

Haw. Admin. Rules (HAR) T. 17, Subt. 6, Ch. 894, Refs & Annos

Haw. Admin. Rules (HAR) § 17-894-1

§ 17-894-1. Definitions.

For the purpose of this chapter:

“Child-caring institution” or “institution” means any institution other than an institution of the State or its political subdivision, maintained for the purpose of receiving six or more children, not of common parents, for care and maintenance apart from the children’s parents or guardians on a twenty-four hour basis for monetary payment. This term shall not apply to any boarding school which is essentially and primarily engaged in educational work.

“Children” means persons under eighteen years of age.

“Certificate of approval” means the certificate issued by the department which authorizes a person, agency, or organization to operate an institution.

“Director” or “executive director” or “superintendent” means the person responsible for the administration of the institution.

“Discipline” means an educational and training process to help a child understand and adopt socially accepted behavioral standards.

“New hire” means a person seeking employment in a child-caring institution for the first time in the State, either as an applicant or prospective employee of a child-caring institution.

“Professional services” means the services of dentists, dietitians, physicians, psychiatrists, psychologists, nurses, and social workers.

“Rehire” means an applicant or prospective employee of a child-caring institution who is seeking to operate or be employed in a child-caring institution following termination of employment of more than six months and who has been out of the State during this break in employment.

Haw. Admin. Rules (HAR) § 17-894-2

§ 17-894-2. Application.

(a) Any unlicensed person or organization now operating or hereafter desiring to operate a child-caring institution shall be required to submit a written application to the department for a certificate of approval.

(b) In addition to the application, the following information shall also be submitted:

- (1) Location and building plans (see sections 17-894-13 and 17-894-14);

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(2) Written statement of the institution's program and of the services to be provided by the institution (see section 17-894-9);

(3) Statement of legal authority.

(A) In the case of incorporated organizations, the legal authority shall include:

(i) A copy of the charter and articles of incorporation;

(ii) A copy of the by-laws; and

(iii) A current list of officers, directors, and trustees, showing terms of office.

(B) In the case of individuals, partnerships, or unincorporated organizations, the legal authority shall include the names of the individuals who are fully responsible for any debts or obligations incurred by the institution;

(4) A copy of the personnel policies (see section 17-894-12);

(5) A list of employees, by name, position, and date of employment;

(6) A copy of the estimated annual budget for the coming year; and

(7) A copy of the institution's policies on admission, program, care of children, and discharge.

(c) Applicants shall provide an initial criminal history, background, employment information, and consent to conduct such checks as may be required by state or federal law. Such information and consent shall be given upon forms supplied by the department and shall be repeated for those defined as rehires.

(d) The department shall conduct employment history and background checks on all applicants; applicants shall conduct employment history and background checks on prospective employees.

(e) The application process shall include discussion between the department and the applicant to assess the need in the community for the particular child-caring institution.

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§ 17-894-3. Study.

(a) The department shall study the application and the other documents required by section 17-894-2(b) to determine whether the institution meets the requirements of this chapter.

(b) The department shall arrange for inspection of the institution by representatives of the state department of health, the office of the fire marshal, and the city and county building department. Based on the inspections, the representatives shall determine whether the institution meets the established regulations of the state department of health and the office of the fire marshal and the city and county building department and shall submit a report of the inspection in writing to the department.

(c) Requirements of the state department of education shall be met when a regular school program is conducted in the institution.

(d) Reports of the study shall be kept on file by the department.

Haw. Admin. Rules (HAR) § 17-894-4

§ 17-894-4. Issuance of the certificate of approval.

(a) A certificate of approval shall be issued by the department when the study indicates that the institution is in satisfactory compliance with these rules.

(b) The certificate of approval shall be issued for a period of one year.

(c) The certificate of approval shall specify the name and address of the institution to which the certificate is issued, the number, sex, and age of children for whom the institution is licensed to give care, and any exceptions.

(d) The certificate of approval shall be non-transferable.

(e) The certificate of approval shall be invalid when:

(1) The persons or organization to whom the certificate of approval was issued ceases to operate the child-caring institution;

(2) There is a change of location;

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- (3) There is a change in function; or

- (4) There is an increase beyond the maximum number or a change in the sex and age of children from that specified on the certificate of approval.

- (f) The certificate of approval shall be conspicuously displayed at the institution.

- (g) After the issuance of the certificate of approval, the applicant shall ensure that new employees and rehires comply with section 17-894-2(c) and (d) no later than five working days of employment.

- (h) The department may request the applicant terminate the employment of an employee who has a criminal history, employment history, or background which poses a risk to children in care. Any such request shall be in writing and shall state with specificity those criminal convictions, employment history, or background information which indicates a risk to children.
 - (1) When the applicant does not terminate the employment of the employee, the applicant shall notify the department within seven working days of receipt of the request. Such notification shall be in writing and shall state the reasons for the decision.

 - (2) Refusal to terminate the employment of an employee when requested under this section may be grounds for revocation or suspension of a certificate of approval.

Haw. Admin. Rules (HAR) § 17-894-5

§ 17-894-5. Renewal.

- (a) At least thirty calendar days prior to the expiration of the certificate of approval, the institution shall apply for renewal of the certificate of approval by submitting a:
 - (1) Current list of legal proprietors. Incorporated organizations shall submit a current list of officers, directors, trustees, or advisory board members, showing terms of office;

 - (2) Current list of all employees, showing position, duties, and salary;

 - (3) Report of the number of children served in the past year by age, sex, and period of residence;

 - (4) Listing of the current child population by age, sex, and date of placement;

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(5) Copy of the latest audited annual financial statement;

(6) Copy of estimated annual budget for the coming year;

(7) Report of major changes in program or facilities made within the past year;

(8) Copy of any amendment to the articles of incorporation or by-laws of incorporated organizations where the authority, purpose, or function has changed; and

(9) Statement of proposed changes in the program or facilities.

(b) Annual name inquiry into the state criminal history files shall be conducted. The applicant and employees shall provide consent to the department to conduct such checks within five working days of the employment anniversary date or the anniversary date of the last consent to a criminal history check.

(c) The study for renewal of the certificate of approval shall be conducted in accordance with the provisions of section 17-894-3 following receipt of the application for renewal.

(d) A certificate of approval shall be issued according to section 17-894-4.

Haw. Admin. Rules (HAR) § 17-894-6

§ 17-894-6. Denial.

(a) A certificate of approval shall not be issued when the study indicates that the institution does not meet the requirements of these rules.

(b) The department shall send the institution a written statement giving the reasons for denying issuance of a certificate of approval.

(c) Any institution denied a certificate of approval may request, and shall be granted, an opportunity to discuss with the department the reasons for the denial.

Haw. Admin. Rules (HAR) § 17-894-7

§ 17-894-7. Suspension and revocation.

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(a) Whenever an institution fails to meet the conditions under which the certificate of approval is granted, the department shall notify the institution, stating the specific violations and giving the institution a minimum of thirty calendar days notice to effect necessary corrections.

(b) If an institution fails to make the necessary corrections after notice is given, the certificate of approval may be suspended or revoked by the department.

Haw. Admin. Rules (HAR) § 17-894-8

§ 17-894-8. Hearing.

(a) Any institution whose certificate of approval is to be suspended or revoked shall have the right of a hearing with the director of the department, provided the appeal is received in writing by the department not later than ten working days after the institution receives the notice of suspension or revocation.

(b) Upon receipt of an appeal, the director of the department shall arrange to hear the institution's appeal.

(c) The final suspension or revocation may, at the discretion of the director of the department, be stayed.

(d) The decision of the director of the department on any appeal shall be final.

Haw. Admin. Rules (HAR) § 17-894-9

§ 17-894-9. Purpose and services.

(a) The purpose or function of an institution shall be clearly defined in a written statement of services giving the number, sex, and ages of children to be accepted for care, the services to be provided to the children, and the geographic area from which children will be accepted.

(b) Proposed major changes in the organization, function, or program of the institution shall be discussed with the department at least sixty calendar days before the change is implemented.

Haw. Admin. Rules (HAR) § 17-894-10

§ 17-894-10. Governing authority.

Each institution shall have a person or persons in whom is vested the legal governing authority of the institution as follows:

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(1) For individuals, partnerships, and unincorporated institutions, the legal governing authority shall be the persons registered as the legal proprietors; and

(2) For incorporated organizations, the legal governing authority shall be the current officers and board of directors or trustees as designated through the institution's charter, articles of incorporation, constitution, or by-laws. When these documents provide for an advisory board, the institution shall have an advisory board.

Haw. Admin. Rules (HAR) § 17-894-11

§ 17-894-11. Financing.

(a) Each institution shall show evidence of having adequate resources to finance the operating costs of administration, maintenance, personnel, and to conduct a program which protects and promotes the welfare of children in accordance with the provisions of this chapter.

(b) Accounts shall be kept by the institution in a form as is conducive to sound and efficient management.

(c) Accounts shall be audited once a year by a person or organization licensed by the State to provide auditing services.

Haw. Admin. Rules (HAR) § 17-894-12

§ 17-894-12. Personnel.

(a) Each institution shall have written personnel policies covering selection of staff, salaries and fringe benefits, leaves, staff training and development, and other employment practices.

(b) Staff members shall be selected on the following bases:

(1) Genuine interest in and understanding of children;

(2) Demonstrated ability to work with children;

(3) Good moral character; and

(4) Emotional stability and good physical health.

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(c) All staff members shall have a physical examination, including a chest x-ray or tuberculin skin test no more than one year before being employed. The physical examination shall be given by a licensed physician who shall prepare a written report to be kept on file at the institution, stating that the employee is in good health and is free from communicable diseases. Thereafter, all staff members shall have a chest x-ray or tuberculin skin test in accordance with the recommendations of the state department of health.

(d) Each institution shall establish in writing a classification schedule showing the duties, responsibilities, and minimum requirements of each position.

(e) Salary ranges for each type of position shall be established in writing.

(f) Adequate and comfortable quarters shall be provided for all staff who are required to live within the institution.

(g) Provisions for staff development shall be made as follows:

(1) There shall be regular staff meetings and case conferences for all staff members working directly with children; and

(2) Whenever possible, staff shall be encouraged and allowed to take additional training to increase and improve the staff's efficiency and knowledge about the institution's program. The training may be provided by the institution's staff or by other resources in the community.

(h) The director shall:

(1) Be responsible for the over-all management and operation of the institution;

(2) Be a person of stable, sound judgment whose integrity is above reproach;

(3) Have genuine interest in helping children grow and develop;

(4) Be a person who commands the respect of all employees, children, and the general community; and

(5) Have training, experience, skill, emotional stability, maturity, and flexibility to deal effectively with all employees, children, and the general community.

(i) Each child-care staff member shall have the following traits:

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- (1) A desire and ability to learn;
 - (2) An interest in helping children grow and develop;
 - (3) An ability to get along with people and to work as a part of an institutional team; and
 - (4) Emotional stability, maturity, and flexibility.
- (j) A house parent shall be responsible for not more than seven pre-school children or sixteen school-aged children. The number of children for whom a house parent is responsible shall be reduced proportionately when the house parent is assigned other duties in addition to serving children.
- (k) Provisions for use of professional staff shall be as follows:
- (1) Each institution shall use professional services which will help assure proper growth and development of children; and
 - (2) Persons giving the professional services shall be those recognized and accepted by the person's own professional organizations.
- (l) Other staff shall be employed to carry out the everyday housekeeping, maintenance, and administrative functions of the institution. Staff shall be chosen for their personal qualities, interest in and liking for children, and for skill in the particular job.
- (m) Applicants and employees shall not have a criminal history record, employment history, or background which poses a risk to children in care.
- (1) Conviction of a crime involving violence, alcohol or drug abuse, sex offense, offense involving children, and any other conviction, the circumstances of which indicate that the applicant or employee may pose a danger to children, are grounds for denial or revocation of a license or a reason to request termination of an employee under section 17-894-4(h).
 - (2) Type of criminal offense, when it occurred, and evidence of rehabilitation shall be considered in determining whether the criminal history record poses a risk to the health, safety, or well-being of children in care.
 - (3) An employment history indicating violence, alcohol or drug abuse, and any other violation of employer rule or policy, the circumstances of which indicate that the applicant or employee may pose a danger to children, may be grounds for denial or revocation of a license or a reason to request termination of an employee under section 17-

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894-4(h).

(4) Background which show that the individual has been identified as and substantiated to be the perpetrator of child abuse or neglect may be a basis for denial or revocation of license or a reason to request termination of an employee under section 17-894-4(h).

Haw. Admin. Rules (HAR) § 17-894-13

§ 17-894-13. Location.

The institution shall comply with all applicable local zoning ordinances.

Haw. Admin. Rules (HAR) § 17-894-14

§ 17-894-14. Building.

(a) Plans for creating a new building, moving into an existing building, or making alterations, shall be submitted in advance to the department.

(b) Local regulations governing building and other related ordinances shall be met.

(c) Health and sanitation regulations of the state department of health shall be met.

Haw. Admin. Rules (HAR) § 17-894-15

§ 17-894-15. Fire protection and safety.

The institution shall comply with the requirements of the state office of the fire marshal.

Haw. Admin. Rules (HAR) § 17-894-16

§ 17-894-16. Isolation facilities.

Every institution shall provide proper facilities for isolation of children who are suspected of having communicable diseases which are not yet controlled or diagnosed. The facilities shall include toilet and washroom which shall be used only by the children in the isolation unit.

Haw. Admin. Rules (HAR) § 17-894-17

§ 17-894-17. Study facilities.

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There shall be adequate space for study. Suitable chairs and desks located in a well lighted area shall be available for each child. When there is insufficient natural light, adequate artificial light shall be provided.

Haw. Admin. Rules (HAR) § 17-894-18

§ 17-894-18. Office space.

There shall be office space for administrative workers, caseworkers, and other staff members as appropriate.

Haw. Admin. Rules (HAR) § 17-894-19

§ 17-894-19. Dining room.

(a) The dining room shall be clean, attractive, and large enough to provide adequately for both children and staff

(b) Individual cups or suitable drinking fountains shall be provided.

Haw. Admin. Rules (HAR) § 17-894-20

§ 17-894-20. Kitchen.

Kitchen facilities shall be adequate for the proper preparation and refrigeration of food and for the cleaning and storage of utensils.

Haw. Admin. Rules (HAR) § 17-894-21

§ 17-894-21. Laundry.

(a) Adequate facilities for laundering shall be provided. Facilities shall include a separate room, proper light, ventilation, and drainage.

(b) Hot and cold running water shall be available.

Haw. Admin. Rules (HAR) § 17-894-22

§ 17-894-22. Living room and visiting area.

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(a) There shall be a room provided for the children to gather during leisure time.

(b) There shall also be an area set aside where children may receive and visit with parents, guardians, relatives, or friends with some degree of privacy.

Haw. Admin. Rules (HAR) § 17-894-23

§ 17-894-23. Equipment.

(a) Toys and play equipment shall be safe, kept in good condition, and placed in safe storage when not in use. There shall be outdoor play equipment suitable to the ages of the children.

(b) Each child shall be provided with a storage facility for clothing and personal belongings.

Haw. Admin. Rules (HAR) § 17-894-24

§ 17-894-24. Application.

(a) The institution shall state in writing its admission policy and shall receive applications within the limits of this policy.

(b) Children under three years of age shall be excluded from institutional care.

(c) Any established religious practices within the institution shall be discussed at the time of application, and the parents or legal guardians shall agree with the institution's general plan and exceptions.

(d) There shall be a written agreement between the institution and parents or legal guardian denoting consent by parents or guardian to the placement.

(e) There shall be a written agreement between the institution and parents or legal guardian regarding medical care to be given each child, the method of payment, and consent for medical and hospital care.

(f) There shall be a statement in writing in each child's application as to how the cost of the child's care shall be met, the date payment is due, and items covered by the payment.

Haw. Admin. Rules (HAR) § 17-894-25

§ 17-894-25. Admission.

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(a) Admission of children to the institution, except for emergency situations, shall be based on:

(1) A complete study of the child's and family's situation;

(2) Fulfillment of the requirements of the admission policy;

(3) An agreement between the child's parents or legal guardian and the institution that the institution may best serve the child;

(4) Fulfillment of the following requirements:

(A) The child has had, within two weeks preceding admission, a physical examination by a licensed physician whose report shall indicate the absence of any communicable condition and the presence of known allergies, physical handicaps or limitations, specific health needs, recommendations, and approval for placement;

(B) State department of health regulation pertaining to inoculations; and

(C) Children fifteen years and over shall also have had a tuberculin skin test or chest x-ray.

(b) For emergency situations where admission cannot be pre-planned, the admission of children to the institution shall be based on:

(1) Fulfillment of the requirements of the admission policy; and

(2) Completion of a health screening form by the institution's staff person under the supervision of a licensed physician.

Haw. Admin. Rules (HAR) § 17-894-26

§ 17-894-26. General.

(a) Each institution shall provide and arrange for services and facilities as noted in the institution's statement of services.

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(b) The entire program of the institution shall be arranged and conducted in a manner that meets the needs of each child in placement.

Haw. Admin. Rules (HAR) § 17-894-27

§ 17-894-27. Health

(a) All children shall receive health supervision and medical care including:

(1) Renewals of inoculations and vaccinations;

(2) Appropriate care when ill;

(3) Annual physical examinations with recommendations by a licensed physician;

(4) Chest x-ray or tuberculin skin test for children fifteen years and over in accordance with the recommendations of the state department of health; and

(5) Dental examinations and correction of defects as recommended by a licensed dentist.

(b) Institutional staff shall always be alert in observing signs of illness. The staff shall continually promote desirable health habits and practices and shall encourage good mental and emotional health.

(c) All children shall be given instructions, supervision, and opportunity to establish good health habits.

(d) Basic first-aid supplies shall be kept at the institution.

(e) Sick children shall be segregated from other children until the condition is diagnosed as satisfactory and non-infectious.

(f) A well-balanced diet shall be provided.

Haw. Admin. Rules (HAR) § 17-894-28

§ 17-894-28. Clothing and personal supplies.

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- (a) Children of school age shall participate in the selection and purchase of their own clothing.
- (b) Each child shall be provided with individual towels, combs, toothbrushes, and other necessary toilet articles.

Haw. Admin. Rules (HAR) § 17-894-29

§ 17-894-29. Education.

- (a) Unless other plans are indicated and mutually agreed upon before admission, children shall attend school in accordance with the state compulsory school attendance laws.
- (b) The institution shall ensure that children are provided with necessary school supplies, school lunches, and other incidentals related to school life.
- (c) Regular work assignments within the institution shall be directed toward training and educating children. Assignments shall be rotated and children shall share tasks in keeping with individual growth and development.
- (d) Work assignments shall not be considered solely as a means of reducing operating expenses or as a means of punishment.

Haw. Admin. Rules (HAR) § 17-894-30

§ 17-894-30. Religion.

- (a) The institution shall have a written statement regarding religious practices within the institution.
- (b) The institution shall be responsible for providing children with opportunities for religious education and experience not in conflict with the expressed wishes of the person having a right to determine the child's religious practices.

Haw. Admin. Rules (HAR) § 17-894-31

§ 17-894-31. Social life and leisure time.

- (a) The program shall provide for the development of the social life of the child.
- (b) Visits with parents, guardians, relatives, or friends shall be encouraged and opportunities shall be provided for the visits when the visits are in the best interest of the child.

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(c) The leisure time needs of the child shall be met as follows:

(1) A flexible, well-rounded program in keeping with the child's stage of development shall be provided;

(2) Children shall be encouraged to exercise freedom of choice in selecting leisure time activities;

(3) Children shall be given the opportunity, where possible, to become active participants in appropriate community groups; and

(4) The institution shall recognize that at certain times a child needs to be alone, and the institution shall allow for such opportunities.

(d) When camping is included in the program, the standards of the American Camping Association shall be followed.

Haw. Admin. Rules (HAR) § 17-894-32

§ 17-894-32. Behavior and discipline - rewards and punishment

(a) Discipline shall be constructive and positive and its purpose shall be to help a child learn self-control.

(b) The child's age, intelligence, emotional development, past experiences, and ability to understand and accept limits shall be considered in handling the child's behavior and in determining the method of discipline.

(c) The director shall be ultimately responsible in all matters of discipline and shall have full knowledge of all methods used. The director shall also designate staff members having authority and responsibility to administer punishment.

(d) Rewards and punishment shall be fair and consistent, and the staff shall help the child understand the consequences of the child's behavior.

(e) Visitation with parents shall be a right of the child and shall not be withheld as a form of punishment.

(f) No child shall be punished before a group.

(g) Deprivation of meals shall not be used as a means of punishing children.

(h) There shall be no harsh or injurious punishment.

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Haw. Admin. Rules (HAR) § 17-894-33

§ 17-894-33. Records.

- (a) Each institution shall keep a current register of all children admitted. This register shall be open for inspection by representatives of the department.
- (b) Each institution shall maintain health records for each child in the institution. The records shall be open to inspection by representatives of the department.
- (c) At a minimum, the child's record shall include the application for admission, a social study of the family and child, a statement of the person having legal responsibility for the child, verification of the child's age, consent for placement, medical care, and hospitalization, and a report of the child's progress and adjustment in the institution.
- (d) All records shall be confidential and shall be available only after parents or guardians have signed a consent to release of information in the records.
- (e) The institution shall have information as to how to get in touch with a child's parents, legal guardian, or other responsible person in the event of an emergency. A parent or legal guardian shall be able to contact the institution in emergencies.
- (f) A personnel file shall be kept.
- (g) The institution shall keep any additional reports as required by the department.

Haw. Admin. Rules (HAR) § 17-894-34

§ 17-894-34. Reports to be submitted to the department.

Each institution shall submit the following reports in writing to the department:

- (1) Monthly report on the number of children under care according to age, sex, and length of stay;
- (2) Reports as noted in section 17-894-5(a);
- (3) Report on any change of staff; and

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(4) Any other special reports as required by the department.

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§ 17-894-35. Exceptions.

Exceptions to the provisions of this chapter shall be made at the discretion of the department.

Haw. Admin. Rules (HAR) § 17-894-36

§ 17-894-36. Penalty.

Any institution caring for six or more children without a certificate of approval or wilfully making any false statement or violating provisions of this chapter shall be guilty of a violation and shall be punishable by a fine not exceeding \$200.

Haw. Admin. Rules (HAR) § 17-894-37

§ 17-894-37. Separability.

If any section, subsection, paragraph, subparagraph, or clause of this chapter, or its application to any person or circumstance, is for any reason held to be unconstitutional or invalid, the remaining portions of this chapter, or the application of this chapter to other persons or circumstances, shall not be affected.