

ARSD 67:42:11:01

67:42:11:01. Scope of chapter.

Regulations for Day Care Centers & Before & After School Care: pages 1-14

The environmental health standards contained in this chapter apply only to chapters 67:42:07 -- Group care centers; 67:42:08 -- Residential treatment centers; 67:42:10 o Licensed day care programs; 67:42:14 -- Before and after school care, and 67:42:15 -- Intensive residential treatment center, unless otherwise specifically indicated.

ARSD 67:42:11:02

Blue &
Pale Yellow

67:42:11:02. Playground area -- Group care centers, residential treatment centers, day care programs, and intensive residential treatment centers.

The playground area for group care centers, residential treatment centers, day care programs, and intensive residential treatment centers must have at least 50 square feet of play area for each child each scheduled recess time. Day care programs shall enclose playground areas with a fence. All other facilities shall enclose the playground if it is within 25 feet of a high volume traffic area or located near any hazardous area. The fence must be at least four feet high. The playground must be kept free of litter, trash, and weeds.

Swimming pools located on the premises 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 facility or home may not be considered as one side of the fence if that area of the facility or home 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 children are present.

Playground equipment must be properly installed and maintained in good repair. Sandboxes must be kept free from animal excrement and must permit drainage.

When there are children on the playground, the staff-child ratio required in §§ 67:42:07:03, 67:42:08:03, 67:42:10:07, and 67:42:15:14 must be maintained on the playground.

ARSD 67:42:11:02.01

67:42:11:02.01. Space requirements—Before and after school care.

A before and after school care center must provide a minimum of 25 square feet of play space indoors for each child in care. Floor space used for permanent and stationary equipment and furniture, storage, halls, bathrooms, offices, kitchens, and mechanical rooms may not be included when calculating the indoor space. If the floor is used for quiet activities or resting, the floor must be covered with a padded covering, such as a rug or carpet. The center must provide space for children to store their personal belongings.

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The center must provide a minimum of 50 square feet of outdoor play space for each child each scheduled recess time. Use of nearby playgrounds, parks, hazard-free lots, or streets blocked off by local authorities may be used to meet the minimum requirement if a playground is either not available or the existing playground area does not meet the minimum requirement. Outdoor areas that contain unsafe areas or obstacles that have the potential to cause injury or be life-threatening to children must be contained, fenced, or have barriers to restrict children from the unsafe areas.

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ARSD 67:42:11:03 Repealed

67:42:11:03. Floor construction—Ceiling height. Repealed.

ARSD 67:42:11:04. Repealed

67:42:11:04. Lighting. Repealed.

ARSD 67:42:11:05

67:42:11:05. Sleeping areas.

Group care centers, residential treatment centers, and intensive residential treatment centers must provide a minimum of 50 square feet of floor space for the first client occupying a sleeping area with an additional 30 square feet for each additional client occupying the same sleeping space.

In day care programs where only short naps or rest periods are scheduled, the facility must provide a minimum of 3 feet between each child. The child must be provided with or must bring a pad, blanket, or rug for this purpose. For overnight care, the facility must provide a cot or bed for each child in overnight care. A facility must change the crib sheets between use by different children. Cribs and mattresses must be maintained in good repair. Stackable cribs may not be used. 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.

ARSD 67:42:11:06

67:42:11:06. Toilet facilities.

If a group care center, residential treatment center, or intensive residential treatment center provides care for both male and female clients, it shall provide separate toilet facilities for each gender. There must be a minimum of one toilet and one hand lavatory for every 12 male clients and a minimum of one toilet and one hand lavatory for every 12 female clients. Showers or bathtubs must be provided at the ratio of one shower or bathtub for every 5 male clients and one shower or bathtub for every 5 female clients.

Day care programs and before and after school care programs shall provide a minimum of one toilet and one hand lavatory for every 15 children. The facility shall maintain separate bathrooms for each gender. A facility serving more than 20 children shall have a service sink for cleaning mops or similar wet floor cleaning tools and for disposing of mop water and similar liquid waste. Day care programs shall either have a permanently plumbed bathtub or a portable bathtub for the bathing of infants and toddlers. Bathtubs must be emptied immediately after each individual use and must be sanitized with a solution of one ounce of household bleach to one quart of water.

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There must be toilet training equipment for children being toilet trained but this equipment does not count as toilets in the toilet-child ratio.

Hot and cold water through a mixing faucet must be supplied to all lavatories, showers, or tubs.

There must be natural or mechanical ventilation in all restrooms.

The interior surfaces of the room must be finished so that the room is easily cleanable and impervious to moisture penetration. Toilet fixtures must be kept clean and in good repair. A supply of toilet tissue must be provided at each toilet at all times. Easily cleanable receptacles must be provided for waste materials. Metal receptacles must be lined with plastic liners. Toilet rooms used by women must have at least one covered waste receptacle.

ARSD 67:42:11:06.01

67:42:11:06.01. Diaper changing.

Facilities which care for infants must have a diaper changing table with a top which is easily cleanable and nonabsorbent. The table must be cleaned after each use with a solution of one ounce of household bleach to one quart of water. 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.

Soiled disposable diapers must be kept in a leakproof, nonabsorbent container which is kept covered with a tight-fitting lid and disposed of as required in § 67:42:11:35.

A hand lavatory is required near the diaper changing area and must be separate from that used in the food preparation area.

ARSD 67:42:11:07

67:42:11:07. Cleaning and sanitizing of equipment.

Equipment, utensils, kitchenware, dining tables, and food contact surfaces of equipment must be washed, rinsed, and sanitized. Manual sanitization must include immersion in a solution of one ounce of household bleach to two gallons of water after each use and following any interruption of operations during which contamination might have occurred. Mechanical sanitization must include a sanitizing cycle in which hot water, not hot air, is used and the water temperature is maintained at 150 degrees Fahrenheit

Single-service articles may be used only once and must be discarded after use.

Dining tables must be sanitized after each meal and, if used in the meantime, before the next meal by washing with a solution of one ounce of household bleach to two gallons of water. Food contact surfaces must be free of breaks, open seams, cracks, chips, pits, and similar imperfections.

Toys capable of being placed in a child's mouth must be washed, rinsed, and sanitized daily by the method described in this section.

The facility may use any of the sanitizing solutions contained in 44:02:07:56. If the 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.

ARSD 67:42:11:07.01. Repealed

67:42:11:07.01. Manual cleaning and sanitizing. Repealed.

ARSD 67:42:11:07.02

67:42:11:07.02. Mechanical cleaning and sanitizing.

If utensils are mechanically cleaned and sanitized, a commercial dishwasher or a homestyle dishwasher must be used. If a homestyle dishwasher is used, the following requirements must be met:

(1) The water as it enters the dishwasher must be at least 120 degrees Fahrenheit;

(2) There must be a sanitizing cycle in which hot water, not hot air, is used and the water temperature during the sanitizing cycle is maintained at 150 degrees Fahrenheit; and

(3) The cycle must be complete and uninterrupted.

ARSD 67:42:11:08

67:42:11:08. Ventilation of cooking areas.

A facility that provides care for more than 20 children must provide a ventilation hood over all cooking areas. A ventilation hood must be constructed of metal, vented to the outside, and have a removable grease filter.

SD 67:42:11:09

67:42:11:09. Water supply.

Enough water for the needs of the program must be provided. Water must be 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 shall maintain written documentation of the test results.

The hot water supply system must be large enough to meet the peak hot water demands of the facility. Hot water from plumbing fixtures normally utilized for the everyday living activities of clients may not exceed 120 degrees Fahrenheit.

ARSD 67:42:11:10

67:42:11:10. Electrical outlet covers.

Except for day care centers and group family day care homes, facilities caring for children aged four years and younger must cover unused electrical outlets with an Underwriters' Laboratories approved electrical outlet cover. Facilities that are for children aged four years and younger and which were constructed or approved after June 4, 1995, must have self-closing outlet covers that cover outlet holes automatically upon removal of appliance prongs.

Day care centers must meet the requirements of § 61:15:05:13.

Group family day care homes must meet the requirements of § 61:15:06:10.

ARSD 67:42:11:11 Repealed

67:42:11:11. Compliance with chapters 67:28:08 and 67:28:12. Repealed.

ARSD 67:42:11:12

67:42:11:12. Heating, ventilating, and cooling systems.

Each facility must have a working heating and cooling system.

Heating, ventilating, and cooling systems must be inspected at least once a year by a person qualified through experience in heating and ventilation maintenance. Verification of the inspection must be a written statement made by the person making the inspection and must include the date of inspection and the person's signature. This written verification must be kept on file in the facility.

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Electric fans, if used, must be guarded to limit the size of the opening in the blade guard to less than one-quarter inch.

ARSD 67:42:11:13. Repealed

67:42:11:13. Electrical wiring. Repealed.

ARSD 67:42:11:14

67:42:11:14. Railings.

All floor and wall openings, open-sided stairs, open-sided mezzanine 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.

ARSD 67:42:11:15

67:42:11:15. Other hazardous conditions.

The department may direct a facility to remove or correct other 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 clients or staff.

ARSD 67:42:11:15.01

67:42:11:15.01. Traffic through food preparation area prohibited.

The traffic of unauthorized persons through the food preparation, food storage, and ware washing area is prohibited.

ARSD 67:42:11:16

67:42:11:16. Food supplies.

Food must be free from spoilage, filth, or other contamination and must be safe for human consumption. The use of home-canned foods is prohibited.

Fluid milk and fluid milk products used or served must be pasteurized and must meet Grade A quality standards as defined in SDCL 39-6-1(4). Dry milk and dry milk products must be made from pasteurized milk and milk products and may be used in food preparation but not for drinking.

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Only clean whole eggs with shell intact and without cracks, pasteurized liquid, frozen, or dry eggs, or pasteurized egg products may be used, except that hard-boiled, peeled eggs commercially prepared and packaged may be used.

The temperature of potentially hazardous foods as defined in 44:02:07:18 must be 41 degrees Fahrenheit or below or 140 degrees Fahrenheit or above at all times except as other provided in this chapter. Potentially hazardous foods must be reheated rapidly to 165 degrees Fahrenheit or higher throughout before being served.

Frozen foods must be kept frozen and must be stored at a temperature of zero degrees Fahrenheit or below and must be thawed in one of the following ways.

(1) In refrigerated units at a temperature not exceeding 41 degrees Fahrenheit;

(2) Under potable running water that is 70 degrees Fahrenheit or below;

(3) In a microwave oven if the food will be immediately transferred to conventional cooking facilities as part of a continuous cooking process;

(4) In a microwave oven if the entire, uninterrupted cooking process takes place in the microwave oven; or

(5) As a part of the conventional cooking process.

Food service areas must have light fixtures which contain shielded or shatterproof bulbs.

ARSD 67:42:11:17. Repealed

67:42:11:17. Food protection. Repealed.

ARSD 67:42:11:18

67:42:11:18. Food storage -- General requirements.

The following are general requirements for food storage:

(1) Food, whether raw or prepared, if removed from the container or package in which it was obtained, must be stored in a clean, covered container except during necessary periods of preparation or service. Container covers must be impervious and nonabsorbent except that linens or napkins may be used for lining or covering bread or roll containers;

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(2) Containers of food must be stored a minimum of six inches above the floor in a manner that protects the food from splash and other contamination and that permits easy cleaning of the storage area;

(3) Metal pressurized beverage containers and cased food packaged in cans, glass, or other waterproof containers need not be elevated when the food container is not exposed to floor moisture;

(4) Food and containers of food may not be stored under exposed or unprotected sewer lines or water lines except for automatic fire protection sprinkler heads that may be required by law. The storage of food in toilet rooms or vestibules is prohibited; and

(5) Food not subject to further washing or cooking before serving must be stored in a way that protects it against cross contamination from food requiring washing or cooking.

ARSD 67:42:11:19. Repealed

67:42:11:19. Refrigerated storage. Repealed.

ARSD 67:42:11:20

67:42:11:20. Raw fruits and vegetables.

Raw fruits and raw vegetables must be thoroughly washed with potable water before being cooked or served.

ARSD 67:42:11:21. Repealed

67:42:11:21. Reheating. Repealed.

ARSD 67:42:11:22. Repealed

67:42:11:22. Thawing potentially hazardous foods. Repealed.

ARSD 67:42:11:23

67:42:11:23. Employee health.

No person may work in a food service establishment in any capacity which can result in the contamination of food or food contact surfaces or in the transmission of disease to another person under any of the following circumstances:

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(1) The person has an acute respiratory infection;

(2) The person is infected with or is a carrier of any disease that can be transmitted by foods; or

(3) The person has a boil or an infected wound.

ARSD 67:42:11:24

67:42:11:24. Personal cleanliness.

Persons involved with food preparation shall thoroughly wash their hands and the exposed portions of their arms with soap and warm water before starting work and as often as necessary during work to keep them clean. They shall also wash after smoking, eating, drinking, or using the toilet. They shall keep their fingernails clean and trimmed and their outer clothing must be clean. Jewelry on hands and wrists may not be worn during food handling.

ARSD 67:42:11:25

67:42:11:25. Food service practices.

Individuals involved with food preparation must conform to the following requirements:

(1) They may consume food only in designated dining areas where there will be no contamination of other food, equipment, or utensils;

(2) They may use tobacco only in designated areas where the use of tobacco will not result in the contamination of food, equipment, or utensils;

(3) They shall handle soiled tableware in a way that minimizes contamination of the hands; and

(4) They must wear hair restraints such as hats, hair coverings or nets, beard restraints, and clothing that covers body hair. The hair restraints must be designed and worn to effectively keep hair from contacting exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

ARSD 67:42:11:26. Repealed

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67:42:11:26. Multi-use equipment and utensils. Repealed.

ARSD 67:42:11:27. Repealed

67:42:11:27. Single-service articles. Repealed.

ARSD 67:42:11:28. Repealed

67:42:11:28. Equipment and utensil handling. Repealed.

ARSD 67:42:11:29

67:42:11:29. Equipment and utensil storage.

Equipment and utensils must be stored as follows:

(1) Cleaning and sanitized utensils and equipment must be stored at least six inches above the floor in a clean, dry location in a way that protects them from contamination in any form. The food contact surfaces of fixed equipment must be protected from contamination. Equipment and utensils may not be placed under exposed sewer lines or water lines except for automatic fire protection sprinkler heads;

(2) Utensils not air dried before being stored must be stored in a self-draining position; and

(3) Cups and glasses must be stored inverted. Other stored utensils must be stored covered or inverted wherever practical. Knives, forks, and spoons must be stored in facilities that present the handle to the consumer or employee.

ARSD 67:42:11:30. Repealed

67:42:11:30. Storage and handling of single-service articles. Repealed.

ARSD 67:42:11:31

67:42:11:31. Sewage.

All sewage, including liquid waste, must be disposed of by a public sewage system or a sewage disposal system constructed and operated according to chapter 74:53:01.

ARSD 67:42:11:32. Repealed

67:42:11:32. Plumbing. Repealed.

ARSD 67:42:11:33

67:42:11:33. Handwashing.

Staff members shall wash their hands after using the restroom, after changing a diaper, after working with soiled clothing or bedding, and before handling food.

Day care programs shall ensure that a child's hands are washed before and after meals and after the child has used the bathroom.

Handwashing facilities must be located to permit convenient use by both employees and clients and must meet the following requirements:

(1) At least one handwashing facility must be provided in the food preparation area or directly adjacent to the food preparation area;

(2) Handwashing facilities must be located in all toilet rooms;

(3) Handwashing facilities must be located near any diaper changing area;

(4) A supply of hand cleansing soap or detergent must be available at each handwashing facility; and

(5) A supply of single-use towels must be available at each handwashing facility.

ARSD 67:42:11:34

67:42:11:34. Garbage and refuse.

Garbage and refuse must be kept in durable, easily cleanable, insectproof, and rodentproof containers that do not leak and do not absorb liquids.

Garbage and refuse on the premises must be stored in a manner and disposed of often enough to make them inaccessible to animals and insects. Outside storage of unprotected plastic bags is prohibited.

ARSD 67:42:11:35. Repealed

67:42:11:35. Garbage and refuse disposal. Repealed.

ARSD 67:42:11:36

67:42:11:36. Insect and rodent control.

Effective measures must be taken to minimize the presence of rodents, flies, cockroaches, and other insects on the premises. The premises must be maintained so as to prevent the harborage or feeding of insects or rodents. Openings to the outside must be effectively protected against the entrance of rodents. Outside openings must be protected against the entrance of insects by tight-fitting, self-closing doors, closed windows, screening, controlled air currents, or other means. Screen doors must be self-closing and screens for windows, doors, skylights, transoms, intake and exhaust air ducts, and other openings to the outside must be tight fitting and free of breaks. Screening material may not be less than 16 mesh to the inch.

ARSD 67:42:11:37

67:42:11:37. Floor construction.

Floors in food preparation areas, wet areas, laundry areas, and storage areas must be constructed of smooth durable material such as sealed concrete, terrazzo, ceramic tile, durable grades of linoleum or plastic, or tight wood impregnated with plastic and must be maintained in good repair. Nothing in this section prohibits the use of antislip floor covering in areas where necessary for safety purposes.

ARSD 67:42:11:38

67:42:11:38. Floor carpeting.

Carpeting, if used as a floor covering, must be of closely woven construction, installed according to the manufacturer's recommendations, easily cleanable, and maintained in good repair. Carpeting may not be used in food preparation, equipment washing, and utensil washing areas where it would be exposed to large amounts of grease and water, in food storage rooms, or in restrooms.

ARSD 67:42:11:39

67:42:11:39. Walls and ceilings -- Maintenance and construction.

Walls and ceilings, including doors, windows, skylights, and similar closures, must be maintained in good repair. The walls, including nonsupporting partitions, wall coverings, and ceilings of walk-in refrigeration units, food preparation areas, equipment washing and utensil washing areas, toilet and bathing rooms, and vestibules must be easily cleanable. Concrete or pumice blocks used for interior wall construction in these locations must be finished and sealed to provide an easily cleanable surface. Wall construction in living areas such as bedrooms, lounges, and living rooms need not be of nonabsorbent or smooth construction but must be amenable to easy cleaning and must

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be maintained in good repair.

ARSD 67:42:11:40

67:42:11:40. Housekeeping.

All parts of the facility must be kept clean, neat, and free of litter and rubbish. Equipment and supplies must be provided for cleaning of all surfaces. Cleaning equipment must be maintained in a safe, sanitary condition. Cleaning must be performed in a manner that minimizes the spread of pathogenic microorganisms in the facility's atmosphere. Cleaning must include all environmental surfaces within the facility that are subject to contamination from dust, direct splash, or pathogenic organisms. Hazardous cleaning solutions, chemicals, poisons, and substances must be labeled, stored in a safe place, and kept in a enclosed cabinet that is not accessible to clients.

ARSD 67:42:11:41

67:42:11:41. Laundry.

Each facility must provide for the cleaning of all linens and washable goods. Soiled linen must be placed in closed containers or hampers during storage or transportation. The handling, sorting, or washing of soiled linen may not take place in food preparation or serving areas. Areas designated for soiled linen handling and processing must be physically separated from kitchen areas by a permanent partition. If physical separation of laundry and kitchen areas is impractical, written procedures must be developed that prohibit the washing, sorting, or handling of laundry while meals are being prepared or served. Laundry detergents, bleaches, soap builders, brighteners, bluing agents, or other chemicals associated with the washing or finishing process must be safely stored to prevent injury to clients by spillage or ingestion. Laundry chemicals may not be placed or stored with or near food or on food contact surfaces.

If the facility provides laundry service for common-use linens or if different clients' clothing is laundered together and if the water temperature at the washing machine is less than 160 degrees Fahrenheit, bleach or a disinfectant must be used in the laundering process.

ARSD 67:42:11:42. Repealed

67:42:11:42. Handwashing. Repealed.

ARSD 67:42:11:43 Repealed

67:42:11:43. Smoking. Repealed.

ARSD 67:42:11:44

67:42:11:44. Pets.

If a pet is present, indoors or outdoors, the provider must ensure that the following requirements are met:

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- (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 pit bulls and rottweilers and parrots and other exotic birds 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 67:42:14:01

67:42:14:01. Definitions.

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Terms used in this chapter mean:

- (1) "Activity grouping," a group of children assigned to a staff member or a team of staff members and occupying an individual classroom or a well-defined space within a larger room;
- (2) "Before and after school care," care and supervision that serves as a substitute for parental care before and after school hours of children who are five years of age or older and enrolled in school;

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(3) "Parent," a child's natural parent, adoptive parent, stepparent, or legal guardian;

(4) "Staff," individuals employed by the before and after school care center and volunteers providing services at the center regardless of whether or not they have direct contact with the child in care; and

(5) "Verifiable experience," experiences, paid or unpaid, which are documented through items such as written letters, school transcripts, or employment records from a previous school advisor, employer, or supervisor.

ARSD 67:42:14:02. Repealed

67:42:14:02. Application for licensure. Repealed.

ARSD 67:42:14:03

67:42:14:03. Center director or proprietor.

The center director or proprietor must be at least 18 years old and certified in cardio-pulmonary resuscitation (CPR) through an entity that provides hands-on skills testing as part of the training.

ARSD 67:42:14:04. Repealed

67:42:14:04. Center operator -- Qualifications. Repealed.

ARSD 67:42:14:05. Repealed

67:42:14:05. Supervisor -- Responsibilities. Repealed.

ARSD 67:42:14:06

67:42:14:06. Qualifications for individual responsible for program planning and staff supervision.

The individual responsible for program planning and staff supervision must be at least 18 years old and meet one of the following requirements:

(1) Have a bachelor's degree in the field of education or human development;

(2) Have a valid Child Development Associate (CDA) credential, or a similar credential with emphasis in the care of school age children, and one year of verifiable experience caring for and supervising four or more school-aged children;

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(3) Have two years of college coursework in the field of education with emphasis in the areas of preparing and implementing lesson plans, human growth and development, behavior management, interpersonal communication, art education, music education, physical education, and recreation and one year of verifiable experience caring for and supervising four or more school-aged children; or

(4) Have four years of verifiable experience in the care and supervision of four or more school-aged children in a child care setting, which children were not related to the individual providing care.

ARSD 67:42:14:07. Repealed

67:42:14:07. Site coordinator. Repealed.

ARSD 67:42:14:08

67:42:14:08. Staff qualifications.

Staff work under the direction and supervision of the director or program planner and provide direct guidance to and supervision of the children in care. If the site serves children who are 12 years of age and older, staff must be at least 16 years old. If services are limited to children under age 12, staff must be at least 14 years old. A staff member may be included in the staff-child ratio if the staff member is at least 16 years old. Staff who are under the age of 18 may not be left alone with children in care and must receive direct and constant supervision from the director or program planner.

ARSD 67:42:14:09

67:42:14:09. Volunteers.

If a volunteer is used to meet a staff position, the volunteer must meet the applicable staffing requirements.

ARSD 67:42:14:10

67:42:14:10. Employee hiring practices.

Before hiring an individual, the director or proprietor shall contact at least three references that may include the individual's former employers. The contacts must relate to the individual's character and competence. The references may not be related to the prospective staff member and must be individuals who have known the prospective staff member prior to the time of application. References must be in the form of a documented conversation or written letter and must be on record before hiring the individual.

Before an individual works or provides volunteer services at the center, the center shall comply with the screening

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requirements of §§ 67:42:16:04 and 67:42:16:05.

ARSD 67:42:14:11. Repealed

67:42:14:11. General requirements for all staff. Repealed.

ARSD 67:42:14:12

67:42:14:12. Staff orientation.

The center shall have and implement a written plan for orientation. The plan must provide for orientation in at least the following areas:

- (1) Planning activities specific to the center;
- (2) Supervision and discipline techniques;
- (3) Handwashing and sanitation techniques to reduce the spread of disease and infection;
- (4) Meeting the nutrition needs of children;
- (5) Meeting the special health-care needs of children;
- (6) Emergency response procedures;
- (7) Reporting suspected cases of child abuse and neglect;
- (8) Center policies; and
- (9) Operation requirements mandated by law and regulations.

Orientation for staff, including volunteers, must begin within the first two weeks the staff member or volunteer has contact with children in care. Orientation must be completed either before the staff member or volunteer may have unsupervised contact with children in care or within 30 days after beginning work with children, whichever occurs

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first. Documentation of the completed orientation training must be kept in the staff member's or volunteer's personnel file. Orientation training may count toward one hour of required annual training for each staff person during their first year of employment.

ARSD 67:42:14:13

67:42:14:13. Staff training.

The center shall have a written plan for training each staff member and volunteer who works directly with children and is included in the staff-child ratio. The staff member or volunteer shall complete ten hours of training annually from the following areas:

- (1) Child growth and development;
- (2) Detecting and reporting child abuse and neglect;
- (3) Guidance and behavior management;
- (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 relations with staff;
- (10) Cultural diversity;

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(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.

Instruction provided to members or volunteers while performing their jobs may not be used to meet the requirements of this rule.

Before an initial license is issued, the director or a designated staff person shall complete at least one hour of class instruction in basic first aid. During the hours the facility is in operation, there must be at least one staff person on site who is trained in first aid and certified in cardiopulmonary resuscitation that includes hands-on skill testing as part of the training.

ARSD 67:42:14:14

67:42:14:14. Staff responsibility for reporting suspected incidents of child abuse or neglect.

Each staff member is required to read and sign a statement that defines child abuse and neglect and outlines the staff member's responsibility to report all incidents of child abuse or neglect. Each staff member shall, in addition to complying with SDCL 26-8A-3 and 26-8A-8, report any suspected incident of child abuse or neglect to the director or a designee who shall immediately report the suspected incident of in-house child abuse or neglect to the department, police, sheriff, or state's attorney and cooperate fully in the investigation.

ARSD 67:42:14:15

67:42:14:15. Center activities.

The center's activities must provide a wide variety of activities and experiences for children. The planned daily and monthly activities and experiences must be in writing and posted throughout the facility. The activities must meet the following requirements:

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- (1) Be age-appropriate for and of interest to the children served;
- (2) Foster a positive self-concept and sense of independence;
- (3) Encourage children to think, reason, question, and experiment;
- (4) Enhance physical development, academic achievement, cultural enrichment, cooperation, and promotion of a healthy view of competition;
- (5) Encourage sound health and safety and wise use of leisure time;
- (6) Encourage awareness of and involvement in the community at large;
- (7) Be arranged to accommodate group and individual activities;
- (8) Have available a supply of games, books, toys, crafts, and other materials and equipment necessary to carry out the center's activities;
- (9) Include ideas and plans for activities suggested by the children in care and their parents; and
- (10) Allow for flexibility while providing a balance of active, quiet, inside, and outside activities. If access to outdoor space is limited, this need may be offset by a greater amount of indoor space, such as a gym, permitting an equivalent activity.

ARSD 67:42:14:16

67:42:14:16. Center policies.

Each before and after school care center must have written policies and procedures concerning the following:

- (1) Services offered, fees charged, and payment policies;

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(2) Discipline used for children in care;

(3) Requirements for enrollment;

(4) Termination of services;

(5) Handling and documenting injuries and illnesses;

(6) Dispensing medications;

(7) Nutritional guidelines and requirements for snacks and meals;

(8) Reporting suspected child abuse or neglect, including procedures for ensuring that the alleged incident will not reoccur while waiting for the official investigation and procedures for evaluating the continued employment of any staff member determined to be involved in an incident of child abuse;

(9) Notification to a parent when there is a significant change in the center's services or policies;

(10) Sharing with the parent information concerning the child's health, development, or behavior;

(11) Steps to be followed if a child fails to arrive at the center;

(12) Opportunities for parental involvement in program development and center operation; and

(13) Confidentiality of records and information relating to children in care and their families.

A copy of the center's policies must be provided to each employee and enrolled family and a copy must be available to the department on request.

ARSD 67:42:14:17

67:42:14:17. Staff-child ratio.

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The center must maintain a staff-child ratio of at least one staff person for every 15 children. The staff person may be included in the ratio if the staff member is at least 16 years of age and provides direct guidance and supervision of the children. The staff-child ratio must be maintained while children are on the playground.

ARSD 67:42:14:18. Repealed

67:42:14:18. Limit on number of children allowed in activity grouping. Repealed.

ARSD 67:42:14:19

67:42:14:19. Transportation of children in care.

If the center provides transportation for field trips or other outings, the staff-child ratio established in 67:42:14:17 must be maintained. In meeting the staff-child ratio, at least one staff member in addition to the driver must be at least 18 years of age.

A vehicle used to transport children may not carry more people than the vehicle's stated passenger capacity.

ARSD 67:42:14:20

67:42:14:20. Discipline

Discipline techniques used must offer clear-cut limits with positive guidance and direction to help the child achieve self-control and a respect for the rights of others. Discipline may not be delegated to older children or peers. A child may not be placed in an environment that would be harmful or dangerous to the child's physical or emotional health. **Use of humiliating or frightening punishment such as the following are prohibited:**

- (1) Hitting, pinching, shaking, spanking, or inflicting any other corporal punishment;
- (2) Verbal abuse, threats, or derogatory remarks about self or family;
- (3) Restriction of movement by binding or enclosure in a confined space such as a closet, a locked or unlighted room, or a box or similar cube;
- (4) Withholding or forcing of meals or snacks; and

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

ARSD 67:42:14:21

67:42:14:21. Nutritional requirements.

If a child is in care for four consecutive hours, the child must receive a snack or meal, whichever is appropriate for that time of day. If a child is in care during any normal mealtime hour, the child must receive a meal appropriate for that time of day.

Meals and snacks served at the center must consist of a variety of nutritional foods and must be of sufficient quantity to meet each child's needs.

If the center provides meals, the center must prepare and post menus on a weekly basis.

ARSD 67:42:14:22

67:42:14:22. Food preparation.

If a center serves snacks only, there must be an area within the center designated as a snack preparation and serving area. This area must have a sink, dry storage, and refrigeration necessary to meet the needs of the center. The designated area cannot be located in a restroom, utility room, or mechanical room.

If a center provides meals to children, the food must be prepared and served according to the applicable requirements of chapter 67:42:11.

ARSD 67:42:14:23

67:42:14:23. Required records.

The center shall maintain the following records:

(1) A record for each staff member and volunteer that includes the individual's name, age, address, telephone number, education, work experience, in-service and orientation training, annual training, dates of employment and separation, central registry screening results, results of the reference checks, and the signed child abuse and neglect form required in 67:42:14:14. The center shall make the personnel records available to the department for verification of the contents; and

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(2) An enrollment record for each child that includes the child's name, date of birth, allergies, special needs that the child has, dates of beginning and ending enrollment, names and telephone numbers of the child's parents, name and telephone number of an individual to contact in the event of an emergency, the release signed by the child's parent that allows emergency medical treatment, the name of the school where the child is enrolled, and the medication authorization required under 67:42:14:24, if applicable. The center shall make the enrollment records available to the department on request and must maintain closed records for a minimum of six months.

If the child's record is maintained at a location other than at the center the child attends, the center the child attends must have the original signed release authorizing emergency medical treatment, the names and phone numbers of the child's parent and doctor, allergies, the name and phone number of a person to contact in case of an emergency, and the authorization to administer medication, if applicable.

ARSD 67:42:14:24

67:42:14:24. 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. A copy of the consent form must be maintained in the child's record. 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 written documentation shall be available to the child's parent or guardian and must be kept for six months following the administration of the medication. Medications must be kept in the original container with the original label intact. The label for prescription medications 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 that is inaccessible to children. Medication requiring refrigeration must be placed in another nonabsorbent container and labeled "medications."

ARSD 67:42:14:25

67:42:14:25. Parental involvement.

The center must allow a parent to observe the parent's child or children at any time and immediately on request. The center shall deny access to a parent if the parent is restricted through court order from having contact with the child and the center has been provided with a copy of the court order.

ARSD 67:42:14:26

67:42:14:26. Building plans.

Before licensing a center to operate in an existing structure or before building a new structure or renovating or altering an existing structure, the center must submit copies of its building plans to the department for approval. The plans must contain the following information:

- (1) Interior dimensions of and the intended use of each room;

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(2) Amount and location of bathroom fixtures;

(3) Location of appliances and all other fixtures in the food preparation or kitchen area;

(4) Location of interior and exterior doorways and windows;

(5) Types of floor coverings for each room;

(6) Style of alarm system;

(7) Location of fire extinguishers, fire and smoke detectors and audible alarms, and the operation panel for the alarm system;

(8) Location of the electrical panel and electrical outlets;

(9) Location of the heating and cooling system; and

(10) Location of the water heater.

ARSD 67:42:14:27

67:42:14:27. Environmental health standards.

A before and after school care center must comply with the environmental health standards contained in chapter 67:42:11, unless otherwise specified.

ARSD 67:42:14:28

67:42:14:28. Minimum fire and life safety requirements.

A program located in a school building shall meet the applicable construction and fire safety requirements of

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chapters 61:15:01, 61:15:02, and 61:15:07, regardless of the number of children served. A program not located in a school building and serving less than 21 children shall meet the fire and life safety requirements of chapter 61:15:06. A program not located in a school building and serving 21 or more children shall meet the fire and life safety requirements of chapter 61:15:05.

The program shall post the emergency evacuation plans and shall conduct fire drills four times per year and shall conduct one tornado drill. The program shall document the drills.

Combustible materials must be kept away from furnaces, lighting fixtures, and other heat sources. Exit doorways and pathways may not be blocked. Steps and walkways must be kept free from the accumulation of water, ice, snow, or other debris.

ARSD 67:42:16:01

67:42:16:01. Definitions.

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Terms used in this chapter mean:

(1) "Alternative care," care provided in family day care homes, day care centers, group family day care homes, and before and after school programs;

(2) "Applicant," an individual, agency, institution, or organization which submits an application for a license or registration certificate to the department as provided in this chapter;

(3) "Day care center," a facility for the care and supervision of 21 or more children on a regular basis for part of a day as a supplement to regular parental care;

(4) "Day care program" or "program," refers to both day care centers and group family day care homes;

(5) "Employee applicant," an individual applying to a provider for employment;

(6) "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;

(7) "Facility," a family day care home, day care center, group family day care home, before and after school program licensed or registered under the provisions of this chapter;

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(8) “Group family day care home,” a facility where regular supervision of 13 to 20 children is provided for part of a 24-hour period as a supplement to regular parental care;

(9) “Household member,” a person who uses a facility as a permanent or part-time residence and who may have contact with children in the facility;

(10) “License,” the document described in SDCL 26-6-15 which certifies that a provider meets applicable licensing standards contained in this chapter;

(11) “Medication,” a substance that is intended to relieve pain or treat disease;

(12) “Provider,” an individual, agency, institution, or organization providing services covered in this chapter;

(13) “Provider applicant,” an individual, agency, institution, or organization applying to be a provider under this chapter;

(14) “Registered helper,” an employee or volunteer present in the family day care home to assist with the care of children;

(15) “Registration certificate,” the document described in SDCL 26-6-15 which certifies that a provider meets the family day care registration standards contained in chapter 67:42:03;

(16) “Staff member” or “staff person,” an employee or volunteer of a facility; and

(17) “Volunteer applicant,” an individual applying to provide voluntary services for a provider.

ARSD 67:42:16:02

67:42:16:02. Application.

The provisions of this chapter apply to alternative care facilities regulated by chapters 67:42:03, 67:42:10, and 67:42:14.

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ARSD 67:42:16:03

67:42:16:03. Initial evaluation and approval -- Renewal of license or registration certificate.

The department's initial evaluation of the applicant includes reference checks, personal interviews, a screening for records of abuse or neglect, a criminal record check, and on-site visits. The applicant shall provide three references.

Based on the evaluation, the department shall determine whether to issue a license or registration certificate.

Renewal of a license is based on the department's annual evaluation of the facility and care provided. Renewal of a registration certificate is based on the department's biennial evaluation of the facility and care provided.

ARSD 67:42:16:04

67:42:16:04. Criminal record check.

The department shall secure a criminal record check to obtain information concerning convictions for criminal offenses by a prospective provider of family day care and any adult living in a prospective family day care. For family day care, day care programs, and before and after school programs, the department shall review the provider's records to ensure that the criminal records are being secured for staff in order to detect convictions for any of the following:

- (1) A crime that would indicate harmful behavior towards children;
- (2) A crime of violence as defined by SDCL 22-1-2 or a similar statute from another state;
- (3) A sex crime pursuant to SDCL chapters 22-22 or 22-24A or SDCL 22-22A-3 or similar statutes from another state; or
- (4) Within the preceding five years, a conviction for any other felony.

ARSD 67:42:16:05

67:42:16:05. Screening for substantiated reports of abuse and neglect.

The department shall screen a provider applicant, family members, and other household members who are at least

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ten years old, an employee of the facility, an employee applicant, a volunteer, and a volunteer applicant to determine whether the individual has been involved in any substantiated incidents of child abuse or neglect. The individual may not have a substantiated report of child abuse or neglect. Substantiated reports of child abuse or neglect include reports placed into the department's central registry under 67:14:39:03, reports placed on the central registry of another state, and reports that were investigated and substantiated by a tribal program.

If the screening locates an individual's name on the department's central registry and the individual has not already been given due process on the substantiation, the department shall notify the individual in writing that the individual may request a hearing to refute the accuracy of the information found.

If the screening locates an individual's name on the central registry of another state, it is the individual's responsibility to contact the other state to access the process for removal of the individual's name from that state's central registry. If the other state has such a process and removes the individual's name from its central registry, the individual shall request the other state to submit documentation to the department verifying the removal of the individual's name from its central registry.

If the screening locates a report that was substantiated by a tribal program, it is the individual's responsibility to contact the tribal program to access the process for removal of his or her name from the record of the report. If the tribal program has such a process and removes the individual's name from the record of the report, the individual shall request the tribal program to submit documentation to the department verifying the removal of the individual's name from the record.

ARSD 67:42:16:06

67:42:16:06. Notice to facility.

The department shall notify the facility that the name of the facility's employee, employee applicant, volunteer, or volunteer applicant was located through the screening process when one of the following occurs:

- (1) Thirty days have lapsed since the department notified the individual that the name was located and the individual has not requested a review;
- (2) Thirty days have lapsed since a review was held which upheld the department's action and the individual has not requested a fair hearing;
- (3) A fair hearing was held and the decision upheld the department's action; or
- (4) A screening in a state other than South Dakota resulted in a finding as outlined in SDCL 26-6-23.1.

ARSD 67:42:16:07

67:42:16:07. Physical health standards required of applicant and applicant's family.

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An applicant for family day care must have a physical examination. A physical examination completed within the 12 months preceding the date of application is acceptable. The applicant shall obtain the physical examination forms from the department. The forms must be completed by the attending physician, physician's assistant, or certified nurse practitioner and returned to the department.

The applicant shall also present evidence to the department that each household member under the age of 18 meets the Department of Health's requirements for immunizations.

The department may request additional medical statements if a situation, such as a change in the health of the applicant or another household member indicates that an additional medical statement is desirable.

ARSD 67:42:16:08

67:42:16:08. 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 may not be used more than 12 hours per week.

ARSD 67:42:16:09

67:42:16:09. Reporting incidents or changes in circumstances.

The provider shall report a change in circumstances that may affect the provider's ability to comply with the requirements of the provider's license or registration certificate or ability to provide adequate care. A change in circumstances includes items such as a change of address, a change in the household size, a change in the household composition, a change in the condition of the facility or home, or involvement with the Division of Child Protection Services or law enforcement concerning allegations of child abuse or neglect. The report must be made to the provider's licensing worker or agency within 24 hours after the change in circumstance occurs.

The provider shall immediately report all incidents of suspected child abuse or neglect either to the department or to law enforcement officials.

A facility shall notify the department within 24 hours after the occurrence of an unusual incident such as fire or serious injury to a child or serious illness that results in the hospitalization of the child or the death of a child while the child is in care.

ARSD 67:42:16:10

67:42:16:10. Denial of license or registration certificate.

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The department may deny a license or registration certificate to an applicant based on an evaluation, substantiated by facts, showing that the applicant does not meet standards for care.

Within 60 days after completion of the application, the applicant must receive a written notice of approval or denial of a license or registration certificate. If the application is denied, the notice must include the reasons for the denial. An applicant may reapply when the applicant has taken corrective action related to the reasons for the original denial of the license or registration certificate.

ARSD 67:42:16:11

67:42:16:11. Revocation of license or registration certificate.

Violation of the provisions of this chapter are grounds for revocation of a license or registration certificate. Before a license or registration certificate is revoked, the department shall give a 30-day's written notice of revocation to the provider and shall make full disclosure of the reasons for revocation. The 30-day written notice is not required if the revocation is necessary to prevent danger to the life, health, or safety of a child.

The provider may not reapply for a licensure or registration certificate for at least one year after the date of revocation.

ARSD 67:42:16:12

67:42:16:12. Fair hearing.

A provider applicant, an employee applicant, a volunteer, a volunteer applicant, or a provider is entitled to a fair hearing if aggrieved or dissatisfied with any action or inaction on the part of the department. Fair hearings are conducted under the provisions of chapter 67:17:02.

ARSD 67:42:16:13

67:42:16:13. Maintenance of records.

A record must be maintained by the provider on each child. The record must include the child's name, date of enrollment, date enrollment is terminated, the names and telephone numbers of the child's doctor, dentist, parent, or person to contact in the event of an emergency, and any other information required by the department or desired by the provider. A provider shall maintain these records for a period of six months after the child ceases receiving care.

ARSD 67:42:16:14

67:42:16:14. Confidentiality.

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The files and records of the provider shall be kept confidential. A provider shall maintain in confidence all information concerning a child. Details of a child's life or that of the child's family may not be shared with unauthorized individuals unless a signed authorization is obtained. The provider shall make its files and records available for inspection by the department for registration or licensure purposes.

ARSD 67:42:16:15

67:42:16:15. Transportation.

A vehicle used for transportation may not carry more people than its stated passenger capacity. Except when transporting children to and from school, the required staff-child ratio must be maintained when children are in transport.

ARSD 67:42:16:16

67:42:16:16. Insurance.

Each day care center, group family day care home, and before and after school program shall carry liability insurance. Each vehicle used for transporting children must have liability insurance that covers the children being transported.

ARSD 67:42:16:17

67:42:16:17. Final inspection reports -- Required posting.

Each facility shall post, in a visible location within the facility, a copy of the results of the facility's latest inspection. If the inspection resulted in a plan of correction, the facility shall maintain a copy of the plan and make it available to individuals on request. The facility shall also post the department's telephone number and address for individuals desiring more information concerning the facility's inspection.

ARSD 67:42:16:18

67:42:16:18. Telephones.

Each facility shall provide one nonpay telephone which can be used for general and emergency uses.