

Chapter HFS 55

DAY CARE FOR CHILDREN

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Note: Sections HSS 55.01 to 55.44 as they existed on October, 1984 were repealed and new sections HSS 55.01 to 55.44 were created effective November 1, 1984. Corrections made under s. 13.93 (2m) (b) 6. and 7., Stats., Register, January, 1997, No. 493. Chapter HSS 55 was renumbered chapter HFS 55 under s. 13.93 (2m) (b) 1., Stats., and corrections made under s. 13.93 (2m) (b) 7., Stats., Register, February, 1997, No. 494.

PREFACE

Section 48.65, Stats., requires that persons who provide, for compensation, care and supervision for 4 or more children under 7 years of age for less than 24 hours a day must be licensed by the department.

The same statute directs the department to establish rules which must be met for a person to qualify for a license and which protect and promote the health, safety and welfare of the children in a day care center. Chapter HFS 55 represents the minimum level of acceptable care that a licensee is to provide to children in a day camp in Wisconsin. Chapter HSS 45 represents the minimum level of acceptable care that a licensee is to provide to children in a family day care center serving 4 to 8 children. Chapter HFS 46 represents the minimum level of acceptable care that a licensee is to provide to children in a group day care center serving 9 or more children. The rules should not be confused with accreditation by professional organizations which is based upon conformity with ideal rather than minimal standards.

Chapter HFS 55 includes procedures for determining compliance of day care programs established by school boards with licensing standards.

Section 46.03 (21), Stats., directs the department to promulgate rules for certification for public funding of day care providers not required to be licensed. These rules are also included in this chapter.

Clearly, the fact that a day care program is licensed or certified in no way diminishes the responsibility of parents for vigilance in seeing that their children are receiving care which protects their physical well-being and encourages healthy intellectual and emotional development.

Subchapter I — General Provisions

HFS 55.01 Scope. Sections HFS 55.01 to 55.10 apply to day camps for children.

History: Cr. Register, October, 1984, No. 346, eff. 11-1-84; am. Register, August, 1989, No. 404, eff. 9-1-89; am. Register, January, 1997, No. 493, eff. 8-1-97.

HFS 55.02 Authority and purpose. (1) **AUTHORITY.** Subchapters I and IV are promulgated under the authority of s. 48.67, Stats.

(2) **PURPOSE.** The purpose of this chapter is to protect and promote the health, safety and welfare of children in day care centers in Wisconsin.

(3) **CONSTRUCTION.** This chapter shall be liberally construed to effect the objectives in sub. (2).

(4) **EXCEPTION TO RULES.** The department may grant a variance to a requirement of this chapter when it is assured that the health, safety and welfare of the children served will not be jeopardized. A request for a variance shall be in writing, shall be sent to the department, and shall include justification for the requested action and an explanation of the alternative provisions planned to meet the intent of the rule.

History: Cr. Register, October, 1984, No. 346, eff. 11-1-84; correction in (1) made under s. 13.93 (2m) (b) 7., Stats., Register, August, 1989, No. 404; am. (1), Register, January, 1997, No. 493, eff. 2-1-97.

HFS 55.03 Applicability. This chapter applies to all day care centers, whether the facility in which the child care and supervision are provided is known as a day care center, day camp, camp, day nursery, nursery school, preschool, head start or other designation, except that it does not apply to family day care centers which are regulated under ch. HSS 45, to group day care centers which are regulated under ch. HFS 46 or to:

(1) Group lessons to develop a talent or skill, such as dance or music, social group meetings and activities, group athletic activities and religious education classes where a child attends for 2 hours or less a day or 5 hours or less a week;

(2) Care and supervision while the parents are on the premises and are engaged in shopping, recreation or other non-work activities;

(3) Seasonal programs of 10 days or less duration in any 3-month period, including day camps, vacation bible school and holiday child care programs;

(4) Care and supervision in emergency situations; and

(5) Care and supervision while the parent is employed on the premises if the parent's child receives care and supervision for no more than 3 hours a day.

History: Cr. Register, October, 1984, No. 346, eff. 11-1-84; emerg. am. eff. 4-22-85; am. Register, August, 1985, No. 356, eff. 9-1-85; am. (intro.), Register, August, 1989, No. 404, eff. 9-1-89; am. (intro.), Register, January, 1997, No. 493, eff. 2-1-97.

HFS 55.04 Definitions. In subchs. I and IV:

(1) "Assistant child care teacher" means a child care worker who works under the supervision of a child care teacher.

(2) "Base camp" means the permanent premises, public or private, on which the day camp is operated.

(3) "Camp director" means the individual on the campsite who is responsible for the administration of the camp, including program operations, business operations, food service, health service, and other supportive services.

(4) "Care" means providing for the safety and the developmental needs of a child in a day camp.

(5) "Child care teacher" means a child care worker who plans and implements daily activities for a designated group of children.

(7) "Compensation" means salary or wage or other material consideration such as gifts or compensatory labor received for the care and supervision of children. "Compensation" does not include cooperative arrangements made between 2 or more parents for the exchange of child care and supervision, and the payments made by them for the actual cost of equipment, supplies or facilities incidental to the operation of the cooperative arrangements.

(8) "Counselor" means a staff member who works directly with children.

(9) "Day camp" or "camp" means a licensed day care center that provides an experience in a seasonal program oriented to the out-of-doors for periods less than 24 hours a day.

(10) "Day care center" or "center" means a licensed facility where a person, other than relative or guardian, provides care and supervision for 4 or more children under 7 years of age, for less than 24 hours a day and for compensation.

(11) "Department" means the department of health and family services unless otherwise noted.

(12) "Family day care center" means a center regulated under ch. HSS 45 that provides care and supervision for 4 to 8 children.

(13) "Field trip" means any experience a child has away from the premises of the center while under the care of center staff.

(14) "Group" means a specific number of children who have the same child care worker responsible for the children's well-being and meeting the children's basic needs and who are cared for in the same self-contained room or area at the center.

(15) "Group day care center" means a center regulated under HFS 45 that provides care and supervision for 9 or more children.

(16) "Infant" means a child under one year of age.

(17) "Licensee" means the corporation, individual, partnership or nonincorporated association or cooperative which has legal and financial responsibility for the operation of a day care center and for meeting the licensing rules.

(19) "Parent" means either "parent" as defined in s. 48.02 (13), Stats., or "guardian" as defined in s. 48.02 (9), Stats.

(20) "Parent cooperative" means a center organized by parents for their preschool children in which the parents have decision-making authority to establish and change policy, program and personnel practices.

(21) "Parochial or private school" means an educational program which meets all the criteria specified under s. 118.165 (1), Stats., or as determined by the superintendent of public instruction under s. 118.167, Stats.

(22) "Physician" has the meaning prescribed in s. 448.01 (5), Stats.

(23) "Premises" means a tract of land with buildings, structures or shelters on it.

(24) "Self-contained room or area" means a room separated by permanent walls or an area separated by permanent or portable partitions or dividers acting as a visual barrier which:

(a) Is reserved for a specific group of children; and

(b) Contains the indoor equipment and furnishings required for that group.

(25) "Supervision of children" means guidance of the behavior and activities of children for their health, safety and well-being.

(26) "Supervision of staff" means guidance of the behavior and activities of center employees which may include provision of instructions to carry out activities for limited periods of time out of sight or hearing of the supervisor.

(27) "Toddler" means a child at least one year of age but less than 2 years of age.

(28) "Volunteer" means a person who agrees to give time, without compensation, to provide transportation or to work with children in a day care center.

History: Cr. Register, October, 1984, No. 346, eff. 11-1-84; am. (18), r. (24), renum. (25) to (29) to be (24) to (28), Register, August, 1989, No. 404, eff. 9-1-89; correction in (intro.) made under s. 13.93 (2m) (b) 7., Stats., Register, August, 1989, No. 404; am. (4), (12) and (15), r. (6) and (18), Register, January, 1997, No. 493, eff. 2-1-97.

HFS 55.05 Licensing administration. (1) LICENSING PROCEDURES. (a) A person making an inquiry to the department about obtaining a license to operate a group day care center or a day camp shall be:

1. Provided with the relevant parts of this chapter;
2. Given other written materials or listings of publications about establishing a day care center;
3. Offered an opportunity to meet with a departmental representative to discuss the materials;
4. Supplied with the necessary forms if licensing is desired; and
5. Assisted through the licensing process by a departmental representative.

Note: The licensure application form, DCS-102, may be obtained from any department regional office.

(b) An applicant shall file an application and other materials required for group day care center or day camp licensure and licensure renewal on forms provided by the department at least:

1. Sixty days prior to the date proposed for the center to begin operating;
2. Except for day camps, 30 days prior to the end of the current licensing period;
3. Forty-five days prior to opening an additional center;
4. Thirty days prior to changing the address of the center; and
5. Thirty days prior to new ownership of the center.

(c) Group day care centers and day camps shall include the following materials when submitting an application for licensure:

1. A clearly defined statement of purpose as it relates to the provision of child care services;
2. A signed statement by the applicant or licensee accepting legal responsibility for complying with applicable parts of this chapter;
3. The articles of incorporation and by-laws if the center is organized as a corporation, association or cooperative;
4. A signed authorization which permits the department to make whatever investigation it considers necessary for the verification of pertinent application information;
5. Specifications regarding the center's premises as follows:
 - a. Group day care applicants shall submit a diagrammatic floor plan of the center, including room dimensions and room usage, and a diagram of the outdoor areas, including area dimensions, location and enclosures;
 - b. Day camp applicants shall submit a general description of the camp area, geographic location and size of the base camp; and
 - c. Day camps operating without a base camp and having a program consisting primarily of day trips shall submit the proposed itinerary of day trips to the department.
6. Group day care and day camp applicants shall include a written delegation of administrative authority signed by the licensee which outlines the organizational structure and designates, in a chain of command form, those persons on the premises in charge of the center for all hours of operation;
8. Day camp applicants shall include:
 - a. A statement from the state laboratory of hygiene or a state approved laboratory indicating that the water source has been tested and found to be safe; and

b. The name, address and telephone number of the person to be contacted by the licensing representative for the pre-camp licensing review.

(d) Within 20 working days after receiving an application for initial licensure, a departmental representative shall contact the applicant in person or by phone and develop a check list for the applicant to utilize in meeting pre-licensing requirements, including:

1. Necessary building inspections;
 2. Required equipment, furnishings and supplies;
 3. Requirements for staffing and staff qualifications;
 4. Required safety and sanitation equipment and supplies;
- and
5. Required written policies and procedures.

(e) When the applicant determines that all requirements on the check list have been met, the applicant shall notify the departmental representative.

(f) Within 20 working days after the notification under par. (e) the departmental representative shall survey the day care center site to determine whether the applicant has complied with all of the requirements.

(g) When the applicant is found to be in compliance with all requirements, the department shall issue a day care center license within 5 working days from the date of completing the survey study.

(h) If the applicant is not in compliance, the department shall specify in writing the areas of non-compliance and the applicant shall have an opportunity to make the necessary changes and shall be re-surveyed within 20 working days after notifying the departmental representative.

(2) AMENDMENT TO LICENSE. A written request for an amendment to the license shall be submitted to the department by the licensee before changes are made in the conditions of the current license such as maximum number of children, age range of children, hours, days of the week, months of the year in operation or change in the name of the center.

(3) TERMS OF LICENSE. (a) The number of children under 7 years of age in care of the center at any one time may not exceed the number for which the center is licensed.

(b) The age of children served may not be younger or older than the age range specified in the terms of the license.

(c) The hours, days and months of a center's operation may not exceed those specified in the license.

(4) ADDITIONAL LICENSE. A licensee seeking licensure for an additional center location shall demonstrate compliance with applicable parts of this chapter in the operation of the existing center.

(5) CONDITION OF LICENSURE. The department may refuse to grant a license or may revoke a license if the licensee, applicant or proposed or current employe or volunteer:

(a) Is the subject of a pending criminal charge if the charge substantially relates to the circumstances of caring for children or activities of the center;

(b) Has been convicted of a felony, misdemeanor or other offense the circumstances of which substantially related to the care of children or activities of the center;

(c) Has been determined to have abused or neglected a child pursuant to s. 48.981, Stats.; or

(d) Is the subject of a court finding that the person has abandoned his or her child, has inflicted sexual or physical abuse on a child or has neglected or refused, for reasons other than poverty, to provide necessary care, food, clothing, medical or dental care or shelter so as to seriously endanger the physical health of a child.

(6) SUMMARY SUSPENSION OF A LICENSE. (a) Under the authority of s. 227.51 (3), Stats., the department may order the summary suspension of a license and, therefore, the closing of a day care

center following a finding of imminent danger to the health, safety or welfare of the children in care. A finding of imminent danger may be based on, but not limited to, the following:

1. Failure to provide environmental protections such as heat, water, electricity or telephone service;

2. The licensee, employe or volunteer has been convicted of or has a pending charge for a crime against life or bodily injury;

3. The licensee, employe or volunteer has been convicted of a felony, misdemeanor or other offense or has a pending criminal charge which substantially relates to the circumstances of caring for children or activities of the center; or

4. The licensee, employe or volunteer is the subject of a current investigation for alleged child abuse or neglect pursuant to s. 48.981, Stats.

Note: Examples of actions the department will consider in making determinations under s. HFS 55.05 (5) and (6), are: abuse and neglect of children; sexual assault; abuse of residents of facilities; crimes against life and bodily security; kidnapping; abduction; arson of buildings or property other than buildings; robbery; receiving property from children; crimes against sexual morality, such as enticing a minor for immoral purposes or exposing minors to harmful materials and interfering with the custody of a child. The list is illustrative. It is not all-inclusive of the types of offenses that may be considered.

(b) An initial order to close may be a verbal order by a departmental representative but shall be approved at a regional administrative level before it becomes effective. The department shall within 72 hours of the approval either permit the reopening of the center or initiate proceedings in accordance with s. 227.51 (3), Stats., for the revocation of the license to operate. A preliminary hearing on the revocation shall be provided within 10 working days of the initial order to close.

(7) EFFECT OF NOTICE TO REVOKE OR DENY A LICENSE. The department shall provide a center with a written 30-day notice of intent to revoke or deny a license. Upon receipt of that notice and during any revocation or denial procedures which may result, a day care center may not accept for care any child not enrolled as of the date of receipt of the 30-day notice without the written approval of the department.

History: Cr. Register, October, 1984, No. 346, eff. 11-1-84; r. (1) and (2) (c) 7., renum. (2) (a) to (c) 6. and 8. and (d) to (h) and (3) to (8) to be (1) (a) to (c) 6. and 8. and (d) to (h) and (2) to (7) and am. (1) (a) (intro.), (b) (intro.), (c) (intro.) and 5. a., Register, August, 1989, No. 404, eff. 9-1-89.

HFS 55.06 Complaints. All complaints concerning a licensed or illegally operating day care center shall be submitted to the department by telephone, letter or personal interview. Complaints will be investigated by a licensing representative of the department. A written report of the findings of the investigation will be sent to the complainant upon request.

History: Cr. Register, October, 1984, No. 346, eff. 11-1-84.

HFS 55.07 Non-discrimination, confidentiality and reporting child abuse. **(1) DISCRIMINATION PROHIBITED.** The licensee shall ensure that the day care center does not discriminate on the basis of age, race, color, sex, sexual orientation, creed, handicap, national origin or ancestry against:

(a) Any employe or applicant for employment, in regard to hire, tenure or term, condition or privilege of employment as specified in the Fair Employment Act. ss. 111.31 to 111.395, Stats.; or

(b) Any enrolled child and family or any applicant for enrollment in regard to admission, privilege of enrollment or discharge condition except where it is a reasonable and necessary age requirement specified under this chapter.

(2) CONFIDENTIALITY OF RECORDS. The licensee is responsible for compliance by the day care center with s. 48.78, Stats., and this subsection.

(a) Persons having access to children's records may not discuss or disclose personal information regarding the children and facts learned about children and their relatives. This does not apply to:

1. The parent or a person authorized in writing by the parent to receive such information; or

2. Any agency assisting in planning for the child when informed written parental consent has been given.

(b) Day care centers shall make accessible to the parent, upon request, all records and reports maintained on their child.

(c) All records required by the department for licensing purposes are to be available to licensing representatives.

(3) **REPORTING CHILD ABUSE.** (a) A licensee who knows or has reasonable cause to suspect that a child has been abused or neglected as defined in s. 48.981 (1), Stats., shall immediately contact the county welfare agency, or local law enforcement agency in compliance with s. 48.981, Stats.

(b) The licensee shall ensure that every child care worker who comes in contact with the children at the day care center has received training in:

1. Child abuse and neglect laws;
2. Identification of children who have been abused or neglected; and
3. The process for reporting known or suspected cases of child abuse or neglect.

Note: Failure of the licensee to report known or suspected incidents of child abuse or neglect does not lessen the legal duty of the child care worker to report known or suspected cases of child abuse or neglect.

History: Cr. Register, October, 1984, No. 346, eff. 11-1-84.

HFS 55.08 Pets and livestock. (1) Dogs and cats that are kept on the premises of a day care center shall be vaccinated against diseases for which vaccines are available and which present a hazard to the health of children.

(2) Pets suspected of being ill or infested with external lice, fleas and ticks or internal worms shall be removed from the center.

(3) In the event that an animal bites a child, the parent shall be notified and a veterinarian shall be contacted by center personnel to determine a course of action in the diagnosis of possible rabies in the animal. Procedures for emergency care of children shall be followed. Parents shall be notified of any action taken by the veterinarian.

(4) Turtles, skunks and poisonous reptiles are prohibited from being kept on the premises of a day care center as pets in order to prevent salmonella, rabies and poisoning.

(5) Animal pens shall be kept clean.

(6) Pets shall be kept and handled in a manner which protects the well-being of both children and pets.

(7) No pets may be in the food preparation areas.

(8) No horses or other farm animals may be quartered closer than 500 feet from the building in which the day care center is located.

History: Cr. Register, October, 1984, No. 346, eff. 11-1-84.

HFS 55.09 Transportation. This subsection applies to all center-provided or center-contracted transportation of children, including both regularly scheduled transportation to and from the center and field trip transportation.

(1) **GENERAL.** (a) The center shall assume responsibility for a child between the time the child is picked up until the child is delivered to the parent or to a responsible person designated by the parent.

(b) Center-provided transportation includes transportation in:

1. Center-owned or leased vehicles;
2. Volunteer or staff-owned vehicles for which the volunteer or staff is reimbursed for the use of the vehicle; and
3. Volunteer or staff-owned vehicles without reimbursement to the owner for the use of the vehicle.

(c) Whenever the center contracts with a firm for the provision of transportation, the center shall ensure that the firm complies with all applicable requirements of this subsection.

(d) When children are transported in school buses as defined in s. 340.01 (56), Stats., the school buses shall comply with ch. Trans 300.

(e) When regularly scheduled transportation is provided by the center, the name of each driver, type of license held and the date of expiration of the license shall be on file at the center. When services are contracted, the name, address and telephone number of the contracting firm and the name of a representative of the firm who may be contacted after hours shall be on file at the center.

(f) The center shall maintain a written plan for regularly scheduled transportation of children between the children's homes and the center, which shall include:

1. A list of children transported and the method of taking daily attendance;
2. The schedule of the transportation route;
3. The name and address of the person authorized to receive the child if the child is dropped off at a place other than the child's residence; and
4. Procedures to be followed when the parent or designated authorized adult is not at home to receive the child.

(g) The center shall have written safety precautions to be followed when transporting handicapped children who have a limited ability to respond to an emergency.

(h) Emergency information as required under s. HFS 46.04 (6) (a) 1. d. and e. and 2. shall be carried in the vehicle.

(i) Smoking is prohibited in the vehicle while children are being transported.

(2) **DRIVER.** (a) The driver of a center-operated or center-contracted vehicle shall hold a valid Wisconsin operator's license for the type of vehicle being driven.

(b) The center shall have a copy of the staff member's driving record on file before that person may act as a driver. The driver shall:

1. Sign a waiver authorizing the administrator of the center to obtain a copy of his or her driving record; or
2. Provide the administrator with a copy of his or her driving record.

Note: Copies of driving records may be obtained from the Department of Transportation, Division of Motor Vehicles, Bureau of Driver Licensing, P.O. Box 7918, Madison, WI 53707.

(c) The driver of a vehicle shall be at least 18 years of age but under 70 years of age and have at least one year of experience as a licensed driver.

(3) **VEHICLE.** (a) All center-provided or center-contracted transportation vehicles shall be registered by the state of Wisconsin.

(b) Center-owned vehicles shall be in safe operating condition, and at 6-month intervals the licensee shall provide the department with evidence of the vehicle's safe operating condition on forms provided by the department.

Note: Form DCS-52, Safety Inspection for Day Care Vehicles, may be obtained from any department regional office.

(c) Center-owned vehicles shall be equipped with a first aid kit.

(d) All vehicles shall be clean, uncluttered, and free of obstructions on the floors, aisles and seats.

(e) All vehicles shall be enclosed. Children may not be transported in a truck except in the cab.

(f) When seat belts are available, children 4 years of age and older shall wear them.

Note: Section 347.48 (1), Stats., in effect requires that most automobiles belonging to Wisconsin residents be equipped with seat belts.

(g) When children under the age of 4 are being transported in a motor vehicle each child shall be properly restrained in a child safety restraint system or in a seat belt in accordance with s. 347.48, Stats.

(h) Doors shall be locked at all times when the vehicle is moving.

(i) A copy of any accident report shall be submitted to the department within 5 days after the occurrence of an accident involving a vehicle transporting children.

(4) VEHICLE CAPACITY AND SUPERVISION. (a) Children may not be left unattended in the vehicle.

(b) When children are transported in a vehicle there shall be at least one adult supervisor in addition to the driver whenever there are more than 3 children who are either under 2 years of age or who have a handicap which limits their ability to respond to an emergency.

(c) There shall be at least one adult supervisor in addition to the driver when there are more than 10 children under 5 years of age in the vehicle.

(d) There shall be at least one adult supervisor in addition to the driver when there are more than 17 children 5 years and older in the vehicle.

(e) After transporting a child to his or her destination, the driver shall wait until the child enters the building or is in the hands of a designated authorized adult.

(f) A seat shall be provided for each child. Allowable width in determining seating capacity is 13 inches for a child and 20 inches for an adult.

(g) The driver or adult supervisor shall be responsible for seeing that children remain seated while the vehicle is in motion.

(h) No more than 3 persons, including the driver, may occupy the front seat of a vehicle.

(i) The driver of a center-owned vehicle shall conduct vehicle evacuation drills initially and at 3-month intervals. The evacuations shall be supervised and verified in writing by a staff person.

History: Cr. Register, October, 1984, No. 346, eff. 11-1-84.

HFS 55.10 Pools. A center which has a pool, beach, or other swimming place on its premises shall comply with:

(1) The requirements of ch. ILHR 90; and

(2) American Red Cross standards as specified in s. HFS 55.44 (7) and (8).

History: Cr. Register, October, 1984, No. 346, eff. 11-1-84; correction made under s. 13.93 (2m) (b) 7. Stats., Register, June, 1995, No. 474.

HSS 55.30 Scope. **History:** Cr. Register, October, 1984, No. 346, eff. 11-1-84; r. Register, January, 1997, No. 493, eff. 2-1-97.

HSS 55.31 Operational requirements. **History:** Cr. Register, October, 1984, No. 346, eff. 11-1-84; r. Register, January, 1997, No. 493, eff. 8-1-97.

HSS 55.32 Personnel. **History:** Cr. Register, October, 1984, No. 345, eff. 11-1-84; r. Register, January, 1997, No. 493, eff. 8-1-97.

HSS 55.33 Physical plant and furnishings. **History:** Cr. Register, October, 1984, No. 346, eff. 11-1-84; r. Register, January, 1997, No. 493, eff. 8-1-97.

HSS 55.34 Program. **History:** Cr. Register, October, 1984, No. 346, eff. 11-1-84; r. Register, January, 1997, No. 493, eff. 8-1-97.

HSS 55.35 Additional requirements for infant and toddler care. **History:** Cr. Register, October, 1984, No. 346, eff. 11-1-84; r. Register, January, 1997, No. 493, eff. 8-1-97.

HSS 55.36 Additional requirements for night care. **History:** Cr. Register, October, 1984, No. 346, eff. 11-1-84; r. Register, January, 1997, No. 493, eff. 8-1-97.

HSS 55.37 Additional requirements for care of school-age children. **History:** Cr. Register, October, 1984, No. 346, eff. 11-1-84; r. Register, January, 1997, No. 493, eff. 8-1-97.

Subchapter IV — Additional Requirements for Day Camps for Children

HFS 55.40 Scope. Sections HFS 55.40 to 55.44 apply to all licensed day camps for children.

History: Cr. Register, October, 1984, No. 346, eff. 11-1-84.

HFS 55.41 Operational requirements. (1) ADMINISTRATION. The licensee shall:

(a) Comply with all applicable statutes under which the requirements in this chapter are promulgated;

(b) Comply with all applicable requirements in this chapter;

(c) Designate, in writing, a Wisconsin resident who is responsible for ensuring compliance with the applicable requirements in this chapter, if the licensee resides in another state;

(d) Meet, upon request, with the licensing representative on matters pertaining to licensing;

(e) Provide documentation of insurance coverage by the submission of a certificate of insurance reflecting current dates of coverage for:

1. General liability insurance which provides coverage with limits of not less than \$25,000 for each person and total limits of \$75,000 for each occurrence;

2. Vehicle liability insurance, when transportation is provided, with minimums no less than those specified in s. 121.53, Stats.; and

3. Non-owned vehicle liability insurance when transportation is provided by other than camp-owned vehicles;

(f) Develop written policies on the following subjects, submit them to the department for review and implement them:

1. Termination of enrollment of children;

2. Fee payment and refund; and

3. Personnel policies, job descriptions, and terms of employment; and

(g) Develop written policies on the following subjects, submit them to the department for approval and implement them as approved:

1. Admission, health, nutrition and discipline;

2. Program objectives and a description of activities designed to carry out the program objectives;

3. Transportation, when provided;

4. Plans for evacuation and other emergencies;

5. In-service training and orientation of staff and volunteers; and

6. Supervised swim plan, if applicable.

(h) Make available to the parents, on request, a copy of the applicable parts of this chapter and a copy of the child care policies of the camp. Personnel, in-service training and orientation policies need not be included;

(i) Ensure that all published statements such as brochures and publicity are accurate; and

(j) Include a reference to the religious component in any publicity and program objectives if religious training is part of the camp program. This information shall be shared with parents.

(2) REPORTS. The licensee shall report to the department:

(a) An accident resulting in the death or serious injury of a child while at a camp, within 48 hours after the occurrence. In this paragraph, "serious injury" means an injury requiring inpatient hospitalization of the child;

(b) A catastrophe which damages the base camp, within 24 hours after the occurrence;

(c) A change in the board chairperson of the day camp, within 30 days of the change;

(d) A change of the day camp director, within 7 days of the change; and

(e) Statistical data required by the department on forms provided by the department.

(3) STAFF RECORDS. The licensee shall:

(a) Maintain a file on each employe which is available for examination by the licensing representative and which includes:

1. The employe's name, address, date of birth, education, position, previous experience in child care and a signed statement

affirming that he or she has not been convicted or is not the subject of a pending criminal charge as specified under s. HFS 55.05 (5) or (6);

2. Documentation of any pertinent certification or training required for the position; and

(b) Maintain a listing at the base camp of the name, address, and telephone number of the person to be notified in the event of an emergency involving an employee.

(4) **CHILDREN'S RECORDS.** (a) The licensee shall maintain an up-to-date written record on each child enrolled at the camp and make the record available to the licensing representative. Each record shall include:

1. Pre-admission and enrollment information consisting of:

a. The name and birthdate of the child;

b. Full names of parents;

c. The child's home address and telephone number;

d. Address and telephone number where a parent can be reached while the child is in care;

e. Name, address, telephone number and relationship to the child of the person to be notified in an emergency, when a parent cannot be reached immediately;

f. Name, address and telephone number of the physician or medical facility caring for the child;

g. Names, addresses and telephone numbers of persons authorized to call for the child; and

h. Dates of camp session in which the child is enrolled; and

2. Consent from the parent for emergency medical care or treatment;

3. Authorization from the parent to transport the child to and from the camp, when transportation is provided;

4. Authorization from the parent for the child to participate in and be transported for field trips and other activities, if these are part of the camp program;

5. Specific written informed consent from the parent for each incident of participation by a child in any research or testing project. The day camp shall obtain and make available to the department and to the parent a statement indicating the sponsor, the subject matter, the specific purpose and the proposed use of results with respect to each project;

6. The child's health history and any other matters relating to the child's health; and

7. The daily attendance of the child for the length of time the child is enrolled in the program.

(b) The licensee shall maintain a daily medical log recording any injuries received by a child or medication dispensed to a child.

1. The log shall be in a bound book with pages that are lined and numbered. The pages may not be removed.

2. Entries shall be in ink and dated and signed or initialed by the person making the entry.

History: Cr. Register, October, 1984, No. 346, eff. 11-1-84.

HFS 55.42 Personnel. (1) **STAFF: PAID AND VOLUNTEER.**

(a) Each day camp shall have a person designated as camp director on the premises at all times.

(b) The camp director shall be at least 21 years of age and shall meet one of the following criteria:

1. Have at least 2 years of supervisory or administrative experience in an organized camp or children's program; or

2. Have a bachelor's degree in outdoor education, recreation, social work, psychology, child development or education or in another camp-related field.

(c) Paid counselors who are counted in determining the counselor-to-child ratio shall have completed high school or the equivalent as determined by the department of public instruction.

(d) Paid or volunteer counselors who are considered in determining counselor-to-child ratio shall be at least 18 years of age.

(e) In the absence of a regular staff member, there shall be a similarly qualified substitute.

(2) **STAFF TRAINING** (a) Each day camp shall develop a written pre-camp training program plan, a copy of which shall be submitted to the department. The plan shall include, but is not limited to, the following:

1. A review of the applicable parts of this chapter;

2. A review of camp policies and procedures;

3. Job responsibilities in relation to job descriptions;

4. Training in the recognition of illness of children;

5. Daily activity plans and schedules;

6. Emergency first aid;

7. The emergency plan required under s. HFS 55.43 (2);

8. Training in the use of fire extinguishers and other fire-fighting equipment;

9. Training in the recognition of local poisonous plants and snakes; and

10. Child abuse and neglect laws.

(b) All paid and volunteer counselors who are counted in determining the counselor-to-child ratio shall have pre-camp training. The pre-camp training program shall be for a minimum of 3 camp days or 18 hours and shall include orientation at the base camp.

(c) Campers' parents serving as staff may be exempted from the 3 camp days or 18 hour pre-camp training when the following conditions are met:

1. The parent receives 4 hours of training in day camp programming required under par. (a), including orientation at the base camp; and

2. The parent works under the supervision of a staff person who has met the requirements specified in par. (b).

(d) The camp director shall plan and implement staff meetings which will provide ongoing supervision and in-service training for the staff.

(3) **STAFFING** (a) Each child shall be closely supervised at all times.

(b) There shall be a ratio of at least one counselor to every 4 children under 4 years of age. There shall be a ratio of at least one counselor to every 6 children 4 years of age. There shall be a ratio of one counselor to every 12 children 5 and 6 years of age. When there is a mixed-age group, the staff-to-child ratio shall be adjusted on a prorata basis, according to age.

Note: Worksheets for prorating staff-to-child ratios for mixed age groups are available from the department upon request.

(c) The counselor-to-child ratio shall be exclusive of maintenance staff, program specialists and counselors in training.

(d) The camp director may not leave the base camp during the hours of operation unless another qualified person is at the base camp. This person shall be identified in a written delegation of administrative authority and shall be authorized to make decisions.

(e) When 9 or more children are present at the base camp, there shall be at least 2 adults available at all times and at least one of the adults shall be a counselor.

(f) When children 7 years of age and older are served in the same unit with children under 7 years of age, the ratio of counselors to all children in the unit shall be consistent with the requirements for the under 7 year-old ratio.

(4) **HEALTH QUALIFICATIONS.** No staff member, volunteer, visitor or parent with symptoms of communicable disease or physical illness, or whose behavior gives the camp director reason to be concerned for the safety of the children, may be allowed on the premises of the day camp.

History: Cr. Register, October, 1984, No. 346, eff. 11-1-84.

HFS 55.43 Base camp and facilities. (1) **SITE AND BUILDING.** (a) The base camp shall provide natural resources that allow for an outdoor living experience.

(b) On-site or off-site shelters shall be provided for use during inclement weather for ongoing camp activities.

(c) The base camp shall be located in an area that has good drainage.

Note: Local authorities should be consulted to obtain any required zoning clearances or building permits.

(d) Buildings and shelters on sites used or constructed primarily for day camp purposes shall comply with chs. ILHR 50 to 64 and an inspection report shall be filed with the department.

(e) All buildings and structures used by children for day camp purposes shall have not less than 2 plainly marked exits.

(2) SAFETY (a) Protective measures. 1. Each camp shall have a written plan for dealing with emergency situations, including but not limited to fire, natural disaster, lost campers, lost swimmers, accident and illness.

2. Staff shall be informed of and knowledgeable about the following:

- a. His or her duties in the event of an emergency;
- b. Evacuation routes; and
- c. The location of the nearest telephone. A list of emergency telephone numbers shall be immediately available to staff.

3. All equipment and facilities used by the children and staff, whether owned by the camp or not, shall be in safe operating condition and not present undue risk to children.

4. No alcohol or non-prescribed controlled substances as defined in s. 961.01, Stats. may be consumed on the premises of the day camp during hours of operation.

5. All hazards, including abandoned refrigerators with doors, open grease traps, unsafe fences, and abandoned excavations, shall be eliminated or provided with protective devices.

6. Substances which may be toxic if ingested, inhaled, or handled, including drugs, chemicals and pesticides, shall be clearly labeled and stored in areas not accessible to children.

7. A motor vehicle shall be available at all times for emergency transportation.

(b) Fire protection. 1. All fire protection facilities and equipment shall be inspected and maintained in working order by a qualified person.

2. Flammable and combustible liquids shall be in plainly marked containers and stored in areas accessible only to designated adults.

3. Before camp opens, written notification of the camp operation shall be given to the nearest fire department or forest ranger service for protection in case of fire.

4. Any permits required for operation of incinerators or for open fires shall be secured.

5. The clearing around open fires shall be free of burnable materials for a radius of 6 feet.

(3) SANITATION (a) General. 1. The premises shall be free of litter, safe and clean.

2. Furnishings and other equipment shall be clean.

3. Toilet facilities shall be in sanitary condition.

4. Painted exterior and interior surfaces accessible to children shall be finished with lead-free paint or other non-toxic material.

5. Garbage containers in the building shall be covered, water-tight and emptied daily. Garbage and refuse stored out-of-doors shall be kept in rigid leak-proof containers equipped with tight-fitting covers and hauled away as necessary to prevent decomposition and overflow at the site.

6. The areas around garbage and rubbish containers shall be clean and dry.

7. Solid waste disposal sites on the premises must be licensed by the department of natural resources.

(b) Insect, rodent, and weed control. 1. The growth of brush, weeds, grass and plants shall be controlled in the central camp area

to prevent the harborage of noxious insects and rodents and other animals.

2. The central camp area shall be maintained to prevent growth of ragweed, poison ivy and other noxious plants considered detrimental to health.

3. Buildings and structures shall be maintained to control insect and rodent harborage and infestations.

(c) Food preparation, service and storage. 1. When food is provided and served by the day camp, s. HFS 46.06 (9) shall apply.

2. Equipment and utensils used for preparing, serving and storing food shall be clean and facilities equipped for the safe handling of food.

3. Washable dishes provided by the camp shall have smooth hard surfaces which are free of open seams, cracks, chips and roughened areas. The dishes shall be stored in such a manner as not to expose them to contamination.

4. Single-service utensils and food containers shall be made from non-toxic materials and shall not be reused.

5. Milk shall be maintained at or below 40°F (8°C).

(d) Water. 1. A supply of safe drinking water shall be available to children at all times from disposable cups, individually labeled cups or angle jet type drinking fountains. Common use of drinking cups is prohibited.

2. When a public water system is not available, a private well may be used if it is approved by the department of natural resources. Water samples from an approved well shall be tested at the state laboratory of hygiene or a state-approved laboratory at least annually and at least 2 weeks prior to the camp opening. The water supply shall be bacteriologically safe.

3. Where running water is not available, a covered drinking water container suitable for pouring or equipped with a faucet shall be provided. Dipping into water from the container is prohibited. The container shall be cleaned daily. The water source shall be a public water supply or as specified in subd. 2.

(e) Washrooms and toilet facilities. 1. Handwashing and toilet facilities shall be provided and accessible to children.

2. Single-use disposable towels or individually labeled clean cloth towels shall be provided and accessible to children.

3. Soap, toilet paper and wastepaper container shall be provided and accessible to children.

4. Outdoor toilets, when used, shall be constructed according to the requirements of s. ILHR 52.63.

5. If devices other than plumbed toilets or outdoor toilets are used, they shall be subject to local ordinances and required permits shall be obtained.

6. Plumbing shall comply with all applicable sections of ch. Comm 82.

7. Liquid waste disposal shall be connected to a public sewer, if available. If not available, liquid waste disposal shall be in accordance with ch. Comm 82.

History: Cr. Register, October, 1984, No. 346, eff. 11-1-84.

HFS 55.44 Program. (1) PROGRAM PLANNING AND IMPLEMENTATION (a) Each day camp shall have a program of activities planned according to the developmental level of each group of children and intended to expose children to a variety of cultures. The program shall provide each child with experiences which encourage:

1. An appreciation and understanding of the natural environment;
 2. Large and small muscle development;
 3. Learning of skills;
 4. Self-esteem and positive self-image;
 5. Opportunities for recreation; and
 6. Social interaction in a group setting.
- (b) The program shall:**

1. Protect the children from excessive fatigue and from over-stimulation; and

2. Encourage spontaneous activities.

(2) **DISCIPLINE.** (a) Each day camp shall have a written policy on discipline of children which provides for positive guidance, redirection and the setting of clear-cut limits. The policy shall be designed to help each child develop self-control, self-esteem, and respect for the rights of others.

(b) Only staff specified under s. HFS 55.42 (2) (b) and (c) may discipline a child. Discipline may not be delegated to older children or peers.

(c) Punishment which is humiliating or frightening to a child is prohibited. Examples of prohibited punishment include:

1. Spanking, hitting, pinching, shaking or inflicting any other form of corporal punishment;

2. Verbal abuse, threats or derogatory remarks about the child or the child's family;

3. Binding or tying to restrict movement or enclosing in a confined space such as a closet, locked room, box or similar cubicle; and

4. Withholding or forcing meals, snacks or naps.

(d) Children shall not be punished for lapses in toilet training.

(3) **EQUIPMENT.** (a) The camp shall provide program equipment in a variety and quantity which will allow staff to implement activities outlined in the written policy on program objectives and activities required under s. HFS 55.41 (1) (g) 2.

(b) All equipment shall be:

1. Scaled to the developmental level, size and ability of the children;

2. Of sound construction with no sharp, rough, loose or pointed edges, in good operating condition, anchored when necessary; and

3. Placed to avoid danger of accident and collision and to permit freedom of action.

(4) **REST.** When a session is more than 4 hours in length, there shall be a rest period or period of quiet activities of approximately one hour for all children under 5 years of age.

(5) **FOOD.** (a) Food shall be provided accordance with Table 55.44 which is based on the amount of time children are present.

TABLE 55.44
MEAL AND SNACK REQUIREMENTS FOR EACH
CHILD AT A DAY CAMP

Time Children Are Present	Number of Meals and Snacks
2 1/2 to 4 hours	1 snack
4 to 8 hours	1 snacks and 1 meal
8 to 10 hours	2 snacks and 1 meal
10 hours or more	2 meals and 2 or 3 snacks

(b) Camp-provided transportation time shall be included in determining the total number of hours a child is present for the purpose of par. (a).

(c) Food allergies of specific children shall be reported to cooks, counselors and substitutes having direct contact with children.

(d) The meal and snack patterns listed below shall be used in meal planning. Each meal shall provide 1/3 of the daily nutritional requirements of the child.

(e) Noon or evening meals shall consist of at least one item from each of the following categories:

1. Protein sources, such as meat, poultry, fish, eggs, cooked dried peas or beans, cheese or peanut butter;

2. Two vegetables, or 1 vegetable and 1 fruit, or 2 fruits;

3. Cereal, or whole grain or enriched bread; and

4. Grade A vitamin D milk.

(f) Mid-morning and mid-afternoon snacks shall consist of at least one of the following: milk or milk product, fruit, fruit juice, vegetable, peanut butter or other protein, whole grain or enriched bread or cereal. When only fruit juice is used, it shall be pure fruit juice.

(g) When a bag lunch or other food is provided by the parent, the camp shall ensure that each child has a meal that provides 1/3 of the daily nutritional requirements for a child of that age.

(h) Children's hands shall be washed with soap and water before eating.

(6) **HEALTH.** (a) *Observation.* 1. Each child upon arrival at the camp shall be observed by a staff person for symptoms of illness.

2. Any evidence of unusual bruises, contusions, lacerations or burns shall be noted on the child's record and reported immediately to the camp director.

(b) *Supervision.* There shall be an adult at the camp at all times who is responsible for health supervision. The adult shall be a registered nurse, physician or a person holding a current certificate from the American Red Cross standard first aid and personal safety course.

(c) *Isolation.* 1. There shall be an isolation or first aid area for the care of children who become ill.

2. When an apparently ill child is observed in the day camp, the following procedures shall apply:

a. A child with a sore throat, inflammation of the eyes, fever, lice, ringworm of the scalp, rash, vomiting, diarrhea, or other illness or health condition shall be isolated until the child can be removed from the camp; and

b. The child's parent, or a designated responsible person when parents cannot be reached, shall be contacted as soon as possible after the illness is discovered to take the child from the camp.

(d) *Communicable disease.* 1. When a child is suspected of having chicken pox, German measles, infectious hepatitis, measles, mumps, poliomyelitis, scarlet fever, whooping cough, diphtheria, meningitis, or any other communicable disease under ch. HFS 145, the local health officer shall be notified.

2. Whenever it is determined that a child has a communicable disease, the exposed children shall be watched for symptoms of the disease and their parents shall be notified of the children's exposure.

3. A child may be readmitted without a statement from a physician after having had a communicable disease only if the child has been absent for a period of time equal to the longest usual incubation period of the disease as specified by the department.

(e) *Medication.* 1. No prescription or non-prescription medication, including but not limited to aspirin, cough medicine, or nose drops, may be given to a child except under the following conditions:

a. A signed, dated, written authorization of the parent is on file;

b. Prescription medication is in the original container and labeled with the child's name, name of drug, dosage, directions for administering, date and physician's name;

c. Non-prescriptive medication is labeled with the child's name and the request, signed by the parent, includes the dosage and directions for administering; and

d. A written report which includes the type of medication given, dosage, time, date and name of the person administering the medication shall be kept in the child's record and in the medical log which shall meet specifications of s. HFS 55.41 (4) (b).

2. All medications shall be stored so that they are not accessible to the children.

3. Medications requiring refrigeration shall be kept in the refrigerator in a separate, covered container clearly labeled "medication."

(f) *Injury*. 1. Written procedures for the treatment of children who are in accidents or otherwise injured shall be available and made known to staff and shall be carried out as follows:

a. Written permission from the parent to call the family physician or refer the child for medical care in case of injury shall be on file at the camp. This permission shall be used only when the parent or the designated responsible person cannot be reached;

b. Prior to the opening of camp, a planned source of emergency medical care, such as a hospital emergency room, clinic or other constantly staffed medical facility, shall be designated and made known to staff and parents;

c. There shall be written procedures to be followed for bringing a child to emergency medical care;

d. First aid equipment shall be available at a designated location in each cottage or other living unit and at the first aid area;

e. First aid equipment shall be taken on all out-of-camp trips;

f. Standard first aid practices shall be followed for serious injuries;

g. There shall be routine procedures for treatment of minor injuries; and

h. Superficial wounds may be cleaned with soap and water only and protected.

2. A daily record of injuries shall be kept in the medical log.

3. Records of injuries shall be reviewed by the camp director and staff as part of the in-service training to determine that all preventive measures are being taken.

(g) *Health history*. A written health history which includes dates of immunization, allergies, limitations that would affect activities and other health conditions shall be obtained from the parent before the first day of camp. This shall be kept on file at the base camp and be available to staff.

(7) **WATERFRONT**. (a) *Swimming area*. 1. Beaches, pools and other swimming areas used by campers shall be located, constructed, equipped and operated according to the requirements of ch. ILHR 90.

2. The source and bacteriological, chemical, physical and biological quality of water at pools and beaches used by day camp children shall meet the requirements of ch. ILHR 90.

3. Swimming pools shall be enclosed with a fence. All gates shall be locked when waterfront staff are not on duty.

4. The swimming area used by a day camp shall have designated areas for non-swimmers, intermediate swimmers, advanced swimmers and divers.

(b) *Waterfront staff*. 1. Each day camp offering swimming, boating, canoeing, or other aquatic activities shall designate a staff person as waterfront director. The waterfront director shall:

a. Be 18 years of age or older; and

b. Hold a Red Cross water safety instructor's certificate or a comparable Boy Scout or national YMCA certificate.

2. The camp shall maintain a ratio of one person with a current Red Cross lifesaving certificate per 25 children in the water, except where a public swimming place has life-saving personnel on duty. While children are in the water, staff-to-child ratios under s. HFS 55.42 (3) (b) shall be maintained by staff who can swim.

3. The waterfront director or an equally qualified person shall be on duty at all times whenever children are in the water.

(c) *Swimming procedures*. 1. The swimming ability of each child shall be determined and recorded through the use of an American Red Cross test.

2. Children shall be restricted to swimming areas within their swimming classification.

3. A written plan approved by the department for the supervision of swimmers shall be developed, implemented and made known to staff. The plan shall include:

a. A system of checking persons in and out of the water; and

b. Emergency procedures to be carried out when a swimmer cannot be found.

(d) *Boating prohibited in swimming areas*. Except in an emergency, no rowboat, canoe, motor boat or other craft, except a lifeboat used by lifeguards, is permitted in a swimming area, pursuant to s. 30.68 (7), Stats.

(e) *Supervision of waterfront activities*. Children shall be closely supervised when they are participating in fishing and shoreline activities.

(8) **WATERCRAFT**. (a) All water craft shall comply with ch. NR 5.

(b) Each occupant of a watercraft shall wear a type I or II coast guard-approved personal flotation device which is appropriate to the weight of the person wearing it.

(c) There shall be at least one adult in each watercraft who is a competent swimmer as determined by the waterfront director.

(d) Children who have not completed beginning swimming shall be limited to the use of the rowboats only.

(9) **RIFLERY AND ARCHERY**. Riflery and archery may not be part of the program for children under 7 years of age. When riflery and archery are included in the program for older children, the following precautions for the protection of children under 7 years of age shall be observed:

(a) The archery or rifle range may be used only under the supervision of an adult instructor;

(b) Other program activities shall be in an area away from the designated archery or rifle range. The range shall be fenced in with rope or wire and marked with danger signs or flags;

(c) Rifles, ammunition, and archery equipment shall be stored under lock and key when not in use; and

(d) Unfired cartridges and arrows collected in cleaning the range shall be returned to the instructor and not thrown into the trash or kept by the finder.

(10) **TOOLS**. (a) Power tools shall not be used by children under 7 years of age.

(b) Children under 7 years of age shall not be allowed in areas where power tools are in use.

(c) When power tools and other tools are not in use, they shall be stored in an area not accessible to children.

(11) **HORSEBACK RIDING**. (a) This subsection shall apply whether the camp owns, rents, or leases horses.

(b) Children may ride horseback only under close supervision in a ring or other enclosed area.

(c) The riding tack shall be maintained in good repair to provide maximum safety for children. It shall be appropriate to the age, size, and ability of the rider.

(d) Horseback riding shall be specifically covered by the camp's liability insurance.

(12) **DAY TRIPS**. For day trips away from the base camp:

(a) Staff shall carry signed parental permission for the emergency medical care of all children on the day trip;

(b) The counselor-child ratio under s. HFS 55.42 (3) (b) shall be maintained, except that the number of adults accompanying children away from the base camp may be no fewer than 2;

(c) A planned source of emergency medical care in the area to be visited shall be known to staff; and

(d) A list of children participating in the day trip shall be maintained by a counselor accompanying the children.

History: Cr. Register, October, 1984, No. 346, eff. 11-1-84; corrections in (7) (a) made under s. 13.93 (2m) (b) 7., Stats., Register, June, 1995, No. 474; corrections in (6) (d) made under s. 13.93 (2m) (b) 7., Stats., Register, July, 1997, No. 499.

Subchapter V — Day Care Programs Established by School Boards

HFS 55.50 Definitions. In this subchapter, “establish and provide” means to fund the day care program and to control the daily operation of the program.

History: Cr. Register, August, 1985, No. 356, eff. 9-1-85.

HFS 55.51 Compliance with licensing standards.

(1) A day care program established and provided by a school board shall comply with applicable standards under subchs. I and IV or ch. HSS 45 or HFS 46 governing the operation of day care centers.

(2) The department shall inspect the day care program established and provided by a school board and document in writing for the school board whether or not the day care program complies with the applicable standards for day care centers under this chapter.

History: Cr. Register, August, 1985, No. 356, eff. 9-1-85; am. (1), Register, January, 1997, No. 493, eff. 8-1-97.

Subchapter VI — Day Care Certification

HFS 55.55 Authority, purpose and applicability.

(1) **AUTHORITY AND PURPOSE.** This chapter is promulgated pursuant to s. 46.03 (21), Stats., and implements s. 48.651, Stats. This chapter establishes standards for the certification of persons who provide child care for 1 to 3 children or who are not otherwise required to be licensed as a day care center under s. 48.65, Stats., and whose services are purchased with state or federal child care funds. The standards are intended to protect and promote the health, safety and welfare of children in the care of these providers.

(2) **APPLICABILITY.** This chapter applies to county and tribal agencies and to all providers of day care who receive reimbursement with state or federal child care funds and who are not required to be licensed under s. 48.65, Stats., including providers of child care for 1 to 3 children, providers of child care for a child in the child's home and providers of child care for school-age children.

History: Cr. Register, August, 1985, No. 356, eff. 9-1-85; emerg. r. and recr. eff. 7-1-96; emerg. r. and recr., eff. 7-1-96; r. and recr. Register, February, 1997, No. 494, eff. 3-1-97.

HFS 55.56 Definitions. In this chapter:

(1) “AFDC recipient” means a recipient of aid to families with dependent children, a public assistance program under title IV-A of the Social Security Act of 1935 as amended ss. 49.19 to 49.41, Stats., and ch. HSS 201.

(2) “Certified day care” means day care not required to be licensed under s. 48.65, Stats., as a day care center and which meets the standards under s. HFS 55.61 or 55.62 for purchase of care by county or tribal agencies.

(3) “Certified day care operator” means an individual, corporation, partnership or non-incorporated association or cooperative which has legal and financial responsibility for the operation of a day care program and for meeting the certification requirements under this chapter.

(4) “County agency” means a county department of social services established under s. 46.215 or 46.22, Stats., or a county department of human services established under s. 46.23, Stats.

(5) “Department” means the Wisconsin department of workforce development.

(6) “Family day care center” means a day care center licensed under s. 48.65, Stats., and ch. HSS 45.

(7) “Family day care provider” means a person providing care for preschool or school-age children, or both, outside their homes for less than 24 hours a day and who is not required to be licensed under s. 48.65, Stats., because the provider is caring for fewer than 4 children under 7 years old who are not related to the provider.

(8) “Group day care center” means a day care center licensed under s. 48.65, Stats., and ch. HFS 46.

(9) “Health check provider” means a provider of health assessment and evaluation services eligible to be certified under s. HFS 105.37 (1) (a), including an outpatient hospital facility, health maintenance organization, visiting nurse association, clinic operated under a physician's supervision, local public health agency, home health agency, rural health clinic, Indian health agency and neighborhood health center.

(10) “Infant” means a child under one year of age.

(11) “In-home provider” means a person caring for a child in the child's own home.

(12) “Licensed physician” means a physician licensed under ch. 448, Stats.

(13) “Parent” means a parent, guardian, foster parent, legal custodian, or person acting in place of a parent. In this subsection, “person acting in place of a parent” means a person to whom the child is related in one of the ways listed in s. HSS 201.17 (1).

(14) “Physician's assistant” means a health care professional certified under s. 448.04 (1) (f), Stats., and ch. Med 8.

(15) “Provider” means a person who provides child care for children.

(16) “Publicly funded parent” means a parent whose child care expenses are subsidized directly with state or federal funds.

(17) “Registered nurse” means a nurse licensed as a registered nurse under ch. 441, Stats.

(18) “Related to the provider” means the provider's natural or adopted children, foster children, stepchildren, grandchildren, brothers, sisters, first cousins, nephews, nieces, uncles and aunts.

(19) “School-age child” means a child 7 years of age or older who is enrolled in a public school or a parochial or other private school.

(20) “School-age day care program” means a program providing care and supervision in other than a provider's home for less than 24 hours a day for 7 or more school-age children and which is exempt from being licensed as a day care center under s. 48.65 (1), Stats.

(21) “Tribe” means an American Indian tribe recognized by the federal government.

(22) “Wisconsin works participant” means an individual participating in the Wisconsin works program for families with dependent children administered under ss. 49.141 to 49.161, Stats.

History: Cr. Register, August, 1985, No. 356, eff. 9-1-85; r. and recr. Register, December, 1991, No. 432, eff. 1-1-92; emerg. r. and recr. eff. 7-1-96; r. and recr., Register, February, 1997, No. 494, eff. 3-1-97.

HFS 55.57 Conditions for child care reimbursement.

(1) **REGULATION REQUIRED.** Except as provided under sub. (2), a county or tribal agency may reimburse child care provided only by a family day care center licensed by the department of health and family services, a group day care center licensed by the department of health and family services, a day camp licensed by the department of health and family services, a day care provider certified by a county or tribal agency under this subchapter or a day care program established and provided by a public school board.

(2) **EXEMPTION FROM REGULATION.** If any of the following conditions exist, child care does not have to be provided by a regu-

lated provider under sub. (1) in order for reimbursement to be made:

(a) The care is an arrangement for parents in training or counseling programs and the child care is provided at the training or counseling site.

(b) The care is a short-term arrangement when a child is ill and not able to receive care from a child care provider as defined under s. DWD 56.02 (6) or the provider has an emergency due to illness or other circumstance.

(c) The care permits a Job Opportunities and Basic Skills (JOBS) program enrollee to attend a JOBS program activity prior to the development of an employability plan under s. 49.193 (4), Stats., approved by a JOBS administrative agency.

(d) The care is for a food stamp employment and training program enrollee to attend a program activity prior to the development of an employability plan.

History: Cr. Register, August, 1985, No. 356, eff. 9-1-85; emerg. r. and recr. eff. 7-1-96; r. and recr. Register, February, 1997, No. 494, eff. 3-1-97.

HFS 55.58 Certification. (1) BASIS FOR CERTIFICATION In order to be certified, a day care provider shall be exempt from having to be licensed under s. 48.65, Stats., and shall comply with the appropriate standards for the type of certified provider that are specified in this subchapter.

(2) TYPES OF CERTIFIED PROVIDERS. The following types of day care providers shall be certified as a condition for receiving state or federal child care funds:

(a) *Family day care providers and in-home providers.* Family day care and in-home providers are required to meet the standards under s. HFS 55.61 and may care for preschool children or school-age children or a combination of preschool and school-age children consistent with Table 55.61 (6).

(b) *School-age day care programs.* School-age day care programs are required to meet the standards under s. HFS 55.62.

(3) APPLICATION FOR CERTIFICATION. (a) Form. Application for certification shall be made on a form available from the county or tribal agency in the county or tribal territory where the child care is provided. The applicant shall submit the completed form to that county or tribal agency.

(b) *References.* The applicant shall submit with the application the names and addresses of at least two persons who can attest to the applicant's good character and ability to care for children. The county or tribal agency shall require references of all applicants and shall contact references by phone or letter before certifying an applicant.

(c) *Criminal background.* The applicant shall submit a completed notarized background character verification form for each provider, employe, prospective employe, substitute or adult living in the provider's home.

Note: Background character verification forms may be obtained from Department of Workforce Development, Communications Section, P. O. Box 7935, Madison, WI 53707-7935.

(d) *Compliance with standards and certification.* The county or tribal agency shall process all certification applications as follows:

1. If the application is for certification under sub. (2) (a), the county or tribal agency shall review the application for compliance with standards under s. HFS 55.61 prior to issuing a certificate.

2. If the application is for certification under sub. (2) (b), the county or tribal agency shall refer the application to a licensing representative in the department of health and family services regional office. The licensing representative shall determine whether the applicant is in compliance with all standards under s. HFS 55.62 and report back to the county or tribal agency. The county or tribal agency may issue a certificate based on the licensing representative's report.

(e) *Approval.* Within 60 days after receiving a completed application for certification or recertification, the county or tribal agency shall either approve the application and issue a certificate or deny the application. If an application is denied, the county or tribal agency shall give the applicant the reasons, in writing, for denial.

(f) *Ineligible individual.* An individual residing in the child's household is not eligible for certification for that child.

(4) CERTIFICATION FEE. A county or tribal agency may charge a fee for day care certification not to exceed 150 percent of the licensing fee for a day care center that provides care and supervision for 4 to 8 children, under s. 48.65 (3) (a), Stats., plus the costs of criminal record checks required under s. 48.651 (2), Stats.

(5) CATEGORIES OF CERTIFICATION. Certification of a provider by a county or tribal agency shall be Level I (regular) or Level II (provisional) as follows:

(a) *Level I (regular) certification.* Level I (regular) certification may be issued only after the provider has demonstrated compliance with all certification standards including training. Level I (regular) certification shall be for a period of 2 years and shall be renewed upon application if the provider continues to comply with the certification standards under s. HFS 55.61 or 55.62. A provider is not eligible to be issued Level I (regular) certification if the provider is related to all the children in the provider's care.

(b) *Level II (provisional) certification.* Level II (provisional) certification may be issued only after the provider has demonstrated compliance with all certification standards under s. HFS 55.61, except standards for training under s. HFS 55.61 (1) (b). Level II (provisional) certification shall be for a period of 2 years and shall be renewed upon application if the provider continues to comply with the certification standards, except standards for training under s. HFS 55.61 (1) (b).

(6) CERTIFICATION AGENCY. (a) The county or tribal agency responsible for certification of a provider shall be determined by the geographic area in which the child care is provided.

(b) Certification issued to a provider by a county or tribal agency shall be accepted as valid by all other agencies authorized to certify providers.

(7) COMPLIANCE. (a) Qualifications of providers. County and tribal agencies shall maintain records demonstrating provider compliance with s. HFS 55.61 (1).

(b) *Compliance with other standards. 1. 'General.'* County and tribal agencies shall help assure provider compliance with s. HFS 55.61 (2) to (12) in accordance with this paragraph.

2. 'Required procedures.' A county or tribal agency shall:

a. Require receipt of a signed application from the provider agreeing to follow day care certification standards.

b. Provide a checklist of basic day care certification standards and procedures for filing a complaint to all parents who are using certified family day care or in-home care and who are publicly funded parents.

c. Provide orientation for applicants for certification to explain how the certification system works.

d. Conduct an inspection before certification or within 30 days following certification of the place where child care will be provided by a provider who has applied for certification or has been certified.

e. Check the criminal record history for applicants for certification, for employes and prospective employes including substitutes, and for adults living in the applicant's home as specified in s. 48.651(2), Stats.

f. Check files on child abuse and neglect findings or pending investigations related to applicants, employes and prospective employes including substitutes, and for individuals living in the applicant's home.

g. Provide basic health and safety information to the applicant.

3. 'Optional procedures.' A county or tribal agency may:

a. Conduct on-site inspections at any time prior to or after certification to monitor compliance with certification standards, in addition to the required inspection under subd. 2.d.

b. Make certification available to all family day care providers, whether or not public funding is involved.

c. Request that all parents whose children are cared for by a certified provider under this subchapter complete the answers to questions on the checklist and return the checklist provided under subd. 2.b.

4. 'Exception.' The department may grant an exception to the required procedure under subd. 2. e. if the department determines that the alternative procedure meets the intent of the requirement.

(8) EXCEPTIONS TO PARTICULAR CERTIFICATION REQUIREMENTS.

A county or tribal agency may grant an exception to any standard in s. HFS 55.61 or 55.62 if the county or tribal agency determines that an alternative means meets the intent of the requirement, except for rules related to criminal background investigation required under s. 48.651 (2), Stats.

History: Cr. Register, August, 1985, No. 356, eff. 9-1-85; am. (4) (b), Register, November, 1987, No. 383, eff. 12-1-87; renum. (5) to be (6), cr. (5), Register, December, 1991, No. 432, eff. 1-1-92; emerg. r. and recr. eff. 7-1-96; r. and recr. Register, February, 1997, No. 494, eff. 3-1-97.

HFS 55.59 Sanctions. (1) The county or tribal agency shall deny, suspend, revoke or refuse to renew certification and discontinue payment for care if the certified day care operator, day care program employe, provider, assistant to the provider, substitute provider or person living in the family day care provider's home meets any of the following criteria:

(a) Is the subject of a pending criminal charge if the charge substantially relates to the circumstances of caring for children or the operation of a child care program.

(b) Has been convicted of a felony, misdemeanor or other offense the circumstances of which substantially relate to the care of children or the operation of a child care program.

(2) The county or tribal agency may deny, suspend, revoke or refuse to renew certification and discontinue payment for care if the certified day care operator, day care program employe, provider, assistant to the provider, substitute provider or person living in the family day care provider's home meets any of the following criteria:

(a) Has been determined to have abused or neglected a child pursuant to s. 48.981, Stats.

(b) Is the subject of a court finding that the person has abandoned his or her child, has inflicted emotional damage or sexual or physical abuse on a child or has neglected or refused, for reasons other than poverty, to provide necessary care, food, clothing, medical or dental care or shelter so as to seriously endanger the physical health of a child.

(3) The county or tribal agency may deny, suspend, revoke or refuse to renew certification and discontinue payment for care if any of the following apply:

(a) The provider is not in compliance with certification standards under s. HFS 55.61 or 55.62, as appropriate.

(b) The provider's references or other community information does not support the provider's declaration that he or she is able to provide an acceptable level of child care.

(c) The county or tribal agency determines there is danger to the health, safety or welfare of the children in care.

History: Cr. Register, August, 1985, No. 356, eff. 9-1-85; emerg. r. and recr. eff. 7-1-96; r. and recr. Register, February, 1997, No. 494, eff. 3-1-97.

HFS 55.60 Appeal. If a county or tribal agency denies, suspends, revokes or refuses to renew a certification, the county or tribal agency shall notify the provider in writing and give reasons for the action. The action is reviewable pursuant to ch. 68,

Stats., which provides for administrative review of the decisions of local agencies. Tribal agencies shall use an appeal process equivalent to the process in ch. 68, Stats.

History: Cr. Register, August, 1985, No. 356, eff. 9-1-85; emerg. r. and recr. eff. 7-1-96; r. and recr. Register, February, 1997, No. 494, eff. 3-1-97.

HFS 55.605 Complaints. Within 10 working days after a county or tribal agency receives a complaint by telephone, letter or personal contact about a certified day care provider, the county or tribal agency shall investigate that complaint.

History: Cr. Register, December, 1991, No. 432, eff. 1-1-92; emerg. r. and recr. eff. 7-1-96; r. and recr. Register, February, 1997, No. 494, eff. 3-1-97.

HFS 55.61 Standards for family day care and in-home day care. (1) QUALIFICATIONS OF PROVIDERS. (a) Ability, age and health. 1. A provider shall be physically and emotionally able to provide responsible child care and shall be at least 18 years of age.

2. A provider, household member, volunteer, visitor or parent who has symptoms of illness or of a communicable disease reportable under ch. HFS 145 that may be transmitted through normal contact, or whose behavior or mental or physical condition gives reasonable concern for the safety of the children, may not be in contact with the children in care.

3. A provider shall demonstrate that he or she is free from tuberculosis prior to certification.

(b) **Training. 1.** A Level I (regular) certified provider under s. HFS 55.58 (5) (a) shall have completed 15 hours of child care training approved by the county or tribal agency responsible for certification prior to Level I (regular) certification.

2. A county or tribal agency may require up to 5 hours of annual continuing education by a Level I (regular) certified provider each year following Level I (regular) certification.

(c) **Reporting changes.** A certified provider shall report immediately to the certifying agency any changes that affect the certified provider's eligibility for certification under this chapter, including changes in individuals living in the household.

(2) THE HOME FOR PROVIDING FAMILY DAY CARE. A provider's home and outside play areas shall meet the following requirements:

(a) Each floor level used for child care shall have at least one unblocked exit and at least one smoke detector.

(b) All areas used for child care shall have adequate and safe heat, light and ventilation.

(c) The home shall be free of hazards and the following items shall be kept inaccessible to the children:

1. Medications and drugs.
2. Cleaning supplies, poisons and insecticides.
3. Guns, knives, scissors and sharp objects.
4. Matches, cigarette lighters and flammable liquids.
5. Plastic bags.
6. Litter and rubbish.

(d) Indoor and outdoor areas used for child care shall include sufficient space for play and for activities which meet the developmental needs of the children in care.

(e) Outdoor play areas shall be free of hazards and shall be fenced or the provider shall take special measures to ensure the safety of the children.

(f) Pets that are kept in the home shall be tolerant of children and vaccinated against rabies.

(g) The home shall have at least one telephone in working order with a list of emergency numbers posted by each telephone, including numbers for the rescue squad, police, fire station, emergency medical care and poison control center.

(h) The provider shall maintain first-aid supplies and shall wash superficial wounds with soap and water before bandaging.

(i) The home shall be clean, uncluttered and free of insects and rodents.

(j) Bathrooms, including toilets, sinks and potty chairs, shall be clean and in good working condition.

(k) When a public water supply is not available, the water shall be tested and found to be bacteriologically safe and to have safe nitrate and lead levels by a laboratory certified under ch. HSS 165 prior to or within 3 months of initial certification and at least every 2 years.

(L) Areas, equipment and utensils for food preparation, serving and clean-up shall be kept clean and sanitary.

(m) Children may not share cups, eating utensils, washcloths or towels.

(3) THE HOME FOR PROVIDING IN-HOME CARE. When a provider cares for children in the children's own home, the provider shall comply with requirements in sub. (2) (c), (e), (h) and (L), but the provider is not required to comply with requirements in sub. (2) (a), (b), (d), (f), (g), (i), (j), (k) and (m).

(4) CHILD HEALTH CARE. (a) Except as provided under pars. (c) and (d), a certified provider shall have a current report of a physical examination on file for each child, including each provider's child in care, as follows:

1. For a child under 2 years of age, a report of a physical examination conducted not more than 6 months prior to nor later than 3 months after the child is admitted, and a follow-up health examination at least once every 6 months after admission.

2. For a child 2 years of age or older, a report of a physical examination conducted not more than 2 years prior to nor later than 3 months after the child is admitted.

(b) The physical examination report shall be signed and dated by a licensed physician, a physician's assistant or a health check provider.

(c) The requirement under par. (a) does not apply to a provider who requests from the county or tribal agency in writing an exemption for a child based upon adherence by the child's parent to religious belief in exclusive use of prayer or spiritual means for healing.

(d) The requirement under par. (a) does not apply to school-age children. Notwithstanding s. HFS 55.56 (19), in this paragraph, "school-age children" means children 5 years of age or older who are enrolled in kindergarten or a higher grade in a public or private school.

(e) The provider shall have on file a written record verifying that each child in care has been immunized in accordance with s. 252.04, Stats., and ch. HFS 144.

(f) The provider may administer medication to a child only in accordance with written and signed permission from the child's parent.

(g) The provider shall wash his or her hands with soap and warm running water after toileting, prior to food preparation and after diapering children.

(h) The provider shall require all children in the provider's care to wash their hands with soap and warm running water before eating and after toileting.

(5) SUPERVISION. (a) The provider may not be engaged in any other activity or occupation during the hours of operation which interferes with the adequate care and supervision of children.

(b) The provider shall be awake whenever the children in care are awake.

(c) No individual provider may take care of children for more than 16 hours in any 24-hour period. The 16-hour period includes any combination of care by a provider who is both licensed as a family day care provider and certified as a family day care provider.

(d) The provider shall ensure that each child has adult supervision at all times.

(e) The provider shall ensure that no person under 18 years of age is left in sole charge of the children.

(f) The provider and any other adult working with children may not consume or be under the influence of alcoholic beverages or any non-prescribed controlled substance specified in ch. 161, Stats., during the hours of operation.

(g) No person in the home of a provider may consume or be under the influence of alcoholic beverages or any non-prescribed controlled substance specified in ch. 961, Stats., during the hours of operation in the presence of children.

(h) A provider may not allow any person whom the provider determines to be a threat to the health or safety of the children to have contact with the children in the provider's care.

(6) MAXIMUM NUMBER OF CHILDREN. (a) A certified provider may take care of no more than 3 children under the age of 7 who are not related to the provider.

(b) A certified provider may take care of no more than 6 children, including children related to the provider, except that:

1. If 3 of the children are under the age of 2, the total number of children may not exceed 5.

2. If 4 of the children are under the age of 2, the total number of children may not exceed 4.

(c) A provider's natural, adopted or foster children 7 years of age or older are not counted in determining the maximum number of children allowed under par. (b).

(d) The maximum number of children that one provider may care for is shown in Table 55.61 (6) A and B.

Table 55.61 (6)

MAXIMUM NUMBER OF CHILDREN IN CERTIFIED DAY CARE

A. WHEN ALL CHILDREN ARE 2 YEARS OF AGE OR OLDER

Related Children Under 7 years of Age	Additional Children Under 7 years of age	Additional Children Ages 7 to 11	Maximum Number of Children*
0	3	Additional children	6
1	3	ages 7 to 11 may be	6
2	3	cared for as long as	6
3	3	the maximum total number	6
4	2	of children is not exceeded	6
5	1		6
6	0		6

*The maximum number does not include the provider's natural, adopted or foster children 7 years of age and older.

B. WHEN CHILDREN UNDER THE AGE OF 2 YEARS ARE PRESENT

Number of Children Under 2 Years of Age	Maximum Number of Children*
0	6
1	6
2	6
3	5
4	4

*The maximum number does not include the provider's natural, adopted or foster children 7 years of age and older.

Note: Under s. 48.65 (1), Stats., if a provider takes care of 4 or more children under the age of 7 who are not related to the provider, for compensation, the provider must obtain from the department a license to operate a day care center.

(7) PROVIDER INTERACTIONS WITH CHILDREN. The provider shall interact with the children in a caring and positive manner and:

(a) Shall protect children in care from danger and be aware of where each child is at all times.

(b) May not hit, spank, pinch, shake or inflict any other form of corporal punishment on the child, or use any discipline which is frightening to the child.

(c) May not verbally abuse or threaten a child or make derogatory remarks about the child or the child's family.

(8) ACTIVITIES AND EQUIPMENT. (a) The provider shall implement a program of learning and play activities. Activities shall include:

1. A balance of active and quiet play for each child daily.
2. Both indoor and, weather permitting, outdoor activities for each child daily.
3. Opportunities for each child to play with a variety of toys and equipment.
4. Opportunities for each child to be involved in a variety of activities during a week.
5. Activities specifically for children under one year of age, if these children are present.
6. Activities specifically for children from one to 2 years of age and for children 2 years and older, if these children are present.

(b) A provider may use television only to supplement the daily plan for children. No child may be required to watch television.

(9) TRANSPORTATION. When transporting children the provider shall ensure that:

- (a) The driver of the vehicle holds a valid operator's license.
- (b) The vehicle is registered in Wisconsin.
- (c) Each child is seated and properly restrained in a seat belt or, for a child under 4 years of age, a child safety restraint system, in compliance with s. 347.48 (2m) and (4), Stats.

(10) MEALS AND SNACKS. The provider shall ensure that each child receives proper nourishment while in day care as follows:

- (a) Each child shall be served one meal or snack at least once every 3 hours.
- (b) Each child in attendance for 4 or more hours shall be served a noon or evening meal which consists of a protein food, fruit and vegetable, a cereal or bread product and pasteurized grade A vitamin D milk.
- (c) Each infant who is unable to hold his or her own bottle shall be held for bottle feeding. Bottles may not be propped.

(11) REST. The provider shall ensure that each child has a clean, comfortable and safe place to rest as follows:

- (a) Each child shall be allowed to have undisturbed rest or a nap, when needed, in a place that is clean, safe and comfortable.
- (b) Each child shall have a personal clean sheet or blanket or both and pillowcase if a pillow is used.

(12) PROVIDER AND PARENT COMMUNICATION. The provider shall be in ongoing communication with a child's parent by:

- (a) Allowing parents to visit and observe the program of child care during any hours that care is being provided.
- (b) Talking to each child's parent at least once a week about his or her child's development, activities, likes and dislikes.
- (c) Developing written information which specifies the charge for child care and the expected frequency of payment for the service.
- (d) Making a copy of the applicable certification standards available to each parent.
- (e) Displaying a copy of the certificate in an area easily seen by parents and visitors.
- (f) Using an enrollment form which includes:
 1. The parents' home and work phone numbers.
 2. The parents' signed consent for emergency medical care.
 3. A name and number to call if the child requires emergency medical care.

(13) DISCRIMINATION PROHIBITED. The provider shall not discriminate on the basis of race, color, sex, sexual orientation, creed, handicap or national origin or ancestry in accepting children or in the employment of employees.

History: Cr. Register, August, 1985, No. 356, eff. 9-1-85; emerg. r. (1) (d), eff. 11-5-85; r. (1) (d), Register, April, 1986, No. 364, eff. 5-1-86; r. and recr. (1) (a), (b),

(2) (L), (4), (5) and (8), r. (1) (c), Register, December, 1991, No. 432, eff. 1-1-92; emerg. r. and recr. eff. 7-1-96; r. and recr. Register, February, 1997, No. 494, eff. 3-1-97; reprinted to insert dropped copy in (4) and (5), corrections made in (1) (a) made under s. 13.93 (2m) (b) 7., Stats., Register, July, 1997, No. 499.

HFS 55.62 Standards for school-age programs.

(1) CONDITIONS FOR CERTIFICATION. School-age day care programs shall meet the standards set out in this section in order to be certified.

(2) PERSONNEL (a) *Director.* Each school-age day care program shall have a person designated as director. The director shall:

1. Be at least 21 years of age.
2. Have had at least one year of child care or administrative experience with preschool or school-age children or have completed 36 classroom hours or 3 credits of training in at least one of the following areas: child development, early childhood education, elementary education, child guidance, physical education, recreation or other department-approved area.

(b) *Program leader.* A program leader shall be designated by the program director to plan and implement the daily activities for a designated group of children. The program leader shall:

1. Be at least 18 years old.
2. Have completed high school or its equivalency.
3. Have had 80 working days experience working with school-age children.
4. Have completed 10 classroom hours of training in at least one of the following areas: child development, early childhood education, elementary education, child guidance, physical education, recreation or other department-approved area.

(c) *Program assistant.* A program assistant shall:

1. Work under the supervision of a program leader.
2. Be at least 18 years old.
3. Have completed or be enrolled in 10 classroom hours of training in at least one of the following areas: child development, early childhood education, elementary education, child guidance, physical education, recreation or other department-approved area.

(d) *Substitutes.* 1. In the absence of a regular staff member, there shall be a similarly qualified substitute who is at least 18 years old.

2. When the regular staff member is not expected to be absent for more than 3 days, a person not meeting the educational qualifications under par. (a), (b) or (c) may substitute for the regular staff member if a qualified person is not available.

(e) *Staff records.* The school-age day care program shall maintain a record for each employe which shall be available to the county or tribal agency and includes:

1. The name, address, date of birth, education, position, names and addresses of employers in previous work experience in child care, the name, address and telephone number of a person to be notified in an emergency, and a statement signed by the employe affirming that he or she has not been convicted or is not the subject of a pending criminal charge as specified under s. HFS 55.59 (1).
2. Evidence that the employe is free from tuberculosis.
3. Documentation of educational qualifications for the position.

(3) ORIENTATION. Each school-age program shall develop and implement an orientation session which shall be given to all new staff and volunteers in the first week that they are working in the program. The orientation session shall include all of the following:

- (a) Review of health, nutrition and discipline policies.
- (b) Review of plans for evacuation and other emergencies.
- (c) Training in emergency procedures and use of first-aid.
- (d) Review of all applicable parts of this subchapter.

- (e) Review of the school-age program's activity schedules.
- (f) Training in the recognition of signs of child abuse and neglect and explanation of responsibilities for reporting suspected cases of child abuse or neglect.
- (g) Explanation of job responsibilities and job descriptions.
- (h) Training in the recognition of childhood illnesses.

(4) FACILITY. (a) *General rules.* 1. A school-age program shall consult local authorities to obtain any required zoning clearances or building permits.

2. There shall be a report of inspection filed in the licensing office of the department of health and family services' regional office which indicates approval of the building by the state department of commerce or by a certified agent of that department. The building shall comply with applicable state and local building codes.

(b) *Indoor space.* 1. The space used by children shall be no less than 35 square feet (3.3 sq. meters) of usable floor space per child.

2. The indoor area shall be free of hazards, and items that may be harmful to children such as medications, drugs, poisons, insecticides, weapons, matches, cigarette lighters and flammable liquids shall be kept out of reach of the children.

(c) *Swimming pool.* A school-age program that has a swimming pool on its premises shall do all of the following:

1. Comply with the requirements of chs. ILHR 90 and HFS 172, relating to swimming pool safety.

2. Maintain a ratio of one person qualified by Red Cross, Boy Scouts, Young Men's Christian Association or other generally accepted lifesaving certificate for every 25 children in the water.

(5) CHILD HEALTH CARE. (a) Within 30 days after a child is enrolled, the program shall have on file a health history for that child.

(b) The program shall isolate any ill child and contact the parent or designated responsible person as soon as possible to arrange for removal of the child from the program.

(c) The provider may administer medication to a child only in accordance with written and signed permission from the child's parent.

(d) Pets that are kept on the premises shall be tolerant of children and vaccinated against rabies.

(e) Each staff member shall wash his or her hands with soap and warm running water after toileting and prior to food service and preparation.

(f) All children in care shall wash their hands with soap and warm running water before eating and after toileting.

(6) STAFFING AND GROUPING. (a) At least one person meeting the qualifications of a school-age program leader shall supervise each group of children.

(b) No group may contain more than 32 children.

(c) There shall be at least one staff member for every 16 children.

(d) Children who are relatives of staff shall be counted in the group size and ratio calculations.

(e) In a program with 10 or more children present, there shall be at least 2 adults available at all times on the premises.

(7) EMERGENCIES. (a) A program shall have a phone in working order to which the staff has access and a list of emergency phone numbers posted on or near the phone. The list shall include numbers for the rescue squad, police, fire station, emergency medical care and poison control center.

(b) A program shall have on file:

1. The parents' home and work phone numbers.

2. The parents' signed consent for emergency care.

3. A name and number to call if a child requires emergency medical care.

(c) The program shall maintain first-aid supplies and staff shall wash superficial wounds with soap and water before bandaging.

(8) SANITATION. (a) The premises shall be clean, uncluttered and free of insects and rodents.

(b) Bathrooms, including toilets and sinks, shall be clean and in good working condition.

(c) When a public water supply is not available, the water shall be tested and found to be bacteriologically safe and to have safe nitrate and lead levels by the state laboratory of hygiene or a laboratory certified under ch. HSS 165 prior to or within 3 months of initial certification and at least every 2 years.

(d) Areas, equipment and utensils for food preparation, serving and clean-up shall be kept clean and sanitary.

(e) Children may not share cups, eating utensils, washcloths or towels.

(9) STAFF INTERACTIONS WITH CHILDREN. Staff shall interact with the children in a caring and positive manner and:

(a) Shall protect children in their care from danger and be aware of where each child is at all times.

(b) May not hit, spank, pinch, shake or inflict any other form of corporal punishment on a child, or use any discipline which is frightening to the child.

(c) May not verbally abuse or threaten a child or make derogatory remarks about the child or the child's family.

(10) ACTIVITIES AND EQUIPMENT. (a) The program shall implement a schedule of activities which include:

1. A variety of activities which ensure that each child is involved in both active and quiet play.

2. Opportunities for each child to use a variety of materials and equipment.

3. Opportunities for each child to be involved in a variety of activities during a week and to select and plan his or her own activities.

(b) Television viewing, if part of the activities, may not exceed one hour a day per child and shall be appropriate for the children in care.

(11) MEALS AND SNACKS. (a) A program operating for less than 4 hours shall ensure that each child is served a snack.

(b) A program operating 4 or more hours shall ensure that each child is served one meal or one snack at least once every 3 hours.

(c) For each child served a noon or evening meal, that meal shall consist of a protein food, fruit and vegetable, a cereal or bread product and pasteurized grade A vitamin D milk.

(d) Snacks shall consist of at least one of the following: milk or a milk product, fruit, fruit juice, vegetable, peanut butter or other protein, whole grain or enriched bread or cereal. When only fruit juice is served, it shall be pure fruit juice.

(12) TRANSPORTATION. (a) The program shall have a written agreement with each child's parent or guardian, and signed by the parent or guardian, which specifies how the child will be transported to and from the program.

(b) A driver for the program shall hold a valid Wisconsin operator's license required under s. 343.05, Stats.

(c) Any vehicle used by the program to transport children shall be registered in Wisconsin.

(d) Any vehicle used by the program to transport children shall be in safe operating condition and at 12-month intervals the school-age day care program shall provide evidence of the vehicle's safe operating condition to the licensing office of the department of health and family services' regional office.

(e) Each child and adult being transported in a vehicle with a seating capacity of 15 or fewer shall be seated and properly restrained in an individual vehicle seat belt or a car safety seat.

(13) PARENTS. The program shall allow parents to visit and observe the program at any time during the hours of operation.

(14) INSURANCE. The program shall provide documentation of insurance coverage by submitting to the county or tribal agency a certificate of insurance reflecting current dates of coverage for:

(a) General liability insurance which provides coverage with limits of not less than \$25,000 for each person and total limits of \$75,000 for each occurrence.

(b) Vehicle liability insurance when transportation is provided, with minimums no less than those specified in s. 121.53, Stats.

(c) Non-owned vehicle liability insurance when transportation is provided by other than center-owned vehicles.

History: Cr. Register, August, 1985, No. 356, eff. 9-1-85; emerg. r. and recr. eff. 7-1-96; r. and recr. Register, February, 1997, No. 494, eff. 3-1-97.

HSS 55.63 Standards for programs operated by parochial and other private schools. **History:** Cr. Register, August, 1985, No. 356, eff. 9-1-85; r. Register, February, 1997, No. 494, eff. 3-1-97.

HFS 55.70 Authority, purpose and applicability. **History:** Cr. Register, August, 1985, No. 356, eff. 9-1-85; emerg. r. and recr. eff. 7-1-96; r. Register, February, 1997, No. 494, eff. 3-1-97.

HFS 55.71 Definitions. **History:** Cr. Register, August, 1985, No. 356, eff. 9-1-85; emerg. r. and recr. eff. 7-1-96; r. Register, February, 1997, No. 494, eff. 3-1-97.

HFS 55.72 Department responsibilities. **History:** Cr. Register, August, 1985, No. 356, eff. 9-1-85; emerg. am. (6) (intro) and cr. (6m), eff. 5-1-91; am. (6) (intro.) and cr. (6m), Register, November, 1991, No. 431, eff. 12-1-91; emerg. r. and recr. eff. 7-1-96; r. Register, February, 1997, No. 494, eff. 3-1-97.

HFS 55.73 County agency responsibilities. **History:** Cr. Register, August, 1985, No. 356, eff. 9-1-85; am. (6) (b), cr. (6) (c) and (7), Register, December, 1991, No. 432, eff. 1-1-92; emerg. r. and recr. eff. 7-1-96; r. Register, February, 1997, No. 494, eff. 3-1-97.

HFS 55.74 Establishing county day care rates. **History:** Cr. Register, August, 1985, No. 356, eff. 9-1-85; am. (1), (2) (b), (e) 5. and 7., cr. (2) (j) and (k), Register, December, 1991, No. 432, eff. 1-1-92; emerg. r. and recr. eff. 7-1-96; r. Register, February, 1997, No. 494, eff. 3-1-97.

HFS 55.75 Use of day care funds. **History:** Cr. Register, August, 1985, No. 356, eff. 9-1-85; emerg. r. and recr. eff. 7-1-96; r. Register, February, 1997, No. 494, eff. 3-1-97.

HFS 55.76 Parent eligibility. **History:** Cr. Register, August, 1985, No. 356, eff. 9-1-85; cr. (3) (g) and (4) (i), am. (4) (intro.) and (g), r. and recr. (4) (h) and (5), Register, December, 1991, No. 432, eff. 1-1-92; emerg. r. and recr. eff. 7-1-96; r. Register, February, 1997, No. 494, eff. 3-1-97.

HFS 55.77 Parental choice and parents' payment. **History:** Cr. Register, August, 1985, No. 356, eff. 9-1-85; am. (2) (a), Register, December, 1991, No. 432, eff. 1-1-92; emerg. r. eff. 7-1-96; r. Register, February, 1997, No. 494, eff. 3-1-97.

Subchapter VIII — Start-up Grants

HFS 55.80 Start-up grants to assure availability of child care. **(1) GENERAL INFORMATION.** (a) *Statement of intent.* This section regulates the expenditure of funds appropriated to provide start-up grants for newly operating centers, including grants for expansion of existing centers in Wisconsin.

(b) *To whom the rules apply.* The rules in this section apply to all persons, groups and day care centers making application for start-up grants.

(c) *Exceptions to rules.* The department may make an exception to any of the rules for approving start-up grants when it is assured that granting the exception is beneficial to the health, safety and welfare of children.

(d) *Definitions.* The definitions in s. HFS 55.05 (4) apply. In addition:

1. "Child care" means day care for children and includes group care, family care and in-home care.

2. "Division" means the department of workforce development's division of economic support.

3. "Family care" means the care of a child in a family home other than the child's own home by a responsible person other than the child's parents for a period of time less than 24 hours.

4. "In-home care" means care in the child's own home by someone other than the child's parents on a routine planned basis for a period less than 24 hours.

5. "Newly operating center" means a day care center which has been in operation for a period of less than one year or an existing center making grant application for expansion purposes.

6. "Satellite system" means family day care homes, in-home care providers or a combination of both which are centrally organized, coordinated, and administered as a unit in themselves or as an extension of another center or as part of the educational or training program of an accredited school of social work or school of early childhood education.

7. "Start-up grants" means money payments or a planned series of money payments to an approved applicant to be used for development or expansion of needed child care services. The grants are not loans.

(2) APPLICATION FOR START-UP GRANTS. (a) Application shall be made on a form provided by the department.

(b) Application shall be open to:

1. Individuals or groups planning to establish voluntary non-profit or proprietary child care services;

2. Individuals or groups submitting proposals for:

a. A new center;

b. Expansion of an existing center or group of centers;

c. An innovative program for special needs of the children;

or

d. Satellite systems of family care, in-home care or a combination of both.

3. Newly operating centers which are experiencing financial difficulties.

(c) The individual, group or center making application shall:

1. Document the need for the specific service to be provided in the area proposed in the plan; and

2. Submit written assurance to the department that the service to be provided will meet the requirements for licensing of the day care centers for children under this chapter.

(d) Application from newly operating centers experiencing financial difficulties shall also include:

1. Documentation of expenditures and income for the total period of operation giving special details of financial problem area;

2. Documentation of need for the service including the target group of parents and children;

3. A detailed operating budget for any period of operation as requested by the department.

Note: A copy of the application form can be obtained by writing: Office of Child Care, P.O. Box 7935, Madison, WI 53707.

(3) USE OF START-UP GRANTS. (a) Grants may be used to:

1. Finance a specific purchase or budget item related to operating costs, including but not limited to:

a. Structural changes to meet licensing and building codes;

b. Necessary equipment to begin or improve operations; and

c. Salary of a staff person or persons for a period not to exceed 12 months;

2. Finance a percentage of the total operating budget for a 12-month period or less; or

3. Substitute for continuation of an in-kind contribution made for a limited period of time which would need to be met by the budget before the program is in full operation, including but not limited to:

a. In-kind donation of free rent by a church, agency or building owner for a limited period of time; and

b. Voluntary services of staff.

(b) Start-up grants may not be used for a service which could be funded from other community, state or federal sources. This

does not, however, preclude the collaborative use of those funds with start-up and improvement grant funds to meet the beginning of a needed service.

(4) **TIME LIMIT.** No subsidy from a start-up grant may extend beyond a 12-month period.

(5) **START-UP GRANTS FOR SATELLITE SYSTEMS OF DAY CARE.** (a) Applications proposing to develop a satellite system of family care, in-home care, or a combination of both shall be accepted only from:

1. An existing center;
2. A licensed agency providing services to parents and children who may need child care;
3. A county department of social services;
4. An accredited college or university offering training in social work or early childhood education; or
5. A corporate community coordinating group concerned primarily with child care.

(b) The satellite system shall have centralized administration which shall include:

1. Recruitment, evaluation and training of the families which will be part of the system;
2. Ongoing training to upgrade the system itself and the quality of the care given;
3. A person who coordinates and supervises the care families in the system and gives or makes available consultation to them on a planned, ongoing basis;
4. An evaluation and approval of each child served and a central file of pertinent data on each child and family; and
5. Centralized bookkeeping.

History: Cr. Register, May, 1983, No. 329, eff. 6-1-83; renum. from HSS 55.50, Register, August, 1985, No. 356, eff. 9-1-85.

HFS 55.81 Start-up grants for before-school and after-school services. (1) **AUTHORITY AND PURPOSE.** This section is promulgated under the authority of s. 46.03 (7) (cm) 2 a, Stats., for the purpose of establishing conditions and procedures for the provision of start-up grants for before-school and after-school day care programs for children ages 4 to 11.

(2) **APPLICABILITY.** This section applies to school districts and private nonprofit organizations making application for start-up grants under this section.

(3) **EXCEPTION TO A RULE.** The department may make an exception to any nonstatutory condition or procedure for approving a start-up grant when it is shown to the department's satisfaction that granting the exception is beneficial to the health, safety and welfare of children.

(4) **DEFINITIONS.** In this section:

(a) "After-school academic or recreation programs" means day care programs established or contracted for to provide structured academic instruction or participation in structured recreational activities for children 4 to 11 years of age after school hours.

(b) "Before-school and after-school day care services" means care and supervision of children 4 to 11 years of age before school, after school, during school holidays or during school vacations.

(c) "Department" means the Wisconsin department of workforce development.

(d) "Division" means the department's division of economic support.

(e) "Family day care" means the care and supervision of no more than 8 children for less than 24 hours in a place other than the child's own home.

(f) "In-home day care" means care in the child's own home by someone other than the child's parents on a routine planned basis for a period less than 24 hours.

(g) "Program administration" means the management, support and overhead costs of the nonprofit organization or school district that are allocated to the before-school and after-school day care services or after-school academic or recreation program funded by a start-up grant.

(h) "REP" means a request for proposals, a document released by the department to solicit applications for start-up grants, and which defines who may apply for funding, application procedures, review criteria and procedures for appealing rejection of an application.

(i) "Satellite system" means family day care providers, in-home day care providers or a combination of both which are centrally organized, coordinated and administered.

(j) "Start-up grants" means money payments to an approved applicant to be used for development or expansion of before-school or after-school day care services. The grants are not loans.

(5) **APPLICATION FOR START-UP GRANTS.** (a) An applicant for a grant shall be:

1. A school district or private nonprofit organization for a grant to establish or expand before-school or after-school day care services or after-school recreation programs; or
2. A school district for a grant to establish or expand after-school academic programs.

(b) The department shall solicit applications for start-up grants by preparing an RFP, publishing legal notice of the availability of the RFP in the official state newspaper, and distributing copies of the RFP upon request. The department shall consult with the Wisconsin department of public instruction in developing the RFP.

(c) Application shall be made in accordance with the format specified in the RFP.

(d) A proposal submitted in response to the RFP shall describe a broadly based planning process involving schools, child care providers, parents and community organizations.

(e) The school district or private nonprofit organization making application shall:

1. Provide information on the level of existing services and the unmet demand for the specific service to be provided in the area proposed in the plan; and
2. Submit written assurance to the department that the service to be provided will meet the requirements for licensing of day care centers for children under ch. HSS 45 or HFS 46 or for day camps for children under ss. HFS 55.40 to 55.44, as appropriate, if the service is required by law to be licensed.

Note: Prospective applicants may obtain the RFP by writing or phoning the Office of Child Care, P.O. Box 7935, Madison, Wisconsin 53707, 608-266-3036.

(6) **AMOUNT OF START-UP GRANTS.** (a) A grant for a single program site may not exceed \$10,000.

(b) A grant to a single school district or nonprofit program operating programs at 3 or more sites may not exceed \$30,000.

(7) **USE OF START-UP GRANTS.** (a) A program or service shall be provided on the premises of a public or private school attended by some or all of the children who participate in the program or service, unless the applicant demonstrates that there is no space available in the school for the service or program and the school provides transportation to the alternative site. A school may provide transportation through an agreement with the start-up grant recipient.

(b) The amount of a grant may not exceed 80% of the cost of establishing the service or program, including in-kind contributions. The applicant shall agree to provide 20% in matching funds or in-kind contributions.

(c) No more than 7% of the grant may be used for program administration.

(d) Notwithstanding par. (a), a grant may be used to establish a satellite system of day care programs to provide before-school and after-school day care services.

(e) Grants may be used to:

1. Finance a specific purchase or budget item related to operating costs, including but not limited to:
 - a. Structural changes to meet licensing or certification codes;
 - b. Necessary equipment to begin or improve operation; and
 - c. The salary of a staff person or persons for a period not to exceed 12 months; or
2. Finance a percentage of the total operating budget for a 12-month period or less.

(8) START-UP GRANTS FOR SATELLITE SYSTEMS OF DAY CARE. (a)

An application from a school district or private nonprofit organization proposing to develop a satellite system of family day care shall demonstrate the extent to which the system will meet before-school and after-school day care needs.

(b) The satellite system shall have centralized administration which shall include:

1. Recruitment, evaluation and training of the providers which will be part of the system;
2. Ongoing training to upgrade the system itself and the quality of the care given;
3. A person who coordinates and supervises the day care providers in the system and gives or makes available consultation to them on a planned, ongoing basis;
4. An evaluation and approval of each child served and a central file of pertinent data on each child and family; and
5. Centralized bookkeeping.

(c) The applicant shall provide a plan for transporting children between the school and the satellite day care sites.

(9) AWARD OF GRANTS. (a) The department shall appoint a panel of reviewers to review and rate proposals and recommend awards based on conditions and criteria set out in this section. The panel shall include a representative from the department of public instruction.

(b) The department shall make awards based on the following criteria:

1. Documentation of unmet demand for services;
2. Demonstrated ability of applicant to effectively administer the grant award;
3. Documentation by the applicant of continued support for the services or program after the start-up period; and
4. Any other criterion specified in the RFP.

(c) The department shall notify in writing all applicants for grants of award decisions. Notification shall be made within 60 days after receipt of a complete application for a grant.

(d) Grant awards shall be contingent upon the signing by both parties of an agreement drawn up by the department. Grant awards may be in a lump sum payment or a series of agreed upon payments over time.

(10) TIME LIMIT. No subsidy from a start-up grant may extend beyond a 12-month period from the effective date of a signed agreement.

History: Emerg. cr. eff. 7-1-90; cr. Register, December, 1990, No. 420, eff. 1-1-91.

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