a child must be protected. (5-24-91)
 - iii. Basement rooms must not be used for the care of children or as playrooms unless they are dry, adequately heated, lighted and ventilated and have adequate floor covering. (11-22-91)
 - iv. Rooms must be comfortably furnished and provision must be made for the proper care of clothing and personal belongings. (5-24-91)
 - v. The facility must be adequately heated. (5-24-91)

- vi. The facility shall not house both children and adults. (5-24-91)
- vii. Children must sleep in bedrooms with ample light and ventilation and must be under close supervision and within call of an adult at night. No children may sleep in an unfinished attic, stairhall or room commonly used for other than bedroom purposes. No child may sleep in a detached building unless the provision for close supervision and within call of an adult at night are met to the satisfaction of the Department. (5-24-91)
- viii. Children must have individual beds. Each bed must have a good spring, a clean, comfortable mattress and adequate bedding; for bedwetters, rubber sheeting or a satisfactory substitute must be provided. Space must be sufficient to meet the occupancy standards of state and local building codes. (5-24-91)
- ix. No child may sleep in the same room with any other person of the opposite sex. (5-24-91)
- x. Balconies and stairways accessible to children must be protected by substantial railings. (5-24-91)
- xi. Facilities licensed for alcohol-drug abuse treatment of children may not accept convalescent patients. Facilities used for the care of aged persons are not to be used for the care of children. (5-24-91)
- xii. Screens on all windows must be sufficiently strong and securely fastened to prevent falls from open windows. (5-24-91)
- d. Physical care of the children. (5-24-91)
 - i. The diet must be well balanced and adequate to meet the nutritional needs of children and must be served at regular hours. Menus shall be planned by or receive prior approval by a certified dietician or nutritionist. Menus must be adhered to by those preparing meals, with any variation from planned menus noted in the records. Records of menus served must be kept on file for at least six (6) months. Staff shall be served the same meals as children. There shall be documentation that the facility's system of dietary allowance is reviewed at least annually by a dietician, nutritionist or physician to ensure compliance with recommended basic daily servings. (5-24-91)
 - ii. There shall be a written suicide prevention plan addressing the varying needs of the population. (5-24-91)
 - iii. Individual or single use towels, wash cloths, toothbrushes, combs and other toilet articles must be provided, individually marked and stored separately. (5-24-91)
 - iv. Clothing of children must be kept clean and in good repair. (5-24-91)
 - e. The following health services must be provided by the children's treatment facility: (5-24-91)
 - i. There must be a physical examination within thirty (30) days of admission by a physician licensed to practice medicine in the state of Idaho. The admission examination must include a thorough physical examination of the child and a written report by the physician of his findings and recommendations. A medical history and record of immunizations received must be obtained from a family physician or parent if at all possible. If the child has had a physical examination within six (6) months prior to admission, this shall be forwarded to the facility in lieu of the admission exam. (5-24-91)
 - ii. The facility must make provisions for the treatment of illnesses, carrying out corrective measures and treatment and for the administration of medication as ordered by the physician. (5-24-91)
 - iii. The facility must make provisions and establish procedures for necessary hospitalization of children under its care. (5-24-91)
 - iv. There shall be a policy and procedure to screen for possible communicable diseases such as HIV infection and Hepatitis B, at the time of admission and for appropriate isolation of children when indicated. This policy shall address the management of infected children as they participate in the program of alcohol-drug abuse

- treatment, when appropriate. (5-24-91)
- v. Additionally, the following provisions must be made by all facilities: (5-24-91)
- (1) Staff must be familiar with signs of contagious and infectious disease and must be watchful for such signs; and (5-24-91)
- (2) There must be adequate first aid facilities, approved by a physician, and at least one (1) staff member on duty at all times who must have received recent (within one (1) year) training in first aid and cardiopulmonary resuscitation (CPR) taught by the American Red Cross or an equivalent certificate; and (5-24-91)
- (3) The facility must have current information as to where and how to reach the child's parent, guardian or legal custodian; and (5-24-91)
- (4) The facility staff must have a clear understanding with the parents or agency as to notification of illness and arrangements for medical care. It is the responsibility of the facility to make provisions with the parents or agency regarding funds for necessary medical services and to secure the name of the physician to be called in case of an emergency. (5-24-91)
- f. Grievance and disciplinary procedures. (5-24-91)
- i. All children's treatment facilities shall have written grievance and disciplinary procedures which are explained and made available to the children in care. All children in care shall be given a written copy of these procedures and shall sign an acknowledgement that they have received a copy and have had the procedure explained to them. The grievance procedure shall have at least one (1) level of appeal. (5-24-91)
- ii. All children's treatment facilities' supervision, training and discipline must be in the best interest of the children and must be humane. There shall be no humiliating, degrading or corporal punishment of any kind. Deprivation of meals or sleep shall not be permitted. Punishment and discipline must be appropriate to the age and understanding of the child. (5-24-91)
- (1) Discipline either in the form of lock-up or disciplinary restriction shall be administered only by staff and never delegated to a minor. Any practice of placing a child in a closed room must be limited to furnished rooms of adequate space, light and ventilation. Closets, attics, unfurnished basements of out building may not be used for confinement purposes. Staff counseling must be available and utilized throughout the time of confinement and all confinement must be documented in accordance with the written policy of the home; and (5-24-91)
- (2) Children shall not be placed in a position of attention as a means of punishment, such as standing in a corner, sitting in the middle of a room on the floor, etc.; and (5-24-91)
- (3) Physical exercise beyond the point of moderation shall not be permitted; and (5-24-91)
- (4) Open humiliation before a minor's peer group shall not be permitted; and (5-24-91)
- (5) No child should be deprived of any of the following rights as a means of discipline: (5-24-91)
- (a) A place to sleep with a pillow, blanket and sheets; (5-24-91)
- (b) Complete meals; (5-24-91)
- (c) Clean clothes; (5-24-91)
- (d) Parental and/or attorney visits; (5-24-91)
- (e) Time necessary for personal hygiene; (5-24-91)
- (f) Minimum exercise; (5-24-91)

- (g) Telephone contact with child's attorney; (5-24-91)
 - (h) The right to send and to receive mail; (5-24-91)
 - (i) Daily shower and access to toilet and water facilities as needed; (5-24-91)
 - (j) Voluntary attendance at religious services and/or religious counseling; (5-24-91)
 - (k) Clean and sanitary living conditions. (5-24-91)
- g. The facility shall have written policies on the use of mechanical restraints and those using such restraints shall be trained in their proper use. Written policy and procedure shall provide that instruments of restraint are never applied as punishment and are applied only with the approval of the facility administrator or designee. The policies must be available to minors, their parents or guardians and referral sources at the time of admission. Such policies shall be substantially similar in content to the following current standards of good practice: (5-24-91)
- i. Restraints shall be used as a last resort when therapeutic techniques have not worked. One of the following must be demonstrated: (5-24-91)
 - (1) The child is emotionally and/or physically uncontrollable and constitutes a serious and evident danger to himself or others; or (5-24-91)
 - (2) The child is causing or threatening to cause serious property damage; or (5-24-91)
 - (3) An attempted escape is imminent and the child is out of control; or (5-24-91)
 - (4) Once the child has regained control, facility staff will counsel with the child about the behavior and problems experienced. (5-24-91)
 - ii. Restraints shall be prohibited in the following circumstances: (5-24-91)
 - (1) When there are specified medical reasons pursuant to a licensed physician's order; or (5-24-91)
 - (2) As punishment, for convenience of staff or as a substitute for program. Children are never to be restrained to a fixed object. (5-24-91)
 - iii. Prior to using restraints the following circumstances must be adhered to: (5-24-91)
 - (1) Facility staff shall use their therapeutic training skills to talk with the child to attempt to resolve the disturbance; and (5-24-91)
 - (2) Facility staff shall inform the child that if his behavior continues, intervention to help the child regain control shall be administered. (5-24-91)
 - iv. The following use of restraints shall be adhered to: (5-24-91)
 - (1) All restraints shall be soft restraints; and (5-24-91)
 - (2) Restraints shall be utilized in the most humane way possible; i.e., restraining the child's wrists to his sides, ankle restraints only to secure ankles together; and (5-24-91)
 - (3) If the child is out of control to the degree that the facility staff determines the child may harm himself or others while the soft restraints are being applied, the worker may initially use metal handcuffs until the child can be appropriately placed in soft restraints. Generally a child should not be in handcuffs more than five (5) minutes; and (5-24-91)

(4) When a child is placed in restraints, medical professionals shall be contacted immediately. The medical professionals shall make a visual check of the child to assure that the restraints are properly fastened; and (5-24-91)

(5) After one (1) hour has elapsed with the child in restraints, or should the child be released from restraints and have to be placed back in restraints, the supervisor shall obtain the medical professional's opinion relative to continuation of the restraints. It shall be the medical professional's responsibility to assess the problem and bring to bear any resources necessary to eliminate the problem; and (5-24-91)

(6) A child shall be released from the restraints as soon as the restraints are no longer needed and the medical professional shall be notified of the release. (5-24-91)

v. The following reporting and documentation procedures shall be followed: (5-24-91)

(1) Documentation of procedures as noted herein should be made through notations in the facility records; and (5-24-91)

(2) Any use of restraints requires that a report be made at the time of the occurrence on a statement form specifically describing the reasons and actions making restraints necessary. The report must be specific regarding length of time in restraints. This report shall be in writing and descriptive in detail in order to provide a clear understanding of the incident upon subsequent review. (5-24-91)

h. Firearms are not permitted in any facility except in emergency situations defined in the facility policy. (5-24-91)

i. The facility must have a written policy on the use of seclusion rooms. (5-24-91)

i. Seclusion shall not be used as punishment. Seclusion may be used as a means of intervention when the child is out of control or is in danger of harming himself or others. Seclusion shall be used only for the time needed to change the behavior compelling its use. (5-24-91)

ii. In an open setting a child shall not be locked in any room or space other than in a seclusion room which has been previously approved by the licensing authority. (5-24-91)

iii. Where provisions are made for seclusion, whether in an open or secure setting, the following condition shall apply: (5-24-91)

(1) All staff shall be furnished with a copy of the policies regarding the use of seclusion. This policy must specify who may approve the placement of a child in seclusion. Staff involved in the use of the seclusion shall participate in staff training related to the policies and proper implementation; and (5-24-91)

(2) No more than one (1) child shall be placed in each seclusion room; and (5-24-91)

(3) A child in seclusion shall be observed visually by staff at least every fifteen (15) minutes and the observations recorded in a seclusion log. The written log shall include the name of the child, the time of placement in seclusion, the name of the staff responsible for the placement, the description for the specific behavior requiring seclusion and detailed observation notes by each staff member involved and the time of removal from seclusion. A detailed incident report shall be completed upon occurrence; and (5-24-91)

(4) When seclusion rooms are used, there should be no more than one (1) locked door between the child and staff member who is within hearing distance; and (5-24-91)

(5) Any use of seclusion requires that a report be made upon occurrence describing the reasons and actions making use of seclusion necessary. The report must be specific regarding length of time in seclusion. This report shall be in writing and descriptive in detail in order to provide a clear understanding of the incident upon subsequent review. (5-24-91)

j. To ensure the safety of the children in the facility, all suspected incidents of child abuse and/or neglect shall be reported immediately to the Department. The facility administrator shall initiate a thorough investigation and administer appropriate disciplinary action if facility staff is involved. (5-24-91)

619. (RESERVED).

620. NONACCREDITED RESIDENTIAL SCHOOL RULES.

01. Nonaccredited Residential School. A nonaccredited residential school may provide care for any number of children and pursuant to Subsection 620.03.a.v. must conform with the Uniform Fire Code and will be considered by the 1991 Uniform Building Code as either: (12-31-91)

- a. Group R-1, Congregate Residence (more than ten (10) persons); or (11-22-91)
- b. Group R-3, Congregate Residence (ten (10) persons or less); and (11-22-91)
- c. Group E, Division 1 Occupancy, for any building used for educational purposes through the twelfth grade by fifty (50) or more persons for more than twelve (12) hours per week or four (4) hours in any one (1) day; or (11-22-91)
- d. Group E, Division 2 Occupancy, for any building used for educational purposes through the twelfth grade by less than fifty (50) persons for more than twelve (12) hours per week or four (4) in any one (1) day. (11-22-91)

02. Purpose. The purpose of these rules is to provide a process for the protection of children under the age of eighteen (18) residing in public or private residential nonaccredited schools pursuant to Sections 39-1207 and 39-1210, Idaho Code. (11-22-91)

03. Process. (11-21-91)

- a. The process for certification shall be initiated by the filing with the Bureau of Juvenile Justice of the Department, an affidavit addressing the following elements and with the listed attachments: (11-22-91)
 - i. That affiants make this affidavit based upon their own personal knowledge and belief; (11-22-91)
 - ii. That affiants state that they are the administrative employee responsible for operation of the school and the head of the governing body of (name of school), hereinafter referred to as school; (11-22-91)
 - iii. That the school is a nonaccredited residential school as defined in Subsection 003.26 as is shown by the attached bylaws or organizational statement of purpose detailing organizational structure, philosophy, program, intake/enrollment policy, services, geographic area served and children served according to their legal status and physical, mental and behavioral characteristics; (12-31-91)
 - iv. That the school is in compliance with Section 611, regarding criminal background checks and will comply with the rule on all hiring as shown by the policy statement attached herewith; (12-31-91)
 - v. That the school was inspected by a certified fire inspector within sixty (60) days of the date of filing the affidavit and was found to be in compliance with the Uniform Fire Code and the 1991 Uniform Building Code as either: (11-22-91)
 - (1) Group R-1, Congregate Residence (more than ten (10) persons); or (11-22-91)
 - (2) Group R-3, Congregate Residence (ten (10) persons or less); and (11-22-91)
 - (3) Group E, Division 1 Occupancy, for any building used for educational purposes through the twelfth grade by fifty (50) or more persons for more than twelve (12) hours per week or four (4) hours in any one (1) day; or (11-22-91)

(4) Group E, Division 2 Occupancy, for any building used for educational purposes through the twelfth grade by less than fifty (50) persons for more than twelve (12) hours per week or four (4) in any one (1) day.

(11-22-91)

vi. That the school was inspected by personnel of the Health Districts within the last sixty (60) days and was found to be in compliance with all applicable food service rules and is in compliance with all inspection time frames and requirements of the following Department rules, and a copy of the inspection report is attached herewith:

(11-22-91)

(1) IDAPA 16.01.03, "Individual/Subsurface Sewage Disposal Rule"; (11-22-91)

(2) IDAPA 16.01.08, "Idaho Rules for Public Drinking Water Systems"; (11-22-91)

(3) IDAPA 16.01.07, "Rules for Construction and Operation of Public Swimming Pools in Idaho"; (11-22-91)

(4) IDAPA 16.01.05, "Rules and Standards for Hazardous Waste"; and (11-22-91)

(5) IDAPA 16.01.06, "Idaho Solid Waste Management Rules and Standards". (11-22-91)

vii. That the school is accessible for medical care and at all times a staff member is available who has current certification of completion of American Red Cross first aid and CPR training or equivalent as shown by policy, staff names and copies of certificates attached herewith;

(11-22-91)

viii. That the school has organizational stability and has been determined by the governing body to have sufficient resources to maintain the school and personnel necessary to achieve its purposes and objectives and to maintain its services;

(11-22-91)

ix. That the school has sufficient staff to have at least one (1) staff member awake and on duty at all times and one (1) staff member on call and available within ten (10) minutes for the first twenty-five (25) students. For facilities with more than twenty-five (25) students, one (1) additional staff member on call and available within ten (10) minutes for each additional twenty-five (25) students;

(11-22-91)

x. That the discipline policy of the school as stated and applied in the attached policy does not include the use of restraints, corporal punishment, locked seclusion, excessive physical activity as punishment, use of student to discipline other students, humiliation or degrading punishment, or deprivation of any of the following rights as a means of discipline:

(11-22-91)

(1) Place to sleep with pillow, blanket and sheets; (11-22-91)

(2) Food; (11-22-91)

(3) Clothing; (11-22-91)

(4) Personal hygiene (access to showers and toilet); (11-22-91)

(5) Voluntary attendance at religious services; (11-22-91)

(6) Contact with legal counsel; (11-22-91)

(7) Receive and send mail to parents or guardians; (11-22-91)

(8) Visitations with family; or (11-22-91)

(9) Telephone contact with parents or guardians; (11-22-91)

xi. That the school causes a review of menus for the students by a licensed dietician/nutritionist on at least an annual basis and that the menus have been determined to meet established needs of the students enrolled. A copy of the review report is attached herein; (11-22-91)

xii. That the school has fire and disaster drills for students and staff in all school buildings at least monthly and escape plans are posted in conspicuous places on each floor level of each building of the school. Monthly logs of fire and disaster drills and escape plans shall be available for review by the Department; (11-22-91)

xiii. That the school maintains a record for each student containing the following information: (11-22-91)

(1) Student name, address and birthdate; (11-22-91)

(2) Name, address and telephone number of responsible parent, guardian or legal custodian of the student; (11-22-91)

(3) Agreement/contract enrollment form signed by the parent, guardian or legal custodian authorizing placement of the student at the school; (11-22-91)

(4) Consent for medical/surgical care signed by the parent, guardian or legal custodian; (11-22-91)

(5) Reason for referral or placement; and (11-22-91)

(6) Special problems and needs. (11-22-91)

xiv. That the school employees are made aware of the responsibility to report all incidents of child abuse and/or neglect immediately to the Department or law enforcement pursuant to Section 16-1619, Idaho Code; (11-22-91)

xv. That the administrative employee responsible for operation of the school has not been found guilty of fraud, deceit, misrepresentation or dishonesty associated with the operation of a facility, or a sex crime, as defined in Title 18, Chapter 66, Idaho Code; rape, as defined in Title 18, Chapter 61, Idaho Code; injuring a child as defined in Section 18-1501, Idaho Code; selling or bartering a child as defined in Section 18-1511, Idaho Code; sexually abusing a child as defined in Section 18-1506, Idaho Code; and sexually exploiting a child, as defined in Sections 18-1507 or 18-1508, Idaho Code; (11-22-91)

xvi. That the administrative employee responsible for operation of the school has not knowingly permitted, aided or abetted the commission of any felony act on the premises of the school; (11-22-91)

xvii. That affiants acknowledge that they are subject to punishment for perjury as defined in Section 18-5401, Idaho Code, for any false statement or statements contained in this affidavit and that if convicted of perjury that it is punishable by imprisonment in the state prison for not less than one (1) or more than fourteen (14) years. (11-22-91)

b. A letter or verbal inquiry as to the certification process shall not be considered an application for certification. (11-22-91)

c. Upon the filing of the affidavit and successful completion of an on-site visit, a certification of compliance will be issued. (11-22-91)

04. On-Site Visits. The Department shall contact the facility administrator to schedule the on-site visit. During the on-site visit the Department shall be provided access to all indoor and outdoor areas of the school. Facilities used only as classrooms may be seen at the discretion of the school administration in order to avoid interference in the daily operation of the classroom. Frequency of visitations shall be conducted in accordance with Subsection 103.05. (12-31-91)

05. Affidavit Filing Process/Certificate Of Compliance. In the affidavit filing process or in the on-

site visit, if there are circumstances which do not present an imminent or immediate hazard to students, and can reasonably be expected to be corrected within six (6) months, the certificate of compliance shall be issued provisionally in accordance with Subsection 102.01.b. (12-31-91)

06. Signature On Affidavit. The affidavit shall be signed under oath and penalty of perjury by the administrative employee responsible for operation of the school and by the chairman or equivalent head of the governing board or body of the school. (11-22-91)

07. Substantial Compliance. Upon receipt of the completed affidavit and completion of the on-site visit, a certificate of compliance shall be issued by the Bureau of Juvenile Justice if the school is in substantial compliance with these rules. (11-22-91)

08. Issuance Of Certificate. A certificate of compliance shall be issued to a residential school which files an affidavit as set out in this section and is visited by a Department employee. (11-22-91)

09. Noncompliance. The Department may deny, suspend, revoke or not renew a certificate to any residential school that is not in compliance with these rules, or any condition of a provisional certificate. Any person convicted of operating a residential school without a certificate of compliance shall be guilty of a misdemeanor pursuant to Section 39-1220, Idaho Code. (11-22-91)

621. -- 995. (RESERVED).

996. ADMINISTRATIVE PROVISIONS.

Hearings and appeals shall be conducted according to the provisions of Idaho Department of Health and Welfare Rules, IDAPA 16.05.03, Sections 300, et seq., and 607, "Rules Governing Contested Cases and Declaratory Rulings". (12-31-91)

997. CONFIDENTIALITY OF RECORDS.

All records obtained and used by the Department in connection with activities related to these rules must be held confidential in accordance with the Idaho Department of Health and Welfare Rules, IDAPA 16.05.01, "Rules Governing The Protection and Disclosure of Department Records". (1-1-82)

998. INCLUSIVE GENDER AND NUMBER.

For the purposes of the rules contained in IDAPA 16.06.02, words used in the masculine gender include the feminine, and words used in the singular include the plural, or vice versa, where appropriate. (10-18-88)

999. SEVERABILITY.

Idaho Department of Health and Welfare Rules, IDAPA 16.06.02, are severable. If any rule, or part thereof, or the application of such rule to any person or circumstance is declared invalid, that invalidity does not affect the validity of any remaining portion of this chapter. (10-18-88)

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