

Mississippi Administrative Code _Title 15. Mississippi State Department of Health _Part 11. Bureau of Child Care Facilities _Subpart 55. Child Care Facilities Licensure _Chapter 1. Regulations Governing Licensure of Child Care Facilities _Subchapter 20. Children with Special Needs

Miss. Admin. Code 15-11-55:1.20.1

15-11-55:1.20.1. 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 15-11-55:1.20.2

15-11-55:1.20.2. 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 15-11-55:1.20.3

15-11-55:1.20.3. 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 15-11-55:1.20.4

15-11-55:1.20.4. 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 15-11-55:1.21.1

15-11-55:1.21.1. General

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

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

Mississippi Administrative Code _Title 15. Mississippi State Department of Health _Part 11. Bureau of Child Care Facilities _Subpart 55. Child Care Facilities Licensure _Chapter 1. Regulations Governing Licensure of Child Care Facilities _Subchapter 20. Children with Special Needs operation.

Miss. Admin. Code 15-11-55:1.21.2

15-11-55:1.21.2. 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 (2 1/2) 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 15-11-55:1.21.3

15-11-55:1.21.3. 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.
6. Each child shall have clean and comfortable sleeping garments.

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Miss. Admin. Code 15-11-55:1.21.4**

15-11-55:1.21.4. 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 15-11-55:1.22.1

15-11-55:1.22.1. General

For a child care facility operating pursuant to a license for "School Age Care," the regulations for child care facilities shall apply, except when inconsistent with the requirements of this section and then the requirements of this section take precedence. Programs operating in excess of 16 weeks per year shall meet the more stringent requirements of Subchapter 22 and 23.

Miss. Admin. Code 15-11-55:1.22.2

15-11-55:1.22.2. Enrollment

A child care facility operating pursuant to a license for "School Age Care" shall only enroll school age children (5-12 years of age). These children may not be placed in the same area of a child care facility as preschool children.

Miss. Admin. Code 15-11-55:1.22.3

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15-11-55:1.22.3. Indoor Square Footage and Grouping

A minimum of 25 square feet of usable indoor floor space, per child per room, shall be maintained for each child. This shall not include hallways, bathrooms, closets, storage rooms, offices, or kitchens. When a room is used for meals, the minimum square footage per child per room requirement will not apply. This standard is only applicable when the program is licensed as school age only. If the school age children are served in conjunction with preschool children under the same license, the preschool square footage standards will apply.

When children are placed in groups, the maximum group size shall be determined by the following chart.

Age of Children in the Group	MAXIMUM number of children ALLOWED in a group of children this age	MINIMUM number of caregivers REQUIRED for a group of children this age	MINIMUM square footage REQUIRED for a group of children this age
5-9 years	20 children	1 caregiver	25 square feet per child
10-12 years	25 children	1 caregiver	25 square feet per child

Miss. Admin. Code 15-11-55:1.22.4

15-11-55:1.22.4. Nutrition

1. A snack period shall be provided.

2. On holidays, inclement weather days, or when a child must be in school age care for a full day program, snacks and meals may be provided by the parents if the parents are given and adhere to policies regarding acceptable nutritional standards, as prescribed in Appendix "C" Minimum Standards for Nutritional Care in Child Care Facilities. When nutritional standards are not met by snacks and meals provided by parents, it is the child care facility's responsibility to see that children are provided acceptable snacks and meals, prepared on-site or by a permitted catering establishment.

Miss. Admin. Code 15-11-55:1.22.5

15-11-55:1.22.5. Transportation

1. The staff-to-child ratio shall be maintained at all times.

2. The driver of the vehicle may be counted as a caregiver while transporting school age children only.

Miss. Admin. Code 15-11-55:1.22.6

15-11-55:1.22.6. Toilets and Hand Washing Lavatories

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1. The following ratios shall apply:

Number of Children	Number of Toilets and Hand Washing Lavatories
1-30	1 of each
31-60	2 of each
60-90	3 of each

2. For each additional 30 children or portion thereof, add one toilet and one hand washing lavatory.

3. Urinals shall count as one-half (1/2) a toilet not to exceed 33 percent of the total number of toilets required.

4. Separate facilities for boys and girls shall be provided.

5. School age programs serving only school age children that are located in schools accredited by any organization listed in Mississippi Code § 43-20-5 (a)(iii) are exempt from the requirements for hot water at hand washing lavatories utilized by the children in attendance.

Miss. Admin. Code 15-11-55:1.22.7

15-11-55:1.22.7. Playgrounds

School age programs serving only school age children that are located in schools accredited by any organization listed in Mississippi Code § 43-20-5 (a)(iii) are exempt from the requirements of Subchapter 10, Rule 1.10.2 Playground Equipment and Subchapter 10, Rule 1.10.9 Outdoor Playground Area of these regulations except that playground equipment shall be in good repair.

Miss. Admin. Code 15-11-55:1.22.8

15-11-55:1.22.8.

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In after school programs, screen time, i.e., television viewing, including video tapes and/or other electronic media, cell phone, or digital media, e.g., iPod®, iPad®, iTouch®, etc., is limited to one hour per day. Screen or media use or other educational electronic equipment is acceptable provided such is for educational purposes.

Miss. Admin. Code 15-11-55:1.23.1

15-11-55:1.23.1. General

Summer Day Camp Regulations Page 6-10.

For a child care facility operating pursuant to a license for a “Summer Day Camp” or “School Age Program,” the regulations for child care facilities shall apply, except when inconsistent with the requirements of this section, and then the requirements of this section take precedence.

Miss. Admin. Code 15-11-55:1.23.2

15-11-55:1.23.2. Definition

1. A summer day camp is defined as a child care facility that operates during May, June, July, and/or August only, for a minimum of 22 days and a maximum of 16 weeks.

2. A school age program is defined as a child care facility that operates during the school year. These programs may also operate 12 months a year. School age programs that operate 12 months a year shall meet “School Age Program” space requirements for determining maximum capacity.

Miss. Admin. Code 15-11-55:1.23.3

15-11-55:1.23.3. Enrollment

Summer day camps and school age programs shall not enroll children under five years of age.

Miss. Admin. Code 15-11-55:1.23.4

15-11-55:1.23.4. Maximum Capacity

All children enrolled (including those over 13 years of age) shall be included in calculating the maximum capacity of the facility.

Miss. Admin. Code 15-11-55:1.23.5

15-11-55:1.23.5. Summer Day Camp & School Age Program Director Qualifications

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1. A summer day camp director shall be at least 21 years of age, and shall have, at a minimum:

a. A bachelor's degree with a minimum of 18 semester hours in elementary or secondary education or a field such as recreation, physical education, psychology (with emphasis in child/adolescent psychology), or special education, or one related to day camp or school age program operations.

OR

b. A two year associate degree in child development technology or related field.

OR

c. A Mississippi Department of Human Services Office for Children and Youth Director's Child Care Credential, or 15 semester hours credit with a grade of "C" or better from an accredited college or university in courses listed in #1 above with an additional two years of experience as a caregiver or caregiver assistant in a licensed child care facility (Any college course(s) submitted for consideration are subject to approval by the licensing authority).

OR

d. A high school diploma or equivalent (GED) and four years experience in a school age program or four summers in a day camp program.

2. Transcripts shall be provided for review by the licensing agency.

Miss. Admin. Code 15-11-55:1.23.6

15-11-55:1.23.6. Caregiver CPR and First Aid Certification

1. All caregivers in summer day camps are required to have current CPR and first aid certification, copies of which shall be kept with their personnel records.

2. In school age programs that operate in a central location there shall be at least one caregiver on the premises at all times the facility is in operation that has a current certification in CPR and first aid. When groups of children are away from the central location for field trips etc., there shall be at least one caregiver with the group that holds a current certification in CPR and first aid.

Miss. Admin. Code 15-11-55:1.23.7

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15-11-55:1.23.7. Facility Record Storage

Facility records may be retained in the administrative office.

Miss. Admin. Code 15-11-55:1.23.8

15-11-55:1.23.8. Indoor Square Footage and Grouping

1. For summer day camps that routinely operate indoors in a permanent structure for two or more hours each day a minimum of 25 square feet of usable indoor floor space, per child per room, shall be maintained for each child. This shall not include hallways, bathrooms, closets, storage rooms, offices, or kitchens. When a room is used for meals, the minimum square footage per child requirement will not apply.

When children are placed in groups, the maximum group size shall be determined by the following chart.

Age of Children in the Group	MAXIMUM number of children ALLOWED in a group of children this age	MINIMUM number of caregivers REQUIRED for a group of children this age	MINIMUM square footage REQUIRED for a group of children this age
5-9 years	20 children	1 caregiver	25 square feet per child
10-12 years	25 children	1 caregiver	25 square feet per child

2. When activities for children are routinely conducted outdoors or off the premises for six or more hours each day, the following requirements shall apply:

a. There shall be a permanent structure that serves as a home base where parents deliver and pick up children.

b. There shall be a minimum of ten square feet per child usable indoor space available in the event of inclement weather.

3. School age programs require that a minimum of 25 square feet of usable indoor floor space, per child per room shall be maintained for each child. This shall not include hallways, bathrooms, closets, storage rooms, offices, or kitchens. When a room is used for meals, the minimum square footage per child requirement will not apply.

Miss. Admin. Code 15-11-55:1.23.9

15-11-55:1.23.9. Nutrition

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1. For summer day camps or school age programs that routinely operate indoors in a permanent structure, snacks, and meals may be provided by the parents if the parents are given and adhere to policies regarding acceptable nutritional standards, as prescribed in Appendix "C" Minimum Standards for Nutritional Care in Child Care Facilities. When nutritional standards are not met by snacks and meals provided by parents, it is the summer day camp's or school age program's responsibility to see that children are provided acceptable snacks and meals, prepared on-site or by a permitted catering establishment.

2. For summer day camps operating primarily as an outdoor program away from the home base, the following exceptions shall apply:

3. Milk is not required to be served in programs routinely operating outdoors or off the premises for six or more hours each day.

4. If food is brought from home or catered, there shall be sanitary cold storage available.

5. All summer day camps shall have an adequate water supply. Potable water, from a Mississippi State Department of Health approved source, shall be used for drinking. Fresh water shall be provided daily in closed containers.

Miss. Admin. Code 15-11-55:1.23.10

15-11-55:1.23.10. Transportation

1. The staff-to-child ratio shall be maintained at all times.
2. The driver of the vehicle may be counted as a caregiver while transporting the children.

Miss. Admin. Code 15-11-55:1.23.11

15-11-55:1.23.11. Toilets and Hand Washing Lavatories

1. The following ratios shall apply:

Number of Children

Number of Toilets and Hand washing Lavatories

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1-30 1 of each

31-60 2 of each

60-90 3 of each

2. For each additional 30 children or portion thereof, add one toilet and one hand washing lavatory.

3. Urinals (in boys' restrooms) shall count as one-half (1/2) a toilet not to exceed 33 percent of the total number of toilets required.

4. Separate facilities for boys and girls shall be provided.

5. For summer day camps operating primarily as an outdoor program away from the home base, alternative methods of hand washing may be provided.

Miss. Admin. Code 15-11-55:1.23.12

15-11-55:1.23.12. Equipment

Archery equipment, firearms (e.g., skeet shooting, target practice, etc.), power equipment, and other potentially hazardous items shall be stored in a locked area when not in use. These items shall be used by children only under the direction and supervision of an individual certified by a state or national organization recognized by the Mississippi State Department of Health.

Miss. Admin. Code 15-11-55:1.23.13

15-11-55:1.23.13. Immunization Requirements

Children properly enrolled in a Summer Day Camp or School Age Program are not required to have a Certificate of Immunization Compliance (MSDH Form 121) in their record.

Miss. Admin. Code 15-11-55:1.24.1

15-11-55:1.24.1. General

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Hourly Child Care Facility Regulations Page 10-14

For a child care facility operating pursuant to a license for an “Hourly Child Care,” the regulations for child care facilities shall apply, except when inconsistent with the requirements of this section, and then the requirements of this section take precedence.

Miss. Admin. Code 15-11-55:1.24.2

15-11-55:1.24.2. Definition

1. An “Hourly Child Care Facility” is defined as a facility that meets the provisions of these regulations for a “Child Care Facility” and:

a. Limits the care of a child to no more than eight hours per stay not to exceed a total of 45 hours in any calendar month period.

b. Provides supervised, short term, hourly care on a temporary basis in conjunction with a specific facility or business complex such as, but not limited to, hotels; shopping malls; recreational, sporting, or entertainment facilities.

2. Hourly child care facilities are not appropriate for full time child care and will not be allowed to provide that type of service. When it is determined by the licensing agency that a facility provides child care services on a full time basis, the facility shall meet all requirements for a regular child care facility as set forth in the preceding sections of these regulations.

Miss. Admin. Code 15-11-55:1.24.3

15-11-55:1.24.3. Facility Policy and Procedures

1. Parents shall be provided a written statement of policies pertaining to emergencies, meals, snacks, procedures for releasing a child to parent, and any other information regarding hourly child care facility operation. All policies and procedures will be submitted to the licensing agency and reviewed prior to a license being issued. Written guidelines will be provided to applicants as part of the application packet.

2. The care of a child shall be no more than eight hours per stay and shall not exceed a total of 45 hours in any calendar month period.

3. When business hours exceed 12 hours in a 24-hour period, the program will be reviewed on an individual basis

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for compliance with regulations addressing evening and overnight care.

Miss. Admin. Code 15-11-55:1.24.4

15-11-55:1.24.4. Personnel Requirements

Students in a field study placement, a practicum, or vocational child care training program may not assist in the care of the children in hourly child care facilities.

Miss. Admin. Code 15-11-55:1.24.5

15-11-55:1.24.5. Records and Reports

In addition to all records and reports required in these regulations, hourly child care facilities shall maintain a log containing the name, address, and home phone number of each child along with the date and time of arrival and departure. The hourly child care facility shall maintain information necessary to contact local law enforcement officials and the Mississippi Department of Human Services when a child is left at the facility past its hours of operation, or for an extended period.

Miss. Admin. Code 15-11-55:1.24.6

15-11-55:1.24.6. Health Records

Sample forms for duplication will be provided to operators to ensure adequate health information is taken on the children served. Only forms that substantially comply with the aforementioned sample forms will be acceptable. Registration forms will include a signed statement that will serve as verification that a child has received all age-appropriate immunizations. Other information to be included on the form will be the home or forwarding phone numbers and addresses to be used when the parent must be informed of situations or conditions after the child is no longer at the hourly child care facility.

Miss. Admin. Code 15-11-55:1.24.7

15-11-55:1.24.7. Program of Activities

Hourly child care facility programs are exempt from the requirement that a planned written program of activities be submitted as part of the licensing process. However, the facility shall provide adequate space and equipment to allow children to choose between quiet and active play. Appropriate toys and books for quiet play shall be maintained in a physically separate area that is a sufficient distance from active play to reduce noise and to assure a quiet, relaxed environment.

Miss. Admin. Code 15-11-55:1.24.8

15-11-55:1.24.8. Buildings and Grounds

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1. A certificate of inspection and approval by the fire department of the municipality or other political subdivision in which the child care facility is located shall be submitted to the licensing agency with the application and license fee. Except that if no fire department exists where the facility is located, the State Fire Marshall shall certify as to the inspection for safety from fire hazards. The inspection form to be used for fire inspections shall be MSDH Form #333 and shall be signed by a signatory authority of the fire inspection authority making the inspection.

2. In non-land-based facilities, only ground level space with exits directly to the outside will be approved.

3. A written emergency evacuation route shall be posted in a conspicuous location within each room used by children. The plan will be subject to review, evaluation, and approval by the licensing agency.

4. Space requirements shall comply with the standards set forth in these regulations. However, in the absence of adequate outdoor playground area, not less than 25 percent nor more than 50 percent of the space allocated for children three to 13 years of age shall be set aside and dedicated to large muscle development activities. Such areas shall contain appropriate play equipment for large muscle development. Such equipment may include but is not limited to indoor gyms specifically designed and approved for children in the three to 13 years of age group. Final approval of the appropriateness of the equipment to be located in the designated area shall be made by the licensing agency.

5. If outdoor playground space is provided, but inadequate for the maximum capacity of the building, a schedule shall be provided to show how outdoor playtime will be made available to all the children. At no time will there be more children on the playground than the maximum number allowed computed at 75 square feet per child. Maximum outdoor playground area capacity shall be posted and adhered to at all times the area is in use.

6. When kitchens are not on-site, the hourly child care facility is required to maintain adequate storage and refrigeration for snacks. In addition, food shall be served in disposable containers unless an acceptable method of dishwashing is available (Appendix "E"). All food served shall come from a permitted kitchen or catering facility. Food service shall comply with the standard set in the current 10.0 Regulation Food Code as published by the Mississippi State Department of Health.

7. The ratio of one hand washing lavatory and one toilet for every 30 children shall be maintained. Separate facilities are required for boys and girls.

8. Facilities must meet the requirements of Rule 1.2.2 (1)(k) and Rule 1.11.1 (8) of these regulations. Referenced Rule 1.2.2 (1)(k) and Rule 1.11.1 (8) refer to required testing for lead in child care facilities.

Miss. Admin. Code 15-11-55:1.24.9

15-11-55:1.24.9. Nutrition

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Parents of children being cared for in an hourly child care facility shall be informed in writing of the availability of meals and the following requirements:

1. When a child is in a facility for three or more hours, a snack shall be provided.

2. Children under five years of age will be provided snacks on request, regardless of the length of time spent in the facility.

3. At regular meal times, all children present shall be offered a meal. Regular meal times are defined as follows:

a. Breakfast - between 7 a.m. and 9 a.m.

b. Lunch - between 11 a.m. and 1 p.m.

c. Supper - between 5 p.m. and 7 p.m.

4. All meals shall meet the nutritional standards prescribed in Appendix "C" Minimum Standards for Nutritional Care in Child Care Facilities.

Miss. Admin. Code 15-11-55:1.24.10

15-11-55:1.24.10. Abuse and Neglect Reports

1. All employees will be informed by the hourly child care facility director of the individual's responsibility in reporting suspected abuse and neglect. Copies of the child abuse law shall be provided to each employee (Appendix "A").

2. Reports of suspected child abuse or neglect will be made to the Mississippi Department of Human Services and/or local law enforcement officials in accordance with state law. Because abused or neglected children requiring immediate attention are often identified after traditional business hours of the Mississippi Department of Human Services, reports of this nature shall also be made to local law enforcement.

3. Hourly child care facility operators and/or directors are encouraged to establish a working relationship with local law enforcement authorities and the Mississippi Department of Human Services. In extreme situations where local county Department of Human Services staff cannot be reached, operators and/or directors will report to the statewide 24-hour Child Abuse Hotline at 1-800-222-8000.

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4. Operators and/or directors will work in conjunction with the local law enforcement and the Mississippi Department of Human Services to establish a workable procedure for reporting cases when a child has been left at the hourly child care facility for an extended period of time after business hours or when allowing a child to leave the hourly child care facility will place that child at risk or in potential danger.

Miss. Admin. Code 15-11-55:1.25.1

15-11-55:1.25.1. 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.

Miss. Admin. Code 15-11-55:1.25.2

15-11-55:1.25.2. 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 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 as a result of the criminal records check (fingerprinting) or the

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child abuse central registry check on an operator.

Miss. Admin. Code 15-11-55:1.25.3

15-11-55:1.25.3. 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.
2. Where the contemplated action is the revocation of a license and when the proposed revocation is based on Subchapter 25, Rule 1.25.2 (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 15-11-55:1.25.4

15-11-55:1.25.4. 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 Subchapter 1.25.4(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 15-11-55:1.25.5

15-11-55:1.25.5. State Level Hearing

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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 15-11-55:1.25.6

15-11-55:1.25.6. 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 15-11-55:1.25.7

15-11-55:1.25.7. 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 15-11-55:1.25.8

15-11-55:1.25.8. 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 15-11-55:1.25.9

15-11-55:1.25.9. Violations and Penalties

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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.

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 1.8.1 (1) and Rule 1.8.1 (2)).
- b. Exceeding licensed maximum capacity (Rule 1.1.2 (3) or Rule 1.11.2, 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 1.5.2 or Rule 1.6.4 (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 1.5.2 or Rule 1.6.4 (1)(f)).

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- e. Improper discipline of a child (Subchapter 14).

- f. Allowing a child to leave the child care facility with an unauthorized individual (Subchapter 4, Rule 1.4.1 (2c)).

- g. Violation of an environmental health regulation (Subchapters 11 and 12).

- h. Failure to report a serious occurrence (Rule 1.7.1).

- i. Failure to report a communicable disease (Rule 1.7.3).

- j. Violation of transportation and safety policies, procedures, and regulations (Rule 1.4.1(3c) and Subchapter 15).

- k. Unauthorized individual assigned administrative and supervisory responsibility for the facility when the director is absent or violation of Rule 1.5.6 Use of Director Designee or Rule 1.8.1 (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 1.2.9.

- 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 1.2.2.(4)).

- o. Failure to comply with the requirements of Rule 113.4 Sack Lunches.

- p. Failure to have adequate staff on site holding a valid CPR certificate. (Rule 1.8.1 (4))

- q. Failure to have adequate staff on site holding a valid First Aid certificate. (Rule 1.8.1 (5))

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- r. The presence of any individual who has failed to satisfy the personnel requirements of Subchapter 5.

- s. Violation of Rule 1.4.2 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 1.25.9(1) & (2).

- 4. Unless they are appealed, all monetary penalties shall be payable within 30 calendar days of being levied. If monetary penalties are appealed they 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 15-11-55:1.26.1

15-11-55:1.26.1.

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

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

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families of children cared for at a child care facility. Nothing in this section shall affect the agency's authority to 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.