

Administrative Rules of South Dakota Currentness \_Department of Social Services (Articles 67:10 to 67:57) \_Article 67:42 Regulatory Administration \_Chapter 67:42:03 Family Day Care Homes

ARSD 67:42:03:01

67:42:03:01. Definitions.

Terms used in this chapter mean:

(1) "Family day care," the provision of regular care and supervision of no more than 12 children, including the provider's own children who are under the age of six years, for part of a 24-hour period as a supplement to regular parental care; and

(2) "Registered helper," an employee or volunteer present in the facility to assist with the care of children.

ARSD 67:42:03:02 Repealed

67:42:03:02. Licensure of family day care. Repealed.

ARSD 67:42:03:03 Repealed

67:42:03:03. Approval of in-home care and family day care in a relative's home. Repealed.

ARSD 67:42:03:04 Repealed

67:42:03:04. Status and number of children cared for. Repealed ARSD 67:42:03:04.01

67:42:03:04.01. Maximum number of children allowed.

A family day care provider may care for a maximum of 12 children, including the provider's own children who are under the age of six years. No more than four of the 12 children may be under the age of two years, and no more than two of these four children may be under the age of one unless there is a registered helper in the home. If a registered helper is present in the home, no more than eight of the twelve children may be under the age of two and no more than four of the eight may be under the age of one.

ARSD 67:42:03:05 Repealed

67:42:03:05. License for specific children. Repealed.

ARSD 67:42:03:06

67:42:03:06. Qualifications of a family day care provider.

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A family day care provider must be at least 18 years of age and shall demonstrate the ability to provide care for children that attends to the child's physical growth and development and to the physical, emotional, cognitive, and social needs of the child.

The provider's family and household composition and relationships may not adversely affect a child in care.

**ARSD 67:42:03:07 Repealed**

**67:42:03:07. Age and family composition. Repealed.**

**ARSD 67:42:03:07.01**

**67:42:03:07.01. Qualifications of helpers.**

A family day care helper must be at least 14 years old. A helper under the age of 18 may be included in the adult-child ratio only if there is another adult present in the home. A helper who is under the age of 18 may not be left alone on the premises with children in care.

A helper must meet the requirements of §§ 67:42:03:07.02 and 67:42:03:07.03.

A volunteer filling the position of a helper must meet the requirements of this section.

**ARSD 67:42:03:07.02**

**67:42:03:07.02. Training.**

**A family day care provider and helper shall participate in a minimum of six hours of training every year. Three of the six hours of annual training may be from reading sources or televised or video programming. The training must be obtained from at least three of the following areas:**

- (1) Child growth and development;
- (2) Detecting and reporting child abuse and neglect;
- (3) Guidance and behavior management;

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(4) Food handling techniques;

(5) Identification and prevention of communicable diseases;

(6) Program health and safety;

(7) Nutrition for children;

(8) Program management and regulation;

(9) Communication and relations with staff;

(10) Cultural diversity;

(11) Learning environments;

(12) Age appropriate activities and planning;

(13) Professionalism;

(14) Partnerships with parents;

(15) Inclusion of all children; and

(16) Basic first aid.

Before an initial registration is issued, the applicant must complete and become certified in infant-child cardio-pulmonary resuscitation (CPR) through an entity that provides the applicant with hands-on skills testing as part of the training. The CPR certification must remain valid at all times.

Any individual supervising children around a body of water and any helper being left alone to supervise children

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must meet the training and certification requirements for CPR as contained in this section.

Before the department renews the registration certificate, the family day care provider shall supply the department with documented evidence that the provider and helper have completed the required training.

**ARSD 67:42:03:07.03**

**67:42:03:07.03. Staff records and hiring requirements.**

A family day care provider shall maintain a record on each staff member. The record must include the staff member's name, age, address, telephone number, in-service training, dates of employment and separation, and a statement signed by the staff member which defines child abuse and neglect and outlines the staff member's responsibility to report all incidents of child abuse or neglect under the provisions of SDCL 26-8A-3 and 26-8A-8. The facility shall make the personnel records available to the department for verification of the contents. The personnel records must be kept for six months after the staff member's employment ends.

Before hiring an individual to work at the facility, the provider shall contact at least three references which may include the individual's former employers. The references may not be related to the prospective staff member. References must be in the form of a documented conversation or written letter and must be on record before hiring the individual.

**ARSD 67:42:03:07.04 Repealed**

**67:42:03:07.04 Staff health requirements. Repealed.**

**ARSD 67:42:03:07.05**

**67:42:03:07.05. Qualifications of substitute providers.**

A substitute provider must be at least 18 years of age and may not have on record a substantiated report of child abuse or neglect. A substitute provider may not be utilized more than 12 hours per week. Prior to being left alone to supervise children, a substitute provider must complete the cardio-pulmonary resuscitation (CPR) requirements of § 67:42:03:07.02.

**ARSD 67:42:03:08**

**67:42:03:08. Health standards for children.**

Before admitting a child for care in a family day care home, the provider shall require a child's parent or guardian to submit a written statement signed by a licensed physician, physician's assistant, certified nurse practitioner, or community health nurse or an immunization record from the South Dakota Immunization Information System showing the immunization status of the child and verifying that the child meets the minimum immunization requirements for the child's age as recommended by the South Dakota Department of Health.

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The operator shall ensure that immunization levels of all children are current. For children who begin the series late or are more than one month behind in immunizations, the immunization levels of these children must show current progress toward achieving adequate immunization levels as recommended by a physician, physician's assistant, certified nurse practitioner, or community health nurse. Immunization levels may be verified by an annual audit conducted by the Department of Health.

If a child suffers an illness during the day, the child must be separated from other children and the child's parents must be notified. The provider shall notify the Department of Health if any child in the family day care home contracts a communicable disease. The provider shall follow the Department of Health's recommendations for addressing a situation involving a communicable disease. The family day care home must have on file the name, address, and telephone number of each child's source of regular health supervision as well as other emergency medical information.

A child is exempt from meeting the minimum age-specific immunization levels if the child's parent or guardian has certification from a licensed physician stating that the physical condition of the child is such that a test or immunization would endanger the child's life or health or if the child's parent or guardian has signed a written statement that the child is an adherent to a religious doctrine whose teachings are opposed to such tests and immunizations.

Written permission from parents or guardians allowing for the child's emergency medical care must be obtained and maintained by the operator.

**ARSD 67:42:03:08.01**

**67:42:03:08.01. Medications.**

Medications may only be administered with the written consent of the parent or guardian and only if the consent lists the name of the medication and the date or dates the medication is to be administered. Any medication administered to a child must be documented to include the dose, name of child, time and date administered, and signature of the person administering the medication. This documentation shall be available to the child's parent or guardian and must be kept for six months. Medications must be kept in their original container with the original label. The label must contain legible directions for use, the expiration date, the child's name, and the physician's name. Medications must be stored in a place which is inaccessible to children. Medication requiring refrigeration must be placed in another container which is not absorbent and labeled "medication."

**ARSD 67:42:03:09 Repealed**

**67:42:03:09. Reporting and maintenance of records. Repealed.**

**ARSD 67:42:03:09.01**

**67:42:03:09.01. Reporting suspected child abuse and neglect.**

A family day care provider must comply with SDCL 26-8A-3 and 26-8A-8 by immediately reporting any suspected

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incident of child abuse or neglect to the department, police, sheriff, or states attorney and cooperate fully in the investigation of any incident.

**ARSD 67:42:03:10 Repealed**

**67:42:03:10. Location of family day care home. Repealed.**

**ARSD 67:42:03:11 Repealed**

**67:42:03:11. Physical requirements of family day care home. Repealed.**

**ARSD 67:42:03:11.01 Repealed**

**67:42:03:11.01. Indoor play space. Repealed.**

**ARSD 67:42:03:11.02**

**67:42:03:11.02. Smoke detectors and fire extinguishers.**

A family day care home must have a working smoke detector on each level of the building. Audible alarm indicating devices must be designed and distributed so as to be effectively heard above the maximum noise level obtained under normal conditions of occupancy.

**A fully charged, portable fire extinguisher with a minimum 2A rating, as identified on the extinguisher label, must be kept near the food processing area.**

**ARSD 67:42:03:11.03**

**67:42:03:11.03. Exit requirements -- Drills.**

Each level of the family day care home used for the care of children must have two exits which are separate and remote from each other. Each of these exits must provide unobstructed travel to the outside. One of these exits must be a standard-sized door that meets the applicable code for the structure. The other exit may be a window which is easy to open from the inside without the use of tools.

A window used as an exit in a family day care home must provide a clear opening at least 20 inches wide and 24 inches high and must be at least 5.0 square feet in area. There may be no more than 44 inches between the floor and the bottom of the window. If more than 44 inches exists between the floor and the bottom of the window, a stable and permanent platform must be used that raises the level of the floor such that the distance is 44 inches or less between the bottom of the window and the platform landing.

If storm windows, screens, or burglar guards are used, they must be provided with quick-opening devices which may be easily opened from the inside.

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No room or space may be occupied for living or sleeping purposes which is accessible only by a ladder, by a folding stair, or through a trap door.

The home must have a written evacuation plan and must conduct at least four fire drills and one tornado drill each year. The tornado drill must be conducted at the beginning of summer. The provider must maintain written documentation as evidence that the drills were conducted.

**ARSD 67:42:03:11.04 Repealed**

**67:42:03:11.04. Artificial lighting. Repealed.**

**ARSD 67:42:03:11.05**

**67:42:03:11.05. Water supply.**

**Water must derived from a community water system or from a water system that is tested at least annually by the Department of Environment and Natural Resources or a laboratory certified by the Department of Health to conduct such tests. The water must be tested for bacteria and nitrate levels and must be safe for consumption. The provider must maintain written documentation of the test results.**

Hot water from plumbing fixtures normally utilized by children in care may not exceed 120 degrees Fahrenheit.

**ARSD 67:42:03:11.06**

**67:42:03:11.06. Heating, ventilating, and lighting.**

The family day care provider shall ensure that heating, ventilating, and lighting facilities are adequate for the protection of the children's health.

Unvented fuel-fired room heaters may not be used. A guard must be provided to protect the children from and restrict their access to hot surfaces and open flames.

**ARSD 67:42:03:11.07**

**67:42:03:11.07. Electrical outlet covers.**

In family day care homes caring for children aged four years and younger, unused electrical outlets must be covered by Underwriter's Laboratory approved electrical outlet covers.

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There may be no bare or exposed electrical wires present within the home.

**ARSD 67:42:03:11.08**

**67:42:03:11.08. Food quality and storage.**

The family day care provider shall comply with the following provisions:

(1) Food must be free from spoilage, filth, or other contamination and must be safe for human consumption;

(2) Fluid milk and fluid milk products used or served must be pasteurized and must meet Grade A quality as defined by SDCL 39-6-1;

(3) During storage, preparation, and serving, food must be protected from potential contamination;

(4) Food which is removed from the original container or package in which it was obtained must be stored in a clean, covered, nonabsorbent container; and

(5) Refrigeration facilities must be provided to assure the maintenance of potentially hazardous foods at 41 degrees Fahrenheit or below during storage. Frozen foods must be kept frozen and must be stored at a temperature of 0 degrees Fahrenheit or below.

**ARSD 67:42:03:11.09**

**67:42:03:11.09. Insect and rodent control.**

A family day care provider must take effective measures to minimize the presence of rodents and insects on the premises. Doors and windows used for outside ventilation must be screened and in good repair.

**ARSD 67:42:03:11.10**

**67:42:03:11.10. Railings.**

All floor and wall openings, open-sided areas, platforms, and decks which are 30 inches or more above the adjacent ground level must be guarded by a railing or barrier. The railing or barrier must be constructed to prevent a child from crawling or falling through or becoming entrapped.

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ARSD 67:42:03:12

67:42:03:12. Sanitation requirements.

A family day care home must be kept clean, neat, and free of litter and rubbish.

If care is provided to infants, the home must have a diaper changing table or pad that has a surface that is easily cleanable and nonabsorbent. The table or pad must be cleaned after each use with a solution of one ounce of household bleach to one quart of water.

If a toy comes in contact with a child's saliva or other bodily fluids it must be sanitized with a solution of one ounce of household bleach to two gallons of water or washed and rinsed in a mechanical dishwasher.

If a provider finds a product that the provider prefers to use instead of bleach, the provider shall submit the product label to the department. The department, in consultation with the Department of Health, shall review the product and make a determination of whether the product and the provider's established procedures for using the product is an effective and acceptable disinfectant for a child care program.

Hazardous cleaning solutions, chemicals, and poisons must be labeled and kept in an enclosed cabinet that is not accessible to children.

Garbage and refuse must be kept in durable, easily cleanable containers that do not leak and do not absorb liquids. Garbage and refuse must be disposed of often enough to prevent the development of odor and the attraction of insects and rodents.

ARSD 67:42:03:13

67:42:03:13. Nutrition requirements.

If a child is in family day care during the home's regular meal time, the child must be offered a meal which consists of a variety of foods which supplies at least one-third of the child's daily nutritional needs. Nutritious midmorning, midafternoon, and evening snacks must be served between meals as long as there are at least two hours between each meal and snack. Breakfast may be substituted for the midmorning snack. The provider shall prepare and post menus of the meals available at the home for the week and shall record on the menu the food actually served. The provider shall retain the menus for a period of six months after the week for which it was prepared.

Infants must be fed according to their individual schedule and must be held while bottle feeding

ARSD 67:42:03:14 Repealed

67:42:03:14. Program standards for family day care. Repealed.

ARSD 67:42:03:15

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67:42:03:15. Presence of the provider.

Whenever a child is in care during the day, the provider or a substitute provider must be present in the family day care home and awake and alert to the needs of the child. Whenever a child is in care during the night, the provider or substitute provider must be present in the family day care home and accessible and responsive to a child who awakens during the night and requires attention. When a substitute provider is to be used, the provider must notify the child's parent.

If the child is three years of age or older, the provider may supervise outdoor activities from inside the home if the child playing outside is within the provider's line of sight.

If providing care for a child under the age of three, the provider or substitute provider must meet the following additional requirements:

(1) Must be on the same level of the home as the child or be able to hear the child and expeditiously respond to the child's needs;

(2) Must provide each child with a daily opportunity to freely move about in a safe, clean, and uncluttered area; and

(3) Must provide direct supervision when the child is outside.

ARSD 67:42:03:16

67:42:03:16. Discipline.

Discipline techniques used must offer clear-cut limits and direction to help a child to develop self-control and respect for the rights of others. Discipline techniques must be appropriate to the child's age and developmental level. Separation, when used as discipline, must be within sight and hearing range of a staff member responsible for caring for children. Discipline may not be delegated to older children or peers. Humiliating or frightening punishment such as the following are prohibited:

(1) Spanking, hitting, pinching, biting, shaking, or inflicting any other unusual physical punishment;

(2) Verbal abuse, threats, or derogatory remarks about self or family;

(3) Restriction of movement or confinement. A child may not be isolated in a locked room or closet;

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(4) Punishment for lapses in toilet training;

(5) Withholding or forcing of meals, snacks, or naps; and

(6) Use of substances such as soap, pepper, or hot pepper sauce for punishment of undesirable behaviors.

ARSD 67:42:03:17

67:42:03:17. Playground area and equipment.

The playground must be kept free of litter, trash, weeds, and other hazardous materials such as lawn care equipment, tools, abandoned household appliances, flammable materials, and abandoned automobiles. Playground equipment must be installed according to the manufacturer's recommendations and maintained in good repair.

The department may require a provider to fence in the playground area if conditions or circumstances have the potential to cause injury or be a life-threatening situation to children.

ARSD 67:42:03:18

67:42:03:18. Parental observation.

Family day care providers must allow a parent to observe the parent's child at any time and immediately on request.

ARSD 67:42:03:19

67:42:03:19. Handwashing.

A family day care provider must wash his or her hands after using the restroom, after changing a diaper, after working with soiled clothing or bedding, and before handling food.

The provider must ensure that a child's hands are washed before and after meals and after the child has used the bathroom.

ARSD 67:42:03:20

67:42:03:20. Water safety.

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Children may not play in areas where there is any body of water unless they are under constant supervision. A body of water includes pools, hot tubs, fish ponds, ditches, animal watering tanks, tubs, pails, sinks, toilets, or any other area which presents a drowning risk to young children.

Swimming pools located on the premises of the provider's home and not emptied after each use must be secured on all sides with a fence that is at least five feet high and constructed to discourage climbing. A wall of the home may not be considered as one side of the fence if that area of the house has access to the pool area. Exits from and entrances to the pool must have self-closing, latching gates that must be latched and locked at all times when day care children are present. If the home has a hot tub, the tub must be covered with a safety cover approved by the American Society for Testing and Materials (ASTM).

**ARSD 67:42:03:21**

**67:42:03:21. Other hazardous conditions.**

The department may direct a provider to remove or correct hazardous conditions or circumstances not covered in this chapter if the department considers the conditions or circumstances to have the potential to cause injury or illness to the children in care. Hazardous conditions may not be accessible to children. Examples of items that may result in a hazardous condition include the following:

(1) Firearms including pellet guns, BB guns, and cap guns;

(2) Ammunition;

(3) Archery bows and arrows;

(4) Matches and lighters;

(5) A trampoline; and

(6) Cords from curtains or blinds.

**ARSD 67:42:03:22**

**67:42:03:22. Pets.**

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If a pet is present at the family day care home, indoors or outdoors, the provider must ensure that the following requirements are met:

- (1) The pet must be in good health, show no evidence of carrying any disease, and be a friendly companion to the children and parents;
- (2) Wild or dangerous animals such as ferrets, lizards, or other reptiles must be kept in a covered glass container or tank that is inaccessible to children;
- (3) Potentially aggressive animals such as pitbulls and rottweilers must be confined and kept away from the children;
- (4) Dogs or cats must be immunized for any disease that can be transmitted to humans and must be maintained on a flea, tick, and worm control program;
- (5) The provider must have documentation, signed by a veterinarian, that the pet has had the required immunizations and that the immunizations are current;
- (6) The pet's living quarters must be kept clean;
- (7) Litter boxes must be covered and kept clean in order to eliminate odor; and
- (8) The pet's food supply may not be accessible to the children.

**ARSD 67:42:03:23**

**67:42:03:23. Sleeping arrangements -- Cribs.**

Each child must be provided with or must bring a mat or blanket to be used during nap or rest periods. A provider may not allow a child to nap or rest directly on bare or carpeted floors.

If nighttime care is provided, the provider shall provide a cot or bed for each child in nighttime care.

Cribs and mattresses must be maintained in good repair. Stackable cribs may not be used.

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Soft bedding materials that could pose a suffocation hazard may not be used in cribs or playpens.

Infants must be placed on their backs for sleeping.