

**Mississippi Administrative Code \_Title 15. Mississippi State Department of Health \_Part 11. Bureau of  
\_Child Care Facilities \_Subpart 55. Child Care Facilities Licensure \_Chapter 2. Regulations Governing  
\_Licensure of Child Care Facilities for 12 or Fewer Children in the Operator's Home \_Subchapter 20.  
Children with Special Needs**

**Miss. Admin. Code 15-11-55:2.20.1**

**15-11-55:2.20.1. Facility Adaptation**

1. The child care facility areas to be utilized by a child with special needs shall be adapted as necessary to accommodate special devices that may be required for the child to function independently, as appropriate.

2. A separate area shall be available for providing privacy for diapering, dressing, and other personal care procedures.

**Miss. Admin. Code 15-11-55:2.20.2**

**15-11-55:2.20.2. Activity Plan:**

A child with special needs shall have an individual activity plan. The individual activity plan shall have been developed by a person with a bachelors or advanced degree in a discipline dealing with disabilities, as appropriate. The individual activity plan shall be reviewed, at a minimum, once every 12 months.

**Miss. Admin. Code 15-11-55:2.20.3**

**15-11-55:2.20.3. Caregiver Staff Development:**

Caregivers serving children with special needs shall receive staff development related to the specific needs of the children served.

**Miss. Admin. Code 15-11-55:2.20.4**

**15-11-55:2.20.4. Staffing:**

Caregiver staffing shall be appropriate and adequate to meet the specific physical and/or developmental needs of the special needs children served at the child care facility. Staff-to-child ratio shall be determined by the needs of the child rather than child's chronological age as based upon the child's individual plan (i.e., individual education plan, individual habilitation plan, individual family service plan, etc.). The facility is encouraged to be an active participant in the child's individual plan development.

**Miss. Admin. Code 15-11-55:2.21.1**

**15-11-55:2.21.1. General**

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This section shall apply to any child care facility that is open past 11:30 p.m., as part of their regular hours of operation.

**Miss. Admin. Code 15-11-55:2.21.2**

**15-11-55:2.21.2. Nutrition**

1. A child care facility that is open prior to 7:00 p.m. shall provide a dinner meal period.
2. A child care facility that remains open after 5:00 a.m., shall provide a breakfast meal period.
3. A snack period shall be provided to children in attendance for more than two and one-half hours prior to bedtime.
4. Menu plans for lunch and dinner meals shall be varied. No single menu shall be repeated in a 24-hour period.

**Miss. Admin. Code 15-11-55:2.21.3**

**15-11-55:2.21.3. Sleeping**

1. Mats shall not be used for sleeping.
2. Bedtime schedules shall be established in consultation with the child's parent.
3. Provisions shall be made in sleeping areas for the use and storage of clothing and personal belongings and they shall be within easy reach of the child using them.
4. A child shall be provided with a bed or cot equipped with a comfortable mattress (a minimum of three inches thick), sheets, a pillow with a pillowcase, and a blanket.
5. The upper level of double-deck beds shall not be used for children under ten years of age. The upper level of double-deck beds are allowed for children ten years of age or older if a bed rail and safety ladder is provided.

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6. Each child shall have clean and comfortable sleeping garments.

**Miss. Admin. Code 15-11-55:2.21.4**

**15-11-55:2.21.4. Bathroom Facilities**

1. There shall be a bathtub or shower available for children of toddler age or older.
2. Bathtubs and showers shall be equipped to prevent slipping.
3. If night care is provided for infants, there shall be age appropriate bathing facilities for these children.
4. Bathrooms shall be located near the sleeping areas.
5. No children under six years of age shall be left alone or with another child while in the bathtub or shower.
6. All children shall be bathed separately.
7. All children shall be provided an individual washcloth, towel, and soap for bathing, with fresh water for each child.

**Miss. Admin. Code 15-11-55:2.22.1**

**15-11-55:2.22.1. Emergency Suspensions of License**

1. Any license issued pursuant to these regulations may be suspended prior to a hearing if the licensing agency has reasonable cause to believe that the operation of the child care facility constitutes a substantial hazard to the health or safety of the children cared for by the child care facility.
2. Whenever a license is to be suspended, the operator or director shall be notified in writing that the license, upon service of the notice, is immediately suspended. The notice shall contain the reason for the emergency suspension, and shall set a date for a hearing, which shall be within 14 days of the service of notice.

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**Miss. Admin. Code 15-11-55:2.22.2**

**15-11-55:2.22.2. Denial, Revocation, or Suspension of License**

The licensing agency may deny, refuse to renew, suspend, revoke, or restrict a license of any child care facility upon one or more of the following grounds:

1. Fraud, misrepresentation, or concealment of a material fact by the operator in securing the issuance or renewal of a license.
2. Conviction of an operator of any crime, if the licensing agency finds that the acts of which the operator has been convicted could have a detrimental effect on the children cared for by the child care facility.
3. Violation of any of the provisions of the act or of these rules and regulations.
4. Any conduct or failure to act, which is determined by the licensing agency to threaten the health or safety of a child.
5. Failure by the child care facility to have all criminal records and child abuse central registry checks on file at the facility.
6. Information received by the licensing authority because of the criminal records check (fingerprinting) or the child abuse central registry check on an operator.

**Miss. Admin. Code 15-11-55:2.22.3**

**15-11-55:2.22.3. Notification**

1. Prior to the denial, refusal to renew, suspension, revocation or restriction of a license, and at the time of the imposition of any monetary penalty, written notice of the contemplated action shall be given to the applicant or person named on the license of the child care facility, at the address on record with the licensing agency. Such notice shall specify the reasons for the proposed action and shall notify the operator of the right to a district level hearing on the matter.

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2. Where the contemplated action is the revocation of a license, and when the proposed revocation is based on Rule 2.22.2 (3) or (4) and involves physical harm or injury to a child, no district level hearing will be provided. In such cases, the licensee will be notified of his opportunity for a state level hearing.

**Miss. Admin. Code 15-11-55:2.22.4**

**15-11-55:2.22.4. District Level Hearing**

1. If requested in writing within ten calendar days of receipt of said notice, a hearing shall be provided in which the operator or applicant may show cause why the license should be renewed or should not be denied, suspended, revoked, or restricted, or the monetary penalty should not be imposed.

2. Any hearing requested pursuant to Rule 2.22.44(1) shall be held no less than five calendar days and no more than 20 calendar days from the receipt of any request for a hearing, unless both parties agree to an alternate period.

3. The district level hearing shall be informal. However, the hearing officer must keep a record of the proceedings and provide the licensee with a written order outlining his decision within ten calendar days of conclusion of the district level hearing.

4. Within ten calendar days of the receipt of the district level decision the licensee may make a written request for a new hearing at the state level.

**Miss. Admin. Code 15-11-55:2.22.5**

**15-11-55:2.22.5. State Level Hearing**

1. At the state level, a hearing officer, appointed by the State Health Officer, shall conduct a hearing to be scheduled within 30 calendar days of receipt of the request for such hearing.

2. Within 30 calendar days of the hearing, or such period as determined during the hearing, written findings of fact, together with a recommendation for action, shall be forwarded to the State Health Officer. The State Health Officer shall decide what, if any, action is to be taken on the recommendation within 14 calendar days of receipt of the recommendation. Written notice of the decision of the State Health Officer shall be provided to the operator.

**Miss. Admin. Code 15-11-55:2.22.6**

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**15-11-55:2.22.6. Appeal**

Any operator who disagrees with or is aggrieved by a decision of the licensing agency concerning the suspension, revocation, or restriction of a license may appeal to the Chancery Court of the county in which the child care facility is located.

The appeal shall be filed no later than 30 calendar days after the operator receives written notice of the final administrative action by the licensing agency as to the suspension, revocation, or restriction of the license. The operator shall have the burden of proving that the decision of the licensing agency was not in accordance with applicable law and these regulations.

If a facility is allowed to continue to operate during the appeal process, it will remain under the regulation of the licensing agency and will be subject to all current licensure regulations to include, but not limited to, inspection of the facility, review of facility and children's records, submission of all required or requested documents, and payment of all applicable fees and/or monetary penalties.

**Miss. Admin. Code 15-11-55:2.22.7**

**15-11-55:2.22.7. Injunction**

Notwithstanding the existence of any other remedy, the licensing agency may, in the manner provided by law, in term time or in vacation, upon the advice of the Attorney General who shall represent the licensing agency in the proceedings, maintain an action in the name of the state for injunction or other proper remedy against any person to restrain or prevent the establishment, conduct, management, or operation of a child care facility with or without a license under the act, or otherwise in violation of these regulations.

**Miss. Admin. Code 15-11-55:2.22.8**

**15-11-55:2.22.8. Criminal Penalties**

Any person establishing, conducting, managing, or operating a child care facility without a license pursuant to these regulations shall be guilty of a misdemeanor, and, upon conviction, shall be fined not more than one hundred dollars (\$100.00) for the first offense, and not more than two hundred dollars (\$200.00) for each subsequent offense.

**Miss. Admin. Code 15-11-55:2.22.9**

**15-11-55:2.22.9. Violations and Penalties**

1. Any Class I violation of these regulations, in the discretion of the licensing agency, is punishable by a monetary penalty of five hundred dollars (\$500.00) for a first occurrence and a monetary penalty of one thousand dollars (\$1000.00) for each subsequent occurrence of the same violation. Each violation is considered a separate offense.

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The following are Class I violations:

- a. Failure to prevent the death, dismemberment, or permanent disability of a child.
- b. Allowing a child to be unattended at a licensed child care facility before or after operating hours. This also includes a child being left alone during operating hours when no staff is present at the facility. Further, a child left unattended outside of a child care facility is also considered to be a Class I violation.
- c. Allowing a child to be unattended when not at the licensed facility but under the care of the licensed facility.

**Should a facility be cited for Class I violations on two separate occasions, it may be cause for suspension or revocation of the facility license for habitual noncompliance with the *Regulations Governing Licensure of Child Care Facilities*.**

2. Any Class II violation of these regulations, in the discretion of the licensing agency, is punishable by a monetary penalty of fifty dollars (\$50.00) for a first occurrence and a monetary penalty of one hundred dollars (\$100.00) for each subsequent occurrence upon further inspections within the same licensure term. Each violation is considered a separate offense. Example: If a facility is five children over maximum capacity it constitutes five separate Class II violations and would be subject to a two hundred fifty dollar (\$250.00) or five hundred dollar (\$500.00) monetary penalty, whichever is applicable.

The following are Class II violations:

- a. Failure to maintain proper staff-to-child ratio (Rule 2.8.1 and Rule 2.8.2).
- b. Exceeding licensed maximum capacity (Rule 2.1.2(3) or Rule 2.11.2, i.e., Facility or Room capacity).
- c. Failure to have a proper criminal record check in a personnel record, i.e., a Letter of Suitability issued by the MSDH Criminal History Records Check Unit (Rule 2.5.2 or Rule 2.6.4 (1)(f)).
- d. Failure to have a proper child abuse central registry check in a personnel record, i.e., a Letter of Suitability issued by the MSDH Criminal History Records Check Unit (Rule 2.5.2 or Rule 2.6.4 (1)(f)).
- e. Improper discipline of a child (Subchapter 14).

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- f. Allowing a child to leave the child care facility with an unauthorized individual (Rule 2.4.1(2c)).
  
- g. Violation of an environmental health regulation (Subchapter 11 and Subchapter 12).
  
- h. Failure to report a serious occurrence (Rule 2.7.1).
  
- i. Failure to report a communicable disease (Rule 2.7.3).
  
- j. Violation of transportation and safety policies, procedures, and regulations (Rule 2.4.1(3c) and Subchapter 15).
  
- k. Unauthorized individual assigned administrative and supervisory responsibility for the facility when the director is absent or violation of Rule 2.5.7 Director Designee or Rule 2.8.1 (3).
  
- l. Failure to have proper (up-to-date) immunization documentation in each child's record and each employee's record.
  
- m. Failure to display license and/or complaint notice in accordance with Rule 2.2.10.
  
- n. Failure to meet conditions or restrictions placed on a license. The monetary penalty will be in addition to the immediate closure of the facility for failure to meet any conditions or restrictions as stated on the restricted license (Rule 2.2.2(4)).
  
- o. Failure to comply with the requirements of Rule 2.13.4 Sack Lunches.
  
- p. Failure to have adequate staff on site holding a valid CPR certificate. (Rule 2.8.1(4)).
  
- q. Failure to have adequate staff on site holding a valid First Aid certificate. (Rule 2.8.1(5))
  
- r. The presence of any individual who has failed to satisfy the personnel requirements of Subchapter 5.



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s. Violation of Rule 2.4.2 Smoking, Tobacco Products, and Prohibited Substances.

t. Failure to meet nutritional standards as listed in Appendix "C."

u. Altering of documents supporting suitability for employment in a child care facility, i.e., Letter of Suitability for Employment or Child Abuse Central Registry Check. Refer to Subchapter 5, Personnel Requirements.

**Should a facility be cited for Class II violations on four separate inspection dates, it may be cause for suspension or revocation of the facility license for habitual noncompliance with the *Regulations Governing Licensure of Child Care Facilities*.**

3. A Class III violation of these regulations, in the discretion of the licensing agency, is punishable by a monetary penalty of twenty-five dollars (\$25.00) for each occurrence. A Class III violation is any violation of these regulations not listed as a Class I or Class II violation in Rule 2.22.9(1) & (2).

4. Unless appealed, all monetary penalties shall be payable within 30 calendar days of being levied. If appealed monetary penalties shall be payable within 30 calendar days of final disposition.

5. An operator shall have the right to appeal a monetary penalty imposed pursuant to this section of the regulations, in accordance with the policy of the licensing agency. Any appeal of a monetary penalty must be filed with the licensing agency within ten calendar days of being levied.

6. An operator shall not be granted a license, nor shall a license be renewed for any operator with outstanding monetary penalties.

7. If a license expires during the appeal process, it shall be administratively extended and documentation of the extension shall be provided to the licensee. A facility given an administrative extension during the appeal process, shall remain under the regulation of the licensing agency and will be subject to all current licensure regulations to include, but not limited to, inspection of the facility, review of facility and children's records, submission of all required or requested documents, and payment of all applicable fees and/or monetary penalties.

Miss. Admin. Code 15-11-55:2.23.1

15-11-55:2.23.1.

Information in the possession of the licensing agency concerning the license of individual child care facilities may be disclosed to the public, except such information shall not be disclosed in such manner as to identify children or families of children cared for at a child care facility. Nothing in this section shall affect the agency's authority to

Current through the Mississippi Administrative Rules Listing of Filings, dated April 2014.

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release findings of investigation into allegations of abuse pursuant to either [Sections 43-21-353\(8\)](#) and [Section 43-21-257 Mississippi Code of 1972](#), annotated.