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**GENERAL PROVISIONS FOR ALL CHILDREN**

**R 400.8101 Definitions.**

Rule 101. As used in these rules:

- (a) “Accredited college or university” means a college or university that has been accredited by a regional or national institutional accrediting association recognized by the U.S. department of education.
- (b) “Ages” means all of the following:
  - (i) “Infant” - birth through 11 months of age.
  - (ii) “Young toddler” – 12 through 29 months of age.
  - (iii) “Older toddler” – 30 through 35 months of age.
  - (iv) “Preschooler” – 36 months until eligible to attend a grade of kindergarten or higher.
  - (v) “School-age” – a child who is eligible to attend a grade of kindergarten or higher, but less than 13 years of age. Under 1976 PA 451, MCL 380.1 et. seq., a child’s eligibility to attend kindergarten begins the first Tuesday after Labor Day of each year.
- (c) “Applicant” means a person, partnership, firm, corporation, association, nongovernmental organization, or local or state government child care organization that has submitted an application for a child care center license.
- (d) “Caregiver” means a person 18 years of age or older who provides direct care, education, supervision, and guidance of children. A 17-year-old shall qualify as a caregiver if he or she meets 1 of the following:
  - (i) Has satisfactorily completed at least 1 year of a vocational-occupational child care aide training program approved by the Department of Licensing and Regulatory Affairs.
  - (ii) Has completed 1 year of apprenticeship in a recognized child care apprenticeship program sponsored by the U.S. Department of Labor.
- (e) “Center” means a child care center or day care center which is a facility other than a private residence, which receives 1 or more preschool or school-age children for care for periods of less than 24 hours a day, and at which the parents or guardians are not immediately available to the children. It includes a facility that provides care for not less than 2 consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, prekindergarten, early childhood special education program, play group, or drop-in center. “Center” does not include any of the following:
  - (i) A Sunday school, a vacation Bible school, or a religious instructional class which is conducted by a religious organization and at which children are in attendance for not more than 3 hours per day for an indefinite period, or not more than 8 hours per day for a period not to exceed 4 weeks during a 12-month period, or a facility operated by a religious organization where children are cared for not more than 3 hours while persons responsible for the children are attending religious services.

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- (ii) A kindergarten operated by a local or intermediate school district under the authority of 1976 PA 451, MCL 380.1 et. seq. or as part of a nonpublic elementary school. However, this exemption shall not apply to a nonpublic kindergarten operated as part of a child care center.
- (iii) A program that is primarily supervised, school-age-child-focused training in a specific subject, including, but not limited to, dancing, drama, music, or religion. This exclusion applies only to the time a child is involved in supervised, school-age-child-focused training.
- (iv) A program that is primarily an incident of group athletic or social activities for school-age children sponsored by or under the supervision of an organized club or hobby group, including, but not limited to, youth clubs, scouting, and school-age recreational or supplementary education programs. This exclusion applies only to the time the school-age child is engaged in the group athletic or social activities and if the school-age child can come and go at will.
- (f) "CEU" means a continuing education unit awarded by a state board of education or an accredited college/university sponsor of continuing education units.
- (g) "Critical height" means the height of the highest designated play surface on a piece of playground equipment.
- (h) "Department" means the Department of Human Services.
- (i) "Developmentally appropriate" means age appropriate as well as appropriate to the individual child.
- (j) "Field trip" means children and caregivers leaving the child care center premises for an excursion, trip, or program activity.
- (k) "First aid kit" means a kit:
  - (i) Containing, at a minimum, all of the following: bandage compresses (sterile gauze pads), adhesive compresses, a 40-inch triangular bandage, a roll of gauze, and an elastic bandage.
  - (ii) Prohibited from containing any non-prescription or prescription medications as defined under R 400.8149.
- (l) "Group size" means the specified number of children assigned to a caregiver or team of caregivers occupying an individual classroom or well-defined space for each group within a larger room. Two or more groups may be combined for collective activities as long as appropriate child/staff ratios are maintained in the room or area.
- (m) "Licensee designee" means the individual designated in writing by the board of directors of the corporation or by the owner or person with legal authority to act on behalf of the company or organization on licensing matters.
- (n) "Parent" or "parental" means a child's parent, guardian, or other legally responsible person.
- (o) "Playspace" means a piece or pieces of equipment that 1 child can use independently for 15 minutes.
- (p) "Program components" means the different services offered by a child care center. They include, but are not limited to, infant/toddler, preschool, and

- school-age care and education; nighttime care; food service; swimming; and transportation.
- (q) “Routine transportation” means regularly scheduled travel on the same day of the week, at the same time, to the same destination.
  - (r) “School” means a building or part of a building which is owned or leased by, or under the control of, a public or private school or school system for the purpose of instruction as required by 1976 PA 451, MCL 380.1561 which is occupied by 6 or more students, and which is used 4 or more hours per day or more than 12 hours per week.
  - (s) “Staff” means any compensated employee of the child care center.
  - (t) “Volunteer” means a person 16 years of age or older who is not a compensated employee of the child care center. Volunteers may be counted in the caregiver to child ratios if they meet the caregiver definition of this rule.
  - (u) “Well-defined space” means space designed and used exclusively for a specific group of children.

**R 400.8104 Rule variances.**

- Rule 104. (1) Upon written request of an applicant or licensee, the department may grant a variance from an administrative rule if the alternative proposed provides clear and convincing evidence that the health, welfare, and safety of children is protected.
- (2) The decision of the department, including the conditions under which the variance was granted, shall be kept on file with the applicant or licensee.
  - (3) The granted variance may remain in effect for as long as the licensee continues to comply with the conditions of the variance or may be time-limited.
  - (4) Variances are prohibited on rules required by statute.

**R 400.8107 Child care center license applicant.**

Rule 107. (1) A child care center license applicant shall meet all of the following qualifications:

- (a) Be of good moral character as defined in 1974 PA 381, MCL 338.41 to 338.47.
  - (b) Be suitable to meet the needs of children.
  - (c) Be able to assure that the proposed services and facilities are conducive to the welfare of children.
  - (d) Demonstrate a willingness and ability to comply with 1973 PA 116, MCL 722.111 et. seq. and the rules promulgated under the act.
- (2) Prior to issuance of the original provisional license, a child care center license applicant shall comply with applicable child care center administrative rules.

**R 400.8110 Licensee.**

Rule 110. (1) The licensee shall:

- (a) Be of good moral character as defined in 1974 PA 381, MCL 338.41 to 338.47.
- (b) Be suitable to meet the needs of children.
- (c) Comply with 1973 PA 116, MCL 722.115c requirements for a Michigan Department of State Police criminal history record check, a criminal records

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- check through the Federal Bureau of Investigation, and a Department of Human Services check for a history of substantiated abuse and neglect.
- (d) Be responsible for compliance with 1973 PA 116, MCL 722.111 et. seq. and the rules promulgated under the act.
  - (e) Report to the department within three business days any arraignment as indicated in MCL 722.115e and any subsequent conviction.
- (2) The licensee shall have the financial and administrative capability to operate the center in order to provide the level of care and education as stipulated in these rules.
  - (3) The following shall be in a place accessible and visible to parents:
    - (a) The current license and if applicable, the letter extending the license beyond the expiration date.
    - (b) A copy of the current child care center administrative rules and a copy of any variances granted.
    - (c) A notice stating that the child care center requires a criminal history check on its employees and whether the child care center requires a criminal history check on its volunteers.
  - (4) There shall be a licensing notebook on the premises which includes all licensing inspection and special investigation reports, related corrective action plans and a summary sheet outlining the documents contained in the notebook. The notebook shall be made available to parents and prospective parents at all times during the child care center's normal hours of operation.
  - (5) The actual number and ages of children in care at any time shall never exceed the number and ages of children for which a center is licensed.
  - (6) A child shall only be released to persons authorized by the parent.
  - (7) A child shall be released to either parent unless a court order prohibits release to a particular parent. A copy of the order prohibiting release shall be kept on file at the center.
  - (8) The licensee shall cooperate with any state or local department or agency inspections or investigations related to the child care license by:
    - (a) Providing access to all records, materials, and staff.
    - (b) Assuring information provided is accurate and truthful.
  - (9) Written approval from the department shall be obtained prior to making any changes in the terms of the license, including changing use space, capacity, age groups served, and program components.
  - (10) The records required by 1973 PA 116 and the rules promulgated under this act must be retained and made available to the department upon request for two years, except:
    - (a) Attendance records shall be retained and made available to the department upon request for four years after the child's disenrollment.
    - (b) Staff and volunteer health records as required by subrule 400.8128 shall be retained and made available to the department upon request until that person has left the center.
    - (c) The licensing notebook shall be maintained and retained until the license is closed.

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(11) Smoking shall not occur:

- (a) In the child care center or on real property that is under the control of the child care center and upon which the child care center is located.
- (b) On field trips and in vehicles when children are present.

### **R 400.8113 Program director qualifications; responsibilities.**

Rule 113. For purposes of this rule:

- (a) “Child-related field” for an early childhood program director means elementary education, child guidance/counseling, child psychology, family studies, and social work.
  - (b) **“Child-related field” for a school-age program director means early childhood education, elementary education, secondary education, physical education and recreation, child development, child guidance/counseling, child psychology, family studies, social work, human services, and youth development.**
  - (c) “Child care administration” means child care administration, education administration, or business administration.
  - (d) “Child Development Associate Credential” (CDA) means a credential awarded by the Council for Professional Recognition or similar credential approved by the department.
  - (e) “Early childhood program director” means the program director of a licensed center serving children of all ages.
  - (f) “Hours of experience” means experience serving the ages and developmental abilities of children for which the center is licensed.
  - (g) “Montessori credential” means a credential issued by the Association Montessori Internationale (AMI), American Montessori Society (AMS), or any Montessori teaching training institution recognized by the Montessori Accreditation Council for Teacher Education (MACTE) that meets or exceeds 270 hours of academic training.
  - (h) **“Michigan school-age/youth development credential” means a credential issued by the Michigan Afterschool Association or similar credential approved by the department.**
  - (i) “School-age program director” means the program director of a licensed center serving only school-age children.
  - (j) “Degrees and semester hours” means only those degrees and hours from an accredited college or university.
- (1) Within five business days, the licensee shall notify the department of the separation of a program director from the center.
  - (2) Prior to hiring a new program director, the credentials of the proposed program director shall be submitted to the department for review and approval.
  - (3) A program director shall be present in the center:
    - (a) Full time for programs operating less than 6 continuous hours.
    - (b) At least 50% of the time children are in care, but not less than a total of 6 hours for programs operating 6 or more continuous hours.
  - (4) All program directors are responsible for the general management of the child care center, including the following minimum responsibilities:

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- (a) Overall program planning.
- (b) Developing, implementing, and evaluating center policies and program.
- (c) Administering day-to-day operations including being available to address parent, child, and staff issues.
- (d) Monitoring and evaluating staff, including a written annual evaluation of each staff member.
- (5) A program director may also serve as a caregiver, provided that role does not interfere with management and supervisory responsibilities.
- (6) If absent from the center, the program director shall designate a competent staff member to be in charge who at least meets the qualifications of caregiver.
- (7) A substitute program director shall be appointed for a program director who has a temporary absence that exceeds 30 consecutive workdays until return or replacement. A substitute program director shall at least meet the qualifications of lead caregiver. The department shall be notified when a substitute program director is appointed.
- (8) All program directors shall have the following qualifications:
  - (a) Be at least 21 years of age.
  - (b) Have earned a high school diploma or GED.
- (9) Early childhood program directors shall meet 1 of the following qualifications:

Education	Semester hours in early childhood education or child development	Hours of Experience
(a) Bachelor's degree or higher in early childhood education or child development		
(b) Bachelor's degree or higher in a child-related field with →	<u>20</u> semester hours with →	480 hours
(c) Associate's degree in early childhood education or child development with →	<u>20</u> semester hours with →	480 hours
(d) <u>Current</u> Montessori credential with →	<u>20</u> semester hours with →	960 hours
(e) <u>Current</u> Child development associate credential with →	<u>20</u> semester hours with →	960 hours

(10) School-age program directors shall meet 1 of the following qualifications:

Education	Semester Hours in a child-related field	Hours of Experience
(a) Bachelor's degree or higher in a child-related field →		
(b) Associate's degree in a child-related field with →		480 hours
(c) <u>Current</u> Montessori credential with →	12 semester hours with →	480 hours
(d) <u>Current</u> Michigan school-age credential with →	12 semester hours with →	480 hours
(e) <u>Current</u> Child development associate credential with →	12 semester hours with →	480 hours
(f) 60 semester hours with →	12 semester hours with →	720 hours

- (11) All program directors shall have at least 2 semester hours or 3.0 CEUs in child care administration or have an administrative credential approved by the department. Up to three semester hours in child care administration may be counted toward the requirements of subrules (9) or (10).
- (12) Any program director, currently employed as a program director before the effective date of these rules shall have 3 calendar years to meet the minimum requirements of subrule (9) for early childhood programs, (10) for school-age only programs, and (11) for all programs.
- (13) Verification of the education, credentials and experience of the program director shall be kept on file at the center.

**R 400.8116 Multisite-school-age program director.**

Rule 116. (1) A school-age program director with a bachelor's degree or higher in a child-related field may oversee up to 3 sites with the following conditions:

- (a) Each program routinely operates 6 hours or fewer per day.
  - (b) The multi-site school-age program director is available during all hours of program operation.
- (2) The multi-site school-age program director shall be at each site a minimum of 1 session per week and maintain written documentation of site visits, including dates and times.

**R 400.8119 Site supervisor qualifications; responsibilities.**

Rule 119. (1) For multisite school-age programs, with a school-age program director responsible for more than 1 center, a site supervisor shall be present during all hours of operation.

- (2) Site supervisors shall meet all of the following:
- (a) Be at least 19 years of age.
  - (b) Have earned a high school diploma, GED, or equivalent.
  - (c) Have 480 hours of experience working as a caregiver in a program serving school-age children that meets the requirements of 1973 PA 116, MCL 722.111.
  - (d) Have completed 15 clock hours, 1 semester hour, or 1.5 CEUs of documented school-age training.
- (3) Site supervisors shall be responsible for the daily operation and implementation of the site program, supervision of the site staff, and for overall care and supervision of children.
- (4) Site supervisors shall assist the multi-site school-age program director in all of the following:
- (a) Overall program planning.
  - (b) Developing, implementing, and evaluating program and center policies.
  - (c) Administering day-to-day operations, including being available to address parent, child and staff issues.
  - (d) Monitoring and overseeing staff.
- (5) Verification of the requirements of subrule (2)(c) and (d) shall be kept on file at the center.

**R 400.8122 Lead caregiver qualifications; responsibilities.**

Rule 122. As used in this rule:

- (a) “Child-related field” means elementary education, child guidance/counseling, child psychology, family studies, and social work.
  - (b) “Child care administration” means child care administration, education administration, or business administration.
  - (c) A “Child Development Associate Credential” (CDA) means a credential awarded by the Council for Professional Recognition or similar credential approved by the department.
  - (d) A “Montessori credential” means a credential issued by the Association Montessori Internationale (AMI), American Montessori Society (AMS), or any Montessori teaching training institution recognized by the Montessori Accreditation Council for Teacher Education (MACTE) that meets or exceeds 270 hours of academic training.
  - (e) “Degrees and semester hours” means only those degrees and hours from an accredited college or university.
  - (f) “Hours of experience” means experience serving the ages and developmental abilities of children for whom the caregiver will provide care.
- (1) Lead caregivers s are required only for groups of children who are preschool age and younger.

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- (2) Lead caregivers shall be responsible for both of the following:
  - (a) Overseeing the planning, implementation, and evaluation of the classroom program and child assessment.
  - (b) Overseeing caregiving staff for a specific group of children and overall care and supervision of children.
- (3) At least 1 lead caregiver shall be assigned to each group of children in self-contained or well-defined space and shall be present and providing care in the assigned group in the following manner:
  - (a) Full time for programs operating less than 6 continuous hours.
  - (b) At least 6 hours per day for programs operating 6 or more continuous hours.
- (4) Lead caregivers shall have the following qualifications:
  - (a) Be at least 19 years of age.
  - (b) Have a high school diploma or GED.
- (5) Lead caregivers shall meet 1 of the following qualifications:

Education	Semester Hours/CEUS in <u>early childhood education, child development or</u> a child-related field	Hours of Experience
(a) Bachelor's degree or higher in early childhood education, child development, or a child-related field		
(b) Associate's degree or higher in early childhood education or child development		
(c) <u>Current</u> Montessori credential with →		480 hours
(d) <u>Current</u> Child development associate credential with →		480 hours
(e) High school diploma/GED with →	<u>15</u> semester hours with →	960 hours
(f) High school diploma/GED with →	Combination of: <u>15</u> semester hours and/or <u>22</u> CEUs to equal <u>220</u> clock hours with →	1920 hours

- (6) Lead caregivers for infants and toddlers shall have 3 semester hours or 4.5 CEUs in infant/toddler development and care practices. These semester hours or CEUs may satisfy a portion of the requirements of subrule (5) of this rule.
- (7) Any lead caregivers, currently employed as a lead caregiver before the effective date of these rules, shall have 2 calendar years to meet the minimum requirements of subrule (5).

- (8) A substitute for a lead caregiver shall be appointed for a lead caregiver who has a temporary absence that exceeds 30 consecutive workdays until return or replacement. A substitute lead caregiver shall at least meet the qualifications of lead caregiver.
- (9) Verification of the education, credentials and experience of each lead caregiver shall be kept on file at the center.

**R 400.8125 Staff and Volunteers.**

Rule 125. (1) All staff and volunteers shall provide appropriate care and supervision of children at all times.

- (2) All staff shall be of responsible character and suitable to meet the needs of children.
- (3) The following shall be developed and implemented:
  - (a) A written screening policy for all staff and volunteers, including parents.
  - (b) A written policy regarding supervision of volunteers, including volunteers who are parents of a child in care.
- (4) A criminal history check using the Michigan Department of State Police's internet criminal history access tool (ICHAT), or equivalent for a person's state of official residence, shall be completed before making an offer of employment to that person.
- (5) A staff member shall not be present in a child care center if he or she has been convicted of any of the following:
  - (a) A listed offense, as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.
  - (b) Child abuse or child neglect.
  - (c) A felony involving harm or threatened harm to an individual within the 10 years immediately preceding the date of hire.
- (6) The child care center shall have documentation that a volunteer has not been convicted of any of the following prior to having unsupervised contact with children:
  - (a) A listed offense, as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.
  - (b) Child abuse or child neglect.
  - (c) A felony involving harm or threatened harm to an individual within the 10 years immediately preceding the date of offering to volunteer at the child care center.
- (7) The child care center shall have documentation from the Department of Human Services that each staff member has not been named in a central registry case as the perpetrator of child abuse or child neglect before having contact with a child in care.
- (8) The child care center shall have documentation from the Department of Human Services that each volunteer has not been named in a central registry case as the perpetrator of child abuse or child neglect before having unsupervised contact with a child in care.
- (9) If a staff person has resided outside the state of Michigan within the 10 years immediately preceding the date of hire, a criminal history check equivalent to

Michigan Department of State Police's internet criminal history access tool (ICHAT) and a central registry clearance shall be completed for all states of previous residence during those 10 years.

- (10) The documentation required by subrules (4), (6), (7) and (8) shall be updated every 2 years at renewal and upon request by the department.
- (11) A written plan to assure compliance with the provisions of 1975 PA 238, MCL 722.621 et. seq., known as the child protection law, shall be developed and implemented.
- (12) A written statement shall be signed and dated by staff and volunteers at the time of hiring or before volunteering indicating all of the following information:
- (a) The individual is aware that abuse and neglect of children is against the law.
  - (b) The individual has been informed of the center's policies on child abuse and neglect.
  - (c) The individual knows that all staff and volunteers are required by law to immediately report suspected abuse and neglect to children's protective services.

#### **R 400.8128 Health of staff and volunteers.**

Rule 128. (1) A report, signed by a licensed physician shall be on file for all staff members and for each volunteer who has contact with children at least 4 hours per week for more than 2 consecutive weeks. This report shall declare, to the best of the physician's knowledge, the mental and physical capability of the staff member or volunteer to perform the duties required. The report shall be signed not more than 6 months before, or 30 days after, the start of employment or volunteering.

- (2) Evidence that all staff members and each volunteer who has contact with children at least 4 hours per week for more than 2 consecutive weeks is free from communicable tuberculosis, verified within 1 year before employment or volunteering, shall be on file at the center.

#### **R 400.8131 Professional development requirements.**

Rule 131. (1) All staff hired after the effective date of these rules must be provided an orientation to the child care center administrative rules and the center's policies and practices prior to unsupervised contact with children.

- (2) Caregivers shall have training that includes information about safe sleep and shaken baby syndrome prior to caring for infants and toddlers.
- (3) Prior to unsupervised contact with children and annually thereafter, each caregiver, site supervisor, and program director shall complete blood-borne pathogen training in compliance with Part 554 – Bloodborne Infectious Diseases, Occupational Health Rules 325.70001 – 325.70018 of the Occupational Health Standards. Part 554 is hereby adopted by reference. Copies can be obtained from the Michigan Occupational Safety and Health Administration at [www.michigan.gov/miosha](http://www.michigan.gov/miosha).
- (4) All program directors, site supervisors and caregivers shall complete 16 clock hours of professional development annually on topics relevant to job responsibilities and the child care center administrative rules. CPR, first aid and

blood borne pathogen training may count for up to 2 hours of the annual professional development hours.

- (5) An on-going professional development plan shall be developed and implemented to include all the training and professional development required by the child care center administrative rules.
- (6) On-line trainings and correspondence courses shall have an assessment of learning. On-line trainings and correspondence courses may not count for more than half of the annual professional development hours.
- (7) All program directors and caregivers in programs serving preschool age children and younger shall have current first aid and infant, child, and adult CPR training.
- (8) All program directors, site supervisors, and caregivers in programs serving only school-age children shall have current first aid and child and adult CPR training.
- (9) Verification of all professional development required by this rule shall be kept on file at the center.

#### **R 400.8134. Hand washing.**

Rule 134 (1) For the purposes of this rule, hand washing means to cleanse the hands with soap and warm running water for at least 20 seconds.

- (2) All staff and volunteers shall wash their hands at the following times:
  - (a) Upon arrival at the center.
  - (b) Before preparing and serving food, eating, and feeding children.
  - (c) Before and after giving medication.
  - (d) After each diapering.
  - (e) After using the toilet or helping a child use the toilet.
  - (f) After handling bodily fluids.
  - (g) After handling animals and pets and cleaning cages.
  - (h) When soiled.
- (3) Staff and volunteers shall assure that children wash their hands at the following times:
  - (a) Upon arrival at the center.
  - (b) Before meals, snacks, or food preparation experiences.
  - (c) After toileting or diapering.
  - (d) After contact with any bodily fluids.
  - (e) After handling animals and pets.
  - (f) When soiled.
- (4) Guidelines for hand washing shall be posted in food preparation areas, in toilet rooms, and by all hand washing sinks.
- (5) When soap and running water are not available during an outing such as field trips, hand sanitizers and/or single-use wipes may be used as a temporary measure.

#### **R 400.8137 Discipline.**

Rule 137. (1) The staff shall use positive methods of discipline that encourage self-control, self-direction, self-esteem, and cooperation.

- (2) The following means of punishment shall be prohibited:
  - (a) Hitting, spanking, shaking, biting, pinching, or inflicting other forms of corporal punishment.

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- (b) Restricting a child's movement by binding or tying him or her.
  - (c) Inflicting mental or emotional punishment, such as humiliating, shaming, or threatening a child.
  - (d) Depriving a child of meals, snacks, rest, or necessary toilet use.
  - (e) Depriving a child of outdoor play or other gross motor activities.
  - (f) Excluding a child from daily learning experiences.
  - (g) Confining a child in an enclosed area, such as a closet, locked room, box, or similar cubicle.
- (3) Non-severe and developmentally appropriate discipline or restraint may be used when reasonably necessary, based on a child's development, to prevent a child from harming himself or herself or to prevent a child from harming other persons or property, excluding those forms of punishment prohibited by subrule (2) of this rule.
- (4) A policy shall be developed and implemented regarding the discipline of children. It shall be:
- (a) In written form.
  - (b) Age appropriate.
  - (c) Provided to staff and parents.

### **R 400.8140 Children's records.**

Rule 140. (1) At the time of the child's initial attendance, a child information card, using a form provided by the department or a comparable substitute, completed and signed by the parent shall be obtained and kept on file and accessible in the center.

- (2) Child information cards shall be reviewed and updated by parents at least annually and when the center becomes aware of changes.
- (3) At the time of initial attendance, 1 of the following shall be obtained and kept on file and accessible in the center for children under school-age:
- (a) A certificate of immunization showing a minimum of 1 dose of each immunizing agent specified by the department of community health.
  - (b) A copy of a waiver addressed to the department of community health and signed by the parent stating immunizations are not being administered due to religious, medical, or other reasons.
- (4) When a child under school-age whose immunizations were not up-to-date at the time of enrollment has been in attendance for 4 months, an updated certificate showing completion of all additional immunization requirements as specified by the department of community health shall be on file unless there is a signed statement by a licensed physician or his or her designee stating immunizations are in progress.
- (5) Under 1978 PA 368, MCL 333.9211(2), immunizations shall be reported to the department of community health for all children enrolled using the method established by the department of community health by October 1 of each year.

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- (6) Within 30 days of initial attendance, 1 of the following shall be obtained and kept on file and accessible in the center:
  - (a) For infants and young toddlers: A physical evaluation performed within the preceding 3 months signed by a licensed physician or his or her designee. Restrictions shall be noted.
  - (b) For older toddlers and preschoolers: A physical evaluation performed within the preceding year signed by a licensed physician or his or her designee. Any restrictions shall be noted.
- (7) Physical evaluations shall be updated as follows:
  - (a) Yearly for infants and young toddlers.
  - (b) Every 2 years for older toddlers and preschoolers.
- (8) Upon enrollment and annually thereafter, the center shall obtain and keep on file at the center a signed statement from the school-age child's parent all of the following:**
  - (a) The child is in good health with activity restrictions noted.**
  - (b) The child's immunizations are up-to-date.**
  - (c) The immunization record or appropriate waiver is on file with the child's school.**
- (9) The center shall assure that if a parent objects to a physical examination or medical treatment on religious grounds, then the parent provides a signed statement annually that the child is in good health and that the parent assumes responsibility for the child's state of health while at the center.
- (10) The center shall maintain an accurate record of daily attendance at the center that includes each child's first and last name, and each child's arrival and departure time.
- (11) Parent's written permission for the child's participation in field trips shall be obtained at the time of enrollment or before each field trip and kept on file in the center.

### **R 400.8143 Information provided to parents.**

Rule 143. (1) A written information packet shall be provided to each parent enrolling a child that includes at least all of the following:

- (a) Criteria for admission and withdrawal.
- (b) Schedule of operation, denoting hours, days, and holidays during which the center is open and services are provided.
- (c) Fee policy.
- (d) Discipline policy.
- (e) Food service policy.
- (f) Program philosophy.
- (g) Typical daily schedule.
- (h) Exclusion policy for child illnesses.

- (i) Notice of the availability of the center's licensing notebook. The notice shall include all of the following:
  - (i) The licensing notebook contains all the licensing inspection and special investigation reports and related corrective action plans since May 28, 2010.
  - (ii) The licensing notebook is available to parents during regular business hours.
  - (iii) Licensing inspection and special investigation reports from at least the past two years are available on the child care licensing website at [www.michigan.gov/michildcare](http://www.michigan.gov/michildcare). The website address must be in bold print.
- (2) Written documentation that the parent received all elements of the written information packet as required by subrule (1) of this rule shall be kept on file at the center.
- (3) For infants and young toddlers, parents shall receive a written daily record that includes at least the following information:**
  - (a) Food intake; time, type of food, and amount eaten.**
  - (b) Sleeping patterns; when and how long child slept.**
  - (c) Elimination patterns, including bowel movements, consistency and frequency.**
  - (d) Developmental milestones.**
  - (e) Changes in the child's usual behaviors.**
- (4) Parents of children with special needs may request a written daily record that includes at least the information required by subrule (3) of this rule.
- (5) Parents shall be notified before each field trip.**

**R 400.8146 Parent permission for transportation.**

Rule 146. (1) Parent's written permission shall be obtained annually for routine transportation.

- (2) Parent's written permission for any transportation not considered routine shall be obtained before each trip.
- (3) Permission for all transportation shall be kept on file in the center.

**R 400.8149 Medication; administrative procedures.**

Rule 149. (1) Medication, prescription or nonprescription, shall be given to a child by an adult caregiver only.

- (2) Medication, prescription or nonprescription, shall be given or applied only with prior written permission from a parent.
- (3) All medication shall be its original container, stored according to instructions, and clearly labeled for a named child.
- (4) Prescription medication shall have the pharmacy label indicating the physician's name, child's name, instructions, and name and strength of the medication and shall be given according to those instructions.

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- (5) All medication shall be kept out of the reach of children and shall be returned to the child's parent or destroyed when the parent determines it is no longer needed or it has expired.
- (6) A caregiver shall give or apply any prescription or nonprescription medication according to the directions on the original container unless authorized by a written order of the child's physician.
- (7) Medication shall not be added to a child's bottle, beverage, or food unless indicated on the prescription label.**
- (8) Topical nonprescription medication, including, but not limited to sunscreen and insect repellent, requires written parental authorization annually.
- (9) The center shall maintain a record as to the time and the amount of medication given or applied, with the exception of subrule (8) of this rule, on a form provided by the department or a comparable substitute approved by the department. The signature of the caregiver administering the medication shall be included.

### **R 400.8152 Child accidents and incidents; child and staff illness.**

Rule 152. (1) Parents shall be contacted immediately when the center observes changes in the child's health; a child experiences accidents, injuries, or incidents; or when a child is too ill to remain in the group.

- (2) The center shall assure that a child too ill to remain in the group is placed in a separate area and is cared for and supervised until the parent arrives.
- (3) Items and facilities used by an ill child or adult shall not be used by any other person until washed, rinsed and sanitized.
- (4) If the center becomes aware that a staff member, volunteer or child in care has contracted a communicable disease, then the center shall notify parents of the following:
  - (a) The name of the communicable disease.
  - (b) The symptoms of the disease.

(5) A policy detailing when children, staff and volunteers will be excluded from child care due to illness shall be developed and implemented.

### **R 400.8155 Incident, accident, injury, illness, death, fire reporting.**

Rule 155. (1) A verbal report shall be made to the department within 24 hours of the occurrence of any of the following:

- (a) A child is lost or left unsupervised.
- (b) An incident involving an allegation of inappropriate contact.
- (c) A serious injury, accident, illness, or medical condition that occurs while a child is in care and results in medical treatment or hospitalization at any time after the occurrence.
- (d) The death of a child in care.
- (e) A fire on the premises of the child care center.

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- (2) A written report shall be submitted to the department of the occurrences outlined in subrule (1) of this rule in a format provided by the department within 72 hours of the occurrence.
- (3) A copy of the report shall be kept on file at the center.

### **R 400.8158 Emergency procedures.**

Rule 158. (1) Written procedures for the care of children and staff for each of the following emergencies shall be developed and implemented:

- (a) Fire.
  - (b) Tornado.
  - (c) Other natural or man-made disasters.
  - (d) Serious accident/illness/injury.
  - (e) Crisis management including, but not limited to intruders and-bomb threats.
- (2) The written procedures shall include all of the following:
    - (a) A plan for evacuating and safely moving children to a relocation site.
    - (b) A method for contacting parents and reuniting families.
    - (c) A plan for how each child with special needs will be accommodated during each type of emergency.
  - (3) The plans required by subrule (1)(a)-(d) shall be posted in a place visible to staff and parents.
  - (4) The crisis management plan shall only be posted in a place visible to staff.
  - (5) A fire drill program consisting of at least 1 fire drill quarterly shall be established and implemented.
  - (6) A tornado drill program consisting of at least 2 tornado drills during the months of April through October shall be established and implemented.
  - (7) A written log indicating the date and time of fire and tornado drills shall be on file at the center.
  - (8) Each staff member shall be trained at least twice a year on his or her duties and responsibilities for all emergency procedures referenced in subrule (1).
  - (9) If cribs are used in emergency evacuations, then all doors within the means of egress shall be wide enough to readily accommodate the crib evacuation.

### **R 400.8161 Telephone service.**

Rule 161. (1) A land-line telephone, excluding pay phones, cell phones, and cordless phones, shall be available, operable, and accessible in the building during the hours that the center is in operation. An operable land-line telephone does not require electricity in the center to operate.

- (2) During the hours the center is in operation, a telephone number known to the public and available to parents to provide immediate access to the center shall be provided.
- (3) Emergency telephone numbers, including 911, fire, police, and the poison control center, and the facility's physical address and 2 main cross streets, shall be conspicuously posted immediately adjacent to all center telephones.

**R 400.8164 Indoor space.**

Rule 164. (1) The required square footage of indoor space per child shall be at least the following:

- (a) Fifty square feet for infants and young toddlers.
  - (b) Thirty-five square feet for older toddlers to school-age.
- (2) The following indoor space is excluded from the required square footage
- (a) Hallways.
  - (b) Bathrooms.
  - (c) Reception and office areas.
  - (d) Kitchens.
  - (e) Storage areas and cloakrooms.
  - (f) Areas used exclusively for resting, sleeping, or eating, except for infants and young toddlers.
- (3) A floor plan of all child use areas shall be provided to the department at initial licensure and prior to any change in use space. Only space that has received prior approval for child use by the department may be used for child care.

**R 400.8167 Outdoor play area.**

Rule 167. For the purposes of this rule:

- (a) “Certified playground safety inspector” means an individual certified by the National Playground Safety Institute or the National Program for Playground Safety to conduct playground safety inspections.
  - (b) “Natural playground” means an outdoor play area that blends natural materials, features and vegetation.
- (1) The outdoor play area shall be considered an outdoor classroom and an extension of the learning environment.
- (2) A center operating with children in attendance for 3 or more continuous hours per day shall provide daily outdoor play, unless prevented by inclement weather or other weather conditions that could result in children becoming overheated or excessively chilled.
- (3) A center operating with children in attendance for 3 or more continuous hours a day shall have an outdoor play area that has at least 1,200 square feet. More than 1,200 square feet of outdoor play area may be required when the minimum amount is not adequate for the number of children for which the center is licensed.
- (4) If outdoor space is not available adjacent to the center, then a park or other outdoor facility may be used. The following shall apply:
- (a) The area shall be easily accessible by a safe walking route.
  - (b) The play area shall be inspected before each use to ensure that no hazards are present.
  - (c) The location of the alternative outdoor play area shall be specified in writing to the department.
- (5) The outdoor play area shall be in a safe location.
- (6) The outdoor play area shall be protected from hazards, when necessary, by a fence or natural barrier that is at least 48 inches in height.

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- (7) Children shall only use age-appropriate equipment.
- (8) An outdoor play area and any equipment located on the center's premises shall be maintained in a safe condition and inspected daily before use to ensure that no hazards are present.
- (9) The playground equipment, use zones and surfacing in the outdoor play area shall be inspected by a certified playground safety inspector and an approval granted for playground equipment and areas used before issuance of an original provisional license, every 4 years thereafter at the time of renewal, and prior to using any newly added playground equipment. Documentation of the inspection shall be provided to the department upon request, and kept on file in the center.
- (10) Loose-fill surfacing material shall not be installed over concrete or asphalt.
- (11) The depth of the loose-fill surface material shall be restored to its required depth when it has moved or become otherwise compromised.
- (12) If children's wheeled vehicles and pull toys are used, then a suitable surface shall be provided for their use.
- (13) Materials used on a natural playground shall not be in the use zones for other playground equipment.
- (14) The elevated playing surface of materials used on a natural playground shall not exceed 30 inches.
- (15) Materials used on a natural playground with elevated playing surfaces shall not be installed over concrete or asphalt.
- (16) Surfacing materials are not required under elevated playing surfaces on a natural playground.
- (17) Trampolines shall not be used by children in care, except when used as adaptive equipment to meet a child's individual needs as identified by a health or educational specialist.
- (18) There shall be a shaded area to protect children from excessive sun exposure, when necessary.
- (19) School-age child care centers operating in school buildings approved by the Michigan Department of Education shall be exempt from subrule (9) of this rule, provided the licensee informs parents, in writing at the time of enrollment, if the center plans to use a public school's outdoor play area and equipment that does not comply with this rule.

### **R 400.8170 Equipment.**

- Rule 170. (1) Equipment, materials, and furnishings recalled or identified by the U.S. Consumer Product Safety Commission ([www.cpsc.gov](http://www.cpsc.gov)) as being hazardous are prohibited.
- (2) The current list of unsafe children's products that is provided by the department shall be conspicuously posted in the child care center, as required by the Children's Product Safety Act, 2000 PA 219, MCL 722.1065.
- (3) Play equipment, materials, and furniture, shall be:
- (a) Appropriate to the developmental needs and interests of children as required by R 400.8176.
  - (b) Safe, clean, and in good repair.
  - (c) Child-sized or appropriately adapted for a child's use.

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- (d) Easily accessible to the children.
- (4) Sufficient materials and equipment shall be available to provide a minimum of 3 playspaces per child in the licensed capacity.
- (5) A minimum of 2 playspaces shall be accessible per child in attendance on any given day during child-initiated activity time.
- (6) Children shall have access to equipment and materials in the following areas on a daily basis:
  - (a) Large and small muscle activity.
  - (b) Sensory exploration.
  - (c) Social interaction and dramatic play.
  - (d) Discovery and exploration.
  - (e) Early math and science experiences.
  - (f) Creative experiences through art, music, and literature.
- (7) A current and accurate equipment inventory shall be provided to the department before initial licensure and at each renewal.
- (8) Indoor climbing equipment over 30 inches high shall have at least one inch thick mats in fall zones in all directions from the perimeter of the equipment.
- (9) A first aid kit shall be readily accessible to staff and securely stored in the child care center.
- (10) A rocking chair or other comfortable, adult-sized seating shall be provided for 50% of the caregiving staff on duty who are providing infant and toddler care.

### **R 400.8173 Sleeping equipment.**

Rule 173. (1) All bedding and sleeping equipment shall be appropriate for the child; be clean, comfortable, and safe; and be in good repair.

- (2) A crib or porta-crib shall be provided for all infants in care.
- (3) A crib, porta-crib, cot or mat and a sheet or blanket of appropriate size shall be provided for all toddlers in care.
- (4) A cot or mat and a sheet or blanket of appropriate size shall be provided:
  - (a) For all preschoolers enrolled for 5 or more continuous hours.
  - (b) For any child who regularly naps.
  - (c) Upon a parent's request for any child in attendance.
- (5) Car seats, infant seats, swings, bassinets, and playpens are not approved sleeping equipment.
- (6) Stacking cribs are prohibited.
- (7) Cribs and porta-cribs shall comply with the federal product safety standards issued by the Consumer Product Safety Commission.
- (8) A crib or porta-crib shall have a firm, tight-fitting mattress.
- (9) A tightly fitted bottom sheet shall cover the crib or porta-crib mattress with no additional padding placed between the sheet and mattress.
- (10) Soft objects, bumper pads, stuffed toys, blankets, quilts or comforters, and other objects that could smother a child shall not be placed in a crib or porta-crib with or under a resting or sleeping infant.
- (11) Blankets shall not be draped over cribs or porta-cribs.
- (12) Cots and mats shall be constructed of a fabric or plastic which is easily cleanable.

- (13) All sleeping equipment and bedding shall be washed, rinsed and sanitized when soiled, between uses by different children and at least once a week regardless of use by different children.
- (14) When sleeping equipment and bedding are stored:
  - (a) Sleeping surfaces shall not come in contact with other sleeping surfaces.
  - (b) Bedding shall not come in contact with other bedding.
- (15) All occupied cribs and porta-cribs shall be spaced at least 2 feet apart and in such manner that there is a free and direct means of egress.
- (16) All occupied cots and mats shall be spaced at least 18 inches apart and in a manner that there is a free and direct means of egress.

**R 400.8176 Program.**

Rule 176. (1) There shall be a program plan which includes daily learning experiences appropriate to the developmental level of the children. Experiences shall be designed to develop:

- (a) Physical development.
- (b) Social development.
- (c) Emotional development.
- (d) Cognitive development.
- (2) The program shall be planned to provide a flexible balance of the following experiences:
  - (a) Quiet and active.
  - (b) Individual and groups.
  - (c) Large and small muscle.
  - (d) Child initiated and staff initiated.
- (3) Developmentally appropriate experiences shall be designed so that throughout the day each child:
  - (a) Has opportunities to feel successful and feel good about him or herself and develop independence.
  - (b) Practices social interaction skills.
  - (c) Uses materials and takes part in activities which encourage creativity.
  - (d) Learns new ideas and skills.
  - (e) Participates in imaginative play.
  - (f) Has developmentally appropriate language and literacy experiences.
  - (g) Has early math and science experiences.
  - (h) Is physically active.
- (4) The following shall be posted in a place visible to parents:
  - (a) A typical daily schedule.
  - (b) A plan of the developmentally appropriate activities and experiences for each day.
- (5) When awake, use of confining equipment for infants shall be minimized, not to exceed 30 minutes at a time.
- (6) For the purposes of this subrule, "screen time" means use of any electronic device with a screen.
  - (a) Screen time is prohibited for children under 2 years of age.

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- (b) When screen time is available for children 2 years of age and older:
  - (i) Content shall be designed for children’s education and/or enjoyment.
  - (ii) Activities shall be suitable to the age of the child in terms of content and length of use.
  - (iii) Use shall not exceed 2 hours per week per child.
- (c) When screen time is available, other activities shall also be available to children.
- (7) An exception to the requirements of subrule (6)(b)(iii) of this rule may be made when:
  - (a) School-age children use computers and any other electronic devices for academic and educational purposes.
  - (b) Children with special needs require the use of assistive and adaptive technology.
- (8) A school-age program shall supplement the areas of development not regularly provided for during the school day.
- (9) For children with special needs, care shall be provided according to the child’s needs as identified by parents, medical personnel and/or other relevant professionals.
- (10) Parents shall be permitted to visit the center during hours of operation for the purpose of observing their children.

**R 400.8179 Ratio and group size requirements.**

Rule 179. (1) At least 2 staff members, 1 of whom is a caregiver, shall be present at all times when at least 3 children between the ages of birth and 3 years of age are present.

- (2) At least 2 staff members, 1 of whom is a caregiver, shall be present at all times when 7 or more children over 3 years of age are present.
- (3) In each room or well-defined space, the maximum group sizes and the ratio of caregivers to children, including children related to a staff member or the licensee, shall be:

	<u>Age</u>	<u>Caregiver to Child Ratio</u>	<u>Maximum Group Size</u>
(a)	<u>Infants and Young Toddlers, birth through 29 months</u>	<u>1 to 4</u>	<u>12</u>
(b)	<u>Older Toddlers, 30 through 35 months</u>	<u>1 to 8</u>	<u>16</u>
(c)	<u>Preschoolers, 36 through 47 months</u>	<u>1 to 10</u>	<u>24</u>
(d)	<u>Preschoolers, 48 months until eligible to attend kindergarten</u>	<u>1 to 12</u>	<u>N/A</u>
(e)	<u>School-age</u>	<u>1 to 18</u>	<u>N/A</u>

- (4) Children who have reached 33 months of age may, when developmentally appropriate, be enrolled in a 3-year-old classroom with written parental permission. Ratios and group sizes for 3-year-olds shall apply.

- (5) Children who have reached 45 months of age may, when developmentally appropriate, be enrolled in a 4-year-old classroom with written parental permission. Ratios for 4-year-olds shall apply.
- (6) Children who have reached 5 years of age but who are not eligible to attend kindergarten may, when developmentally appropriate, be enrolled in a school-age classroom with written parental permission. Ratios for school-age children shall apply.
- (7) If there are children of mixed ages in the same room or in a well-defined space, then the ratio and group size shall be determined by the age of the youngest child, unless each group of children is clearly separated and the appropriate child/caregiver ratios and group sizes for each age group are maintained.
- (8) An exception to the requirements of subrule (3) of this rule may be made when the center is transporting children and is in compliance with R 400.8780(1) and (2).

#### **R 400.8182 Primary care.**

Rule 182. (1) For the purposes of this rule, “primary caregiver” means the caregiver to whom the care of a specific infant or young toddler is assigned. The primary caregiver is responsible for direct care, verbal and physical interactions, primary responses to the child’s physical and emotional needs, and continued interaction with the child’s parents regarding the child’s experiences.

- (2) The center shall implement a primary care system so that each infant and young toddler has a primary caregiver.
- (3) Each child shall have not more than 4 primary caregivers in a week. For centers operating less than 24 hours a day, an exception may occur during the first hour after the center opens and the hour before closing.
- (4) Information regarding a child’s food, health, and temperament shall be shared daily between caregivers when more than 1 primary caregiver is assigned to any infant or young toddler.
- (5) Primary caregiving assignments shall be documented and provided to parents.
- (6) An exception to R 400.8179 may be made when the center is transporting children and is in compliance with R 400.8780(1) and (2).

#### **R 400.8185 Sleeping, resting and supervision.**

Rule 185. (1) Infants and toddlers shall be provided opportunities to rest regardless of the number of hours in care.

- (2) The center shall permit children under 18 months of age to sleep on demand.
- (3) Infants shall rest or sleep alone in cribs or porta-cribs.
- (4) Infants shall be placed on their backs for resting and sleeping.
- (5) Infants unable to roll from their stomachs to their backs and from their backs to their stomachs shall be placed on their backs when found face down.
- (6) When infants can easily turn over from their stomachs to their backs and from their backs to their stomachs, they shall be initially placed on their backs, but allowed to adopt whatever position they prefer for sleep.
- (7) For an infant who cannot rest or sleep on her or his back due to disability or illness, written instructions, signed by the infant’s licensed health care provider, detailing

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an alternative safe sleep position and/or other special sleeping arrangements for the infant shall be followed and on file at the center.

- (8) A sleeping infant's breathing, sleep position, and bedding shall be monitored frequently for possible signs of distress.
- (9) An infant's head shall remain uncovered during sleep.
- (10) Infants and toddlers who fall asleep in a space that is not approved for sleeping shall be moved to approved sleep equipment appropriate for their size and age.
- (11) Toddlers shall rest or sleep alone in cribs, porta-cribs or on mats or cots.
- (12) Naptime or quiet time shall be provided when children under school-age are in attendance 5 or more continuous hours per day.
- (13) Resting or sleeping areas shall have adequate soft lighting to allow the caregiver to assess children.
- (14) Video surveillance equipment and baby monitors shall not be used in place of R 400.8125(1) and subrule(8) of this rule.

### **R 400.8188 Nighttime care.**

Rule 188. (1) If a child is in care between the hours of 11 p.m. and 6 a.m., a separate area away from sleeping children where the child can engage in quiet activities shall be available.

- (2) If a child is in care for more than one hour between the hours of 11 p.m. and 6 a.m., a bed and mattress, with a waterproof covering, of a size appropriate to the age of each child shall be available.

INFANTS/YOUNG TODDLER/OLDER TODDLER - Rules moved to GENERAL PROVISIONS and ENVIRONMENTAL HEALTH

SCHOOL-AGE – Rules moved to GENERAL PROVISIONS

### **ENVIRONMENTAL HEALTH PROVISIONS**

#### **R 400.8301 Definitions.**

Rule 301. As used in this part:

- (a) "Bulk foods" are larger quantities of food that are used over time, such as flour, sugar, noodles, rice, etc. Food that is used up in a week or less, such as crackers, are not considered bulk foods.
- (b) "Corrosion-resistant materials" means those materials that maintain their original surface characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and bacterial solutions, and other conditions-of-use environment.
- (c) "Easily cleanable" means that surfaces are readily accessible and made of such materials and finish and so fabricated that residue may be effectively removed by normal cleaning methods.
- (d) "Food service equipment" means stoves, ovens, ranges, hoods, slicers, mixers, meat blocks, tables, counters, refrigerators, sinks, dishwashing

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- machines, steam tables, and similar items other than utensils, used in the operation of a child care center.
- (e) "Food" means any raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use in whole or in part for human consumption.
  - (f) "Food-contact surface" means those surfaces of equipment and utensils with which food normally comes in contact, and those surfaces from which food may drain, drip, or splash back onto surfaces normally in contact with food.
  - (g) "Packaged" means bottled, canned, cartoned, or securely wrapped.
  - (h) "Potentially hazardous food" means any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacean, or other ingredients, including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms.
  - (i) "Ready to eat food" means food that does not require cooking and that will not be cooked prior to being served.
  - (j) "Sanitization" means effective bactericidal treatment by a process that provides enough accumulative heat or concentration of chemicals for enough time to reduce the bacterial count, including pathogens, to a safe level on utensils and equipment.
  - (k) "Sealed" means free of cracks or other openings that permit the entry or passage of moisture.
  - (l) "Single-service articles" means those food service articles intended for 1-time, 1-person use and then discarded.
  - (m) "Tableware" means multiuse eating and drinking utensils.
  - (n) "Utensil" means any implement used in the storage, preparation, transportation, or service of food.

### **R 400.8305 Plan review; approval; inspections.**

Rule 305. (1) All local health department requirements regarding plan reviews and specifications shall be followed. Written confirmation to the department that this has occurred shall be submitted.

(2) An inspection shall be conducted by the local health department and an approval granted:

- (a) Before issuance of an original provisional license.
- (b) Every 2 years, at the time of renewal, if the center:
  - (i) Has a private well and/or septic system.
  - (ii) Provides food service.
  - (iii) Has an infant/toddler program.
- (c) Prior to adding a food service program.
- (d) When requested by the department.

### **R 400.8310 Food preparation areas.**

Rule 310 (1) Food contact surfaces are to be smooth, nontoxic, easily cleanable, durable, corrosion resistant, and nonabsorbent.

(2) Carpeting is prohibited in food preparation areas.

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- (3) Mechanical ventilation to the outside is required for all commercial cooking equipment, which includes but is not limited to stoves, ranges, ovens, and griddles.
- (4) If residential hood ventilation is used, then cooking equipment shall be limited to a residential stove/oven combination.
- (5) Mechanical ventilation to the outside may be required if a problem is evidenced.
- (6) The use of deep fryers is prohibited.
- (7) Live animals shall be prohibited from food preparation and eating areas.

### **R 400.8315 Food and equipment storage.**

Rule 315. (1) Each refrigerator shall have an accurate working thermometer indicating a temperature 41 degrees Fahrenheit or below.

- (2) All artificial lighting fixtures located over, by, or within food storage, preparation, service areas, or where utensils and equipment are cleaned and stored, shall be properly shielded.
- (3) Unpackaged bulk foods shall be stored in clean covered containers, dated, and labeled as to the contents.
- (4) Food not subject to further washing or cooking before serving shall be stored in a way that protects it from cross-contamination from food requiring washing or cooking.
- (5) Packaged food shall not be stored in contact with water or undrained ice.
- (6) Poisonous or toxic materials shall not be stored with food, food service equipment, utensils, or single-service articles.
- (7) Food, food service equipment, and utensils shall not be located under exposed or unprotected sewer lines, open stairwells, or other sources of contamination. Automatic fire protection sprinkler heads are the exception.
- (8) The storage of food, food service equipment, or utensils in toilet rooms is prohibited.
- (9) Food and utensils shall be stored a minimum of 6 inches above the floor.
- (10) All food service equipment shall be 6 inches off the floor, moveable, or be properly sealed to the floor.
- (11) Meals that are transported shall be prepared in commercial kitchens and delivered in carriers approved by the local health department.

### **R 400.8320 Food preparation.**

Rule 320. (1) **Food shall be in sound condition, free from spoilage, filth, or other contamination and be safe for human consumption.**

- (2) Food shall be prepared on food grade surfaces that have been washed, rinsed, and sanitized.
- (3) Staff shall minimize bare-hand contact with foods that will be cooked.
- (4) Ready to eat foods shall not be prepared or served using bare hands.
- (5) Raw fruits and vegetables shall be thoroughly washed before being cooked or served.
- (6) Food shall be cooked to heat all parts of the food to the safe temperature as identified in the 2009 recommendations of the Food and Drug Administration of the United States Public Health Service 3-401, as referenced in the Michigan Food

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Law, 2000 PA 92, MCL 289.1107. These recommendations are available at no cost from the FDA at [www.fda.gov](http://www.fda.gov).

- (7) Potentially hazardous foods shall be thawed using 1 of the following methods:
  - (a) In the refrigerator at a temperature not to exceed 41 degrees Fahrenheit.
  - (b) Under cold running water.
  - (c) In a microwave oven for either of the following:
    - (i) The food will be immediately transferred to conventional cooking facilities as part of a continuous cooking process.
    - (ii) The entire cooking process takes place in the microwave oven.
  - (d) As part of the conventional cooking process.
- (8) The temperature of potentially hazardous foods shall be 41 degrees Fahrenheit or below or 135 degrees Fahrenheit or above at all times, except during necessary periods of preparation.
- (9) Potentially hazardous foods that have been cooked and then refrigerated shall be reheated rapidly to 165 degrees Fahrenheit or higher throughout before being served or before being placed in a hot food storage facility.
- (10) Accurate metal stem-type food thermometers shall be used to assure the attainment and maintenance of proper internal cooking, holding, reheating, or refrigeration temperatures of all potentially hazardous foods.
- (11) On field trips, all foods shall be protected from contamination at all times.
  - (a) The temperature of potentially hazardous foods shall be maintained at 41 degrees Fahrenheit or below, except during necessary periods of preparation and service.
  - (b) Potentially hazardous foods needing to be cooked shall be cooked to proper temperatures before being served.
  - (c) Food service equipment shall be maintained in a clean and sanitary manner at all times.
  - (d) In the absence of proper hand washing facilities, people preparing and serving food shall wear sanitary disposable food service gloves.

### **R 400.8325 Sanitization.**

Rule 325. (1) All tableware, utensils, food contact surfaces, and food service equipment shall be thoroughly washed, rinsed, and sanitized after each use. Multi-purpose tables shall be thoroughly washed, rinsed and sanitized before and after they are used for meals or snacks.

- (2) Enamelware utensils are prohibited.
- (3) Reuse of single service articles is prohibited.
- (4) Multiuse tableware and utensils shall be washed, rinsed and sanitized using one of the following methods:
  - (a) A commercial dishwasher.
  - (b) A residential dishwasher with sanitizing capability.
  - (c) A 3-compartment sink and adequate drain boards.
  - (d) A 2-compartment sink for washing and rinsing with a third container suitable for complete submersion for sanitizing, and adequate drain boards.
- (5) If the manual washing method is used, all of the following shall be done:
  - (a) Rinse and scrape all utensils and tableware before washing.

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- (b) Thoroughly wash in detergent and water.
  - (c) Rinse in clear water.
  - (d) Sanitize using 1 of the following methods:
    - (i) Immersion for at least 30 seconds in clean, hot water of at least 170 degrees Fahrenheit.
    - (ii) Immersion for at least 1 minute in a solution containing between 50 and 100 parts per million of chlorine or comparable sanitizing agent at a temperature of at least 75 degrees Fahrenheit. A test kit or other device which measures parts per million concentration of the solution shall be used when a chemical is used for sanitizing.
  - (e) Air dry.
- (6) Sponges shall not be used in a food service operation.

### **R 400.8330 Food services and nutrition; generally.**

Rule 330. (1) Snacks and meals shall be provided by the center, except when 1 of the following circumstances occurs:

- (a) A majority of the children are in attendance less than 2.5 hours.
- (b) Food is provided by a parent.
- (2) A written agreement shall be on file at the center if the parent has agreed to provide formula, milk or food. The center shall be responsible for providing an adequate amount of formula, milk, or food if the parent does not.
- (3) Adequate staff shall be provided so that food service activities do not detract from direct care and supervision of children.
- (4) Safe drinking water shall be made available to children one year of age and older throughout the day.
- (5) A child shall be served meals and snacks in accordance with the following schedule:
  - (a) Two and a half hours to 4 hours of operation: a minimum of 1 snack.
  - (b) Four hours to 6 hours of operation: a minimum of 1 meal and 1 snack.
  - (c) Seven hours to 10 hours of operation: a minimum of 1 meal and 2 snacks, or 2 meals and 1 snack.
  - (d) Eleven hours or more of operation: a minimum of 2 meals and 2 snacks.
- (6) A child shall not be deprived of a snack or meal if the child is in attendance at the time when the snack or meal is served.
- (7) Menus shall be planned in advance, shall be dated, and shall be posted in a place visible to parents. Food substitutions shall be noted on the menus the day the substitution occurs.
- (8) If food, bottles, or beverage containers are warmed, then the warming shall be done in a safe, appropriate manner.
- (9) Warming bottles and beverage containers in a microwave oven is prohibited.
- (10) Warmed food, bottles, and beverage containers shall be shaken or stirred to distribute the heat, and the temperature shall be tested before feeding.
- (11) The contents of a bottle or beverage container shall be discarded if any of the following apply:
  - (a) The contents appear to be unsanitary.

- (b) The bottle or beverage container has been used for feeding for a period that exceeds 1 hour from the beginning of the feeding.
- (c) The bottle or beverage container requiring refrigeration has been unrefrigerated for 1 hour or more.
- (12) Formula and milk, including breast milk, left in a bottle or beverage container after a feeding shall not be reused.
- (13) Children shall not have beverage containers or food while they are walking around or playing.

**R 400.8335 Food services and nutrition; provided by center.**

**Rule 335** (1) Food provided by the center shall be of sufficient quantity and nutritional quality to provide for the dietary needs of each child according to the minimum meal requirements of the child and adult care food program as administered by the Michigan Department of Education based on 7 C.F.R. Part 226, 1-1-11 edition, of the U. S. Department of Agriculture, Food and Nutrition Services, Child and Adult Care Food Program and is hereby adopted by reference. A copy can be obtained from CACFP at [www.michigan.gov/cacfp](http://www.michigan.gov/cacfp).

- (2) Beverages and food shall be appropriate for the child's individual nutritional requirements, developmental stages, and special dietary needs, including cultural preferences.
- (3) A child with special dietary needs shall be provided with snacks and meals in accordance with the child's needs and with the instructions of the child's parent or licensed health care provider.
- (4) Milk, other than cow's milk, shall be served only with and as indicated in written authorization from the child's parent or licensed health care provider.
- (5) Children 12 through 23 months of age shall be served whole homogenized Vitamin D-fortified cow's milk, unless written authorization is provided by the child's licensed health care provider.
- (6) Formula and milk shall be commercially prepared and ready-to-feed.
- (7) All fluid milk and fluid milk products shall be pasteurized and meet the grade "A" quality standards.
- (8) Milk shall be served from any of the following:
  - (a) A commercially filled container stored in a mechanically refrigerated bulk milk dispenser.
  - (b) A commercially filled container not to exceed 1 gallon.
  - (c) A sanitized container only if poured directly from the original container.
- (9) All of the following shall apply to milk:
  - (a) Containers shall be labeled with the date opened.
  - (b) Milk shall be served within 7 days of opening.
  - (c) Milk shall not be served if the contents appear to be unsanitary, or have been unrefrigerated for a period exceeding 1 hour.
  - (d) Milk shall not be combined with the contents of other partially filled containers.
- (10) Contents remaining in single-service containers of milk shall be discarded at the end of the snack or meal time.

- (11) Food, already served and handled by the consumer of the food, may not be served again, unless it is in the original, unopened wrapper.
- (12) Uneaten food that remains on a dish from which a child has been fed shall be discarded.
- (13) Home canned products are prohibited.

**R 400.8340 Food services and nutrition; provided by parents.**

Rule 340. (1) Formula or breast milk shall be furnished daily in clean, sanitary, ready-to-feed bottles or beverage containers.

- (2) Milk and other beverages may be furnished daily in clean, sanitary, ready-to-feed bottles or beverage containers or in a multi-day supply in an unopened commercial container.
- (3) Formula, breast milk, milk, other beverages, and food shall be covered and labeled with the child's first and last name, the date, and for non-perishable food items, the date of opening.
- (4) Beverages and food shall be fed only to the child for whom the item is labeled.
- (5) Formula, breast milk, milk, and other perishable beverages and foods shall be refrigerated until used.
- (6) Any formula, milk, or other beverage in a ready-to-feed bottle or beverage container or perishable food shall be returned to the parent at the end of the day or discarded.
- (7) Milk and other beverage provided in a multi-day supply must be returned to the parent or discarded 7 days after opening.

**R 400.8345 Infant and toddler feeding; generally.**

Rule 345. (1) Infants and young toddlers shall be fed on demand.

- (2) Bottle propping is prohibited.
- (3) When feeding, caregivers shall hold infants except when infants resist being held and are able to hold their bottle.
- (4) Infants or toddlers shall not have bottles, beverage containers or food in sleeping equipment.
- (5) Cereal shall not be added to a bottle or beverage container without written parental permission.
- (6) Breastfeeding shall be supported and accommodated.
- (7) A designated place shall be set aside for mothers who are breastfeeding to use.
- (8) Infants and toddlers shall not be served or allowed to eat foods that may easily cause choking including, but not limited to, popcorn, seeds, nuts, hard candy and uncut round foods such as whole grapes and hot dogs.
- (9) Staff shall foster and facilitate toddlers' independence, language, and social interactions by:
  - (a) Encouraging self-feeding.
  - (b) Serving appropriate portion sizes.
  - (c) Sitting and eating with toddlers during meal times.

**R 400.8350 Infant and toddler feeding; provided by centers.**

- Rule 350. (1) Infants shall only be served formula or breast milk to drink unless written authorization is provided by the child's licensed health care provider.**
- (2) All liners, nipples, formula, milk and other materials used in bottle preparation shall be prepared, handled, and stored in a sanitary manner.**
  - (3) Prepared bottles and beverage containers of milk and formula shall be refrigerated and labeled as to the contents and date of preparation.**
  - (4) All formula, once opened, shall be labeled with the date and time of opening, refrigerated, and used within 48 hours or discarded.**
  - (5) Reusable nipples and bottles shall be washed, rinsed, and sanitized before reuse.**
  - (6) Bottle liners and disposable nipples shall be for single use only, by an individual child, and discarded with any remaining formula or milk after use.**
  - (7) Bottle liners in unused bottles containing formula shall be discarded, along with the formula, after 48 hours.**
  - (8) Solid foods shall be introduced to an infant according to the parent's or licensed health care provider's instructions.**
  - (9) Commercially packaged baby food shall be served from a dish, not directly from a factory-sealed container, unless the entire container will be served to only one child or discarded at the end of the feeding period.**
  - (10) There shall be a sink that is used exclusively for formula, food preparation, and clean up.**

**R 400.8355 Diapering; toileting.**

Rule 355 (1) Diapering shall occur in a designated diapering area that complies with all of the following:

- (a) Is physically separated from food preparation and food service.
  - (b) Is within close proximity to a sink that is used exclusively for hand washing.
  - (c) Has non-absorbent, smooth, easily sanitized surfaces in good repair.
  - (d) Is of sturdy construction with railings or barriers to prevent falls.
  - (e) Is at an adult work surface height.
  - (f) Is washed, rinsed, and sanitized after each use.
- (2) Diapering supplies shall be within easy reach of the designated diapering area.**
  - (3) A plastic-lined, tightly covered container shall be used exclusively for disposable diapers and diapering supplies that shall be emptied and sanitized at the end of each day.**
  - (4) Only single use disposable wipes or other single use cleaning cloths shall be used to clean a child during the diapering or toileting process.**
  - (5) Diapers/training pants shall be checked frequently and changed when wet or soiled.**
  - (6) Children 12 months of age and older may be changed in a bathroom.**
  - (7) Guidelines for diapering shall be posted in diapering areas.**
  - (8) Disposable gloves shall be used for diapering. Gloves shall only be used once for a specific child and be removed and disposed of in a safe and sanitary manner immediately after each diaper change.**

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- (9) The following shall apply when cloth diapers or training pants are used:
- (a) Each cloth diaper or training pant shall be covered with a waterproof covering. The diaper or training pant shall be removed as a singular unit when soiled.
  - (b) The diaper, training pant and outer covering shall not be reused until washed and sanitized.
  - (c) No rinsing of the contents shall occur at the center.
  - (d) Soiled diapers or training pants shall be placed in a plastic-lined, covered container and used only for that child's soiled diapers or training pants.
  - (e) Soiled diapers or training pants shall be stored and handled in a manner that will not contaminate any other child contact items and shall not be accessible to children.
  - (f) Soiled diapers or training pants shall be removed from the center every day by the child's parent.
  - (g) A child's supply of clean diapers or training pants shall only be used for that child.
- (10) Toilet learning/training shall be planned cooperatively between the child's regular caregivers and the parent so that the toilet routine established is consistent between the center and the child's home.
- (11) Equipment used for toilet learning/training shall be provided. Adult-sized toilets with safe and easily cleaned modified toilet seats and step aids or child-sized toilets shall be used.
- (12) Non-flushing toilets (potty chairs) may be used if they are:
- (a) Made of a material that is easily cleaned and sanitized.
  - (b) Used only in a bathroom area.
  - (c) Used over a surface that is impervious to moisture.
  - (d) Washed, rinsed, and sanitized after each use.

### **R 400.8360 Water supply; plumbing.**

Rule 360. (1) The water system shall comply with the requirements of the local health department.

- (2) Plumbing shall be designed, constructed, installed, and maintained to prevent cross-connection with the water system.
- (3) Sinks, lavatories, drinking fountains, and other water outlets shall be supplied with safe water, sufficient in quantity and pressure, to meet conditions of peak demand.
- (4) **All plumbing fixtures and water and waste pipes shall be properly installed and maintained in good working condition. Each water heater shall be equipped with a thermostatic temperature control and a pressure relief valve, both of which shall be in good working condition.**

### **R 400.8365 Toilets; hand\_washing sinks.**

Rule 365. (1) The center shall have 1 toilet and 1 hand\_washing sink for every 15 children or fraction thereof. A center operating with children in attendance less than 5 continuous hours a day shall provide at least 1 toilet and 1 hand\_washing sink for every 20 children or fraction thereof beyond the first 20.

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- (2) After 12/7/2006, any center that is new, relocates, adds an infant/toddler component, or increases the licensed infant/toddler capacity, shall have a diapering area with a readily accessible, designated hand\_washing sink.
- (3) Hand\_washing sinks shall be accessible to children by platform or installed at children's level.
- (4) Hand\_washing sinks shall have warm running water not to exceed 120 degrees Fahrenheit.
- (5) Soap and single service towels or other approved hand drying devices shall be provided.
- (6) Toilet rooms for school-age children shall provide for privacy.
- (7) All newly constructed or remodeled facilities shall include separate hand washing sinks in the kitchen and diapering areas.

### **R 400.8370 Sewage disposal.**

Rule 370. (1) Sewage and other water-carried wastes shall be disposed of through a municipal or private sewer system.

- (2) Private sewer/septic systems shall be designed and operated to safely dispose of all wastewater generated, shall be adequate in size for the projected use and meet the criteria of the local health department.

### **R 400.8375 Garbage and refuse.**

Rule 375. (1) All garbage shall be removed from the building daily.

(2) Garbage containers shall be washed when soiled.

(3) Garbage stored outside shall be in sealed plastic bags in watertight containers with tight-fitting covers or in a covered dumpster.

- (4) Outside garbage and refuse shall be picked up or removed at a minimum of once a week.

### **R 400.8380 Heating; temperature.**

Rule 380. (1) The temperature in child use areas shall be maintained at a safe and comfortable level so that children in care do not become overheated or chilled:

- (a) The indoor temperature shall be at least 65 degrees Fahrenheit in child use areas at a point 2 feet above the floor.
- (b) If temperatures exceed 82 degrees Fahrenheit, then measures shall be taken to cool the children.

### **R 400.8385 Light, ventilation, and screening.**

Rule 385. (1) The total ventilation area in every habitable room, as provided by openable windows, shall be not less than 4½ percent of the floor area, unless central air conditioning is provided.

- (2) If ventilation is dependent on a mechanical system, then the system shall be on at all times while the building is occupied and shall comply with the ventilation requirements of the applicable mechanical code of the authority having jurisdiction.
- (3) Artificial light or natural light, or both, shall be capable of providing a minimum illumination of 20 foot candles over the entire room at a height of 3 feet from the floor.

- (4) Windows and doors used for ventilation shall be supplied with screening of not less than 16 mesh, which shall be kept in good repair. This subrule does not apply to child care programs operating in school buildings.

**R 400.8390 Premises.**

Rule 390. (1) The center shall be located on land that provides good natural drainage or that is properly drained.

- (2) Stairs, walkways, ramps, landings, and porches shall meet the following requirements:
- (a) If elevated, shall have barriers to prevent falls and handrails designed and constructed for use by children.
  - (b) Shall be maintained in a safe condition relative to the accumulation of water, ice, or snow, and shall have nonslip surfacing.
  - (c) Landings shall be located outside exit doors where steps or stairs are necessary and shall be at least as wide as the swing of the door.
  - (d) Stairway steps shall be not more than 8 inches in height, with a minimum tread depth of 9 inches.
  - (e) If ramps are used, then they shall have a minimum rise-to-run ratio of 1 to 12.

**R 400.8395 Maintenance of premises.**

Rule 395. (1) The premises shall be maintained in a clean and safe condition and shall not pose a threat to health or safety.

- (2) The premises shall be maintained so as to eliminate and prevent rodent and insect harborage.
- (3) Roofs, exterior walls, doors, skylights, and windows shall be weathertight and watertight and shall be kept in sound condition and good repair.
- (4) Floors, interior walls, and ceilings shall be sound, in good repair, and maintained in a clean condition.
- (5) There shall be no flaking or deteriorating paint on interior and exterior surfaces or on equipment accessible to children.
- (6) All toilet room floor surfaces shall be constructed and maintained so as to be impervious to water and to permit the floor to be easily kept in a clean condition.
- (7) Light fixtures, vent covers, wall-mounted fans and similar equipment attached to walls and ceilings shall be easily cleanable and maintained in good repair.
- (8) A lead hazard risk assessment shall be completed by a certified lead assessor on all child care centers built before 1978. Any lead hazards identified shall be addressed as noted in the lead hazard risk assessment report before issuance of an original provisional license. The results of the assessment shall be kept on file in the center. Child care centers licensed before December 7, 2006 have two years from the effective date of these rules to comply with this rule. Centers that operate in a school building serving only school-age children are exempt from the requirements in this rule.
- (9) As required by 1994 PA 451, MCL 324.8316, the center shall develop and implement an integrated pest management program when pesticide applications occur on the premises. The integrated pest management program shall include, but not be limited to, the following:

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- (a) An annual notification shall be provided to parents or guardians informing them that they will receive advance notice of pesticide applications. The annual notice must be provided in September.
- (b) The annual notification to parents or guardians shall specify 2 methods by which the advance notice of pesticide application will be given.
- (c) An advance notice shall contain information about the pesticide, including the target pest or purpose, approximate location, date of the application, contact information at the center, and a toll-free number for a national pesticide information center recognized by the Michigan Department of Agriculture.
- (d) Liquid spray or aerosol insecticide applications may not be performed in a room of a child care center unless the room will be unoccupied by children for not less than 4 hours or longer if required by the pesticide label use directions.

### **R 400.8397 Poisonous or toxic materials.**

Rule 397. Containers of poisonous or toxic materials shall be clearly labeled for easy identification of contents and stored out of reach of children.

## **FIRE SAFETY PROVISIONS**

### **R 400.8501 Definitions.**

Rule 501. As used in this part:

- (a) "Basement" means a story of a building or structure having  $\frac{1}{2}$  or more of its clear height below average grade for at least 50% of the perimeter.
- (b) "Combustible" means materials will ignite and burn when subjected to a fire or excessive heat.
- (c) "Conversion" means to alter the use of an existing building or room to a center.
- (d) "Existing building" means a structure or part of a structure not currently used as a child care center.
- (e) "Existing licensed center" means a center that was licensed before December 6, 2006 and whose license continues uninterrupted.
- (f) "Exit" means a way of departure from the interior of a building or structure to the open air outside at ground level.
- (g) "Fire alarm" means a device used to alert the occupants of the building of fire or smoke conditions. The device shall be audible in all parts of the building used as a center.
- (h) "Fire alarm system" means an approved electrical closed circuit, self-supervised local system for sounding an alarm. The system is comprised of a central panel, manual pull stations near all outside exits, audible electric signal devices, and where warranted, a remote trouble annunciator. All system components shall be listed by a nationally recognized testing laboratory and installed in accordance with NFPA-72.
- (i) "Fire door assembly" means a side-hinged, labeled fire door and labeled frame constructed and installed in compliance with NFPA-80.

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- (j) “Fire-resistance rating” means the time for an element in a building to maintain its particular fire resistance properties in accordance with NFPA-251.
- (k) “Fire-resistive construction” means a building having walls, ceilings, floors, partitions, and roof of non-combustible materials having a minimum fire-resistance rating of 1 hour. This subdivision shall not be construed as prohibiting finished wood floors, doors, and windows with assorted frames and trim.
- (l) “Flameproof materials” means materials that will not propagate flame under the test conditions of NFPA-701. Flameproof materials are usually combustible materials with the addition of some treatment or coating to modify their burning properties.
- (m) “Flammable” means materials capable of being readily ignitable from common sources of heat or at a temperature of 600 degrees Fahrenheit, 316 degrees Celsius, or less.
- (n) “Hazard area” means those parts of a center building housing a commercial kitchen, heating plant, fire-fueled water heater, incinerator, or an area posing a higher degree of hazard than the general occupancy of the building.
- (o) “Heating plant room” means a room or area housing fuel fired equipment.
- (p) “Interior finish” means the exposed interior surface materials of walls, fixed or movable partitions, and ceilings. This includes drywall, masonry, or wood substructure and surfacing materials such as paneling, tile, or other interior finish material and any surfacing materials, such as paint or wallpaper, applied thereto. Interior finish includes materials affixed to the building structure as distinguished from decorations or furnishings.
- (q) “Means of egress” means a minimum of 36 inch wide continuous and unobstructed path of exit travel from any point in a building to the outside at grade.
- (r) “National Fire Protection Association pamphlets” are pamphlets issued by the National Fire Protection Association (NFPA) on different standards intended to minimize the possibility and effects of fire and other risks. The following NFPA pamphlets are hereby adopted by reference. Copies of the adopted matter may be purchased from the National Fire Protection Association at [www.nfpa.org](http://www.nfpa.org).
  - (i) NFPA-10, 2010, Standard for Portable Fire Extinguishers.
  - (ii) NFPA-13, 2010, Standard for the Installation of Sprinkler Systems.
  - (iii) NFPA-25, 2011, Standard for the Inspection, Testing and Maintenance of Water-Based Fire Protection Systems.
  - (iv) NFPA-72, 2010, National Fire Alarm Code and Signaling Code.
  - (v) NFPA-80, 2010, Standard for Fire Doors and Other Opening Protectives.
  - (vi) NFPA-251, 2006, Standard Methods of Tests of Fire Resistance of Building Construction and Materials.
  - (vii) NFPA-265, 2002, Standard Methods of Fire Tests for Evaluating Room Fire Growth Contribution of Textile Coverings on Full Height Panels and Walls.
  - (viii) NFPA-701, 2010, Standard Methods of Fire Tests for Flame Propagation of Textiles and Films.

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- (s) “New construction” means a created structure, addition, replacement, or alteration of structural components, such as walls.
- (t) “Noncombustible” means materials that will not ignite and burn when subjected to fire.
- (u) “Protected ordinary construction” means all of the following types of construction:
  - (i) Roofs and floors and their supports have a minimum of 1-hour fire-resistance rating.
  - (ii) Exterior bearing walls or bearing portions of exterior walls are of noncombustible or limited combustible materials and have a minimum of 1-hour fire-resistance rating and stability under fire conditions.
  - (iii) Nonbearing exterior walls are of noncombustible or limited combustible materials.
  - (iv) Roofs, floors, and interior framing are wholly or partly made of wood of smaller dimension than required for heavy timber construction.
- (v) “Standard partition construction” means a substantial smoke-tight assembly consisting of walls, in conjunction with ceilings at which they terminate, that are covered on both sides with minimum standard lath and plaster or ½-inch drywall over 2” x 4” studs. Doorways in these walls are protected with minimum 1 3/4-inch flush solid core wood doors or 20 minute labeled fire-rated doors and equipped with approved self-closing devices and positive latching hardware. One or more glass panes are permitted in these walls and/or doors if each individual glass panel is fixed pane and not larger than 1,296 square inches of ¼-inch wired glass with no linear dimension longer than 54 inches or fire-rated safety glass, of any size, listed with a minimum fire rating of 45 minutes and installed as listed. In some cases, drywall or plaster is also necessary to protect the underside of stairs.
- (w) “Textile material” means having a napped, tufted, looped, woven, non-woven or similar surface.
- (x) “Wired glass” means glass not less than 1/4-inch thick, reinforced with wire mesh, number 24 gauge or heavier, with spacing not greater than 1 square inch.
- (y) “Wood frame construction” means that type of construction in which exterior walls, bearing walls and partitions, and floor and roof constructions and their supports are made of wood or other combustible material.

### **R 400.8505 Plans and specifications; submission; approval; inspections.**

Rule 505. (1) A complete set of plans and specifications of any proposed center or proposed addition, alteration, or remodeling to an existing center shall be submitted to the bureau of fire services for review and approval.

- (2) Written approval shall be obtained from the bureau of fire services before initiating any construction.
- (3) Plans shall bear the seal of a registered architect or engineer when the total cost of the project is \$15,000 or more, including labor and materials.
- (4) A fire safety inspection shall be conducted by the bureau of fire services or a department-approved qualified fire inspector and an approval granted before

issuance of the original provisional license and every 4 years thereafter, at the time of renewal.

- (5) If a boiler is used, then it shall be inspected and a certificate provided, as required, by the boiler division, department of licensing and regulatory affairs.
- (6) Fuel-fired furnaces shall be inspected prior to issuance of an original license and every 2 years at renewal by a mechanical contractor licensed by the state of Michigan.
- (7) Fuel-fired water heaters shall be inspected prior to issuance of an original license and every 2 years at renewal by either a mechanical contractor or a plumbing contractor licensed by the state of Michigan.
- (8) New furnace and water heater installations shall be:
  - (a) Inspected and approved by the department of licensing and regulatory affairs or local mechanical inspecting authorities at the time of installation.
  - (b) Inspected and approved by a qualified fire safety inspector or the bureau of fire services to ensure continued compliance with appropriate fire safety provisions of these rules.

#### **R 400.8510 Construction.**

Rule 510. (1) If child occupancy is limited to the first or main floor, then the building may be of wood frame construction.

- (2) If child occupancy is on the second floor, then all of the following are required:
  - (a) The building shall be of protected ordinary construction.
  - (b) All required stairways and vertical openings shall be enclosed by walls, in conjunction with openings therein, and ceilings at which they terminate that meet the requirements of standard partition construction.
  - (c) All door openings contained in subdivision (b) of this subrule shall meet all of the following requirements:
    - (i) Be protected with 1 3/4-inch flush solid core wood doors or 20 minute labeled fire-rated doors.
    - (ii) Be installed in fully stopped smoke-tight, substantial frames.
    - (iii) Be equipped with approved self-closing devices and non-locking-against-egress positive latching hardware.
- (3) If child occupancy is above the second floor, then both of the following shall be required:
  - (a) The building shall be of 1-hour fire-resistive construction.
  - (b) All required stairways and other vertical openings shall be enclosed by a minimum 1-hour fire-resistive construction to provide a protected means of egress to the outside with proper termination to grade.
- (4) If any portion of a basement is used for more than 30 children, then 1 of the following provisions shall be required:
  - (a) Two enclosed stairways of 1-hour fire-resistant construction shall discharge directly to the outside with proper termination to grade, and all openings in the stairways shall be protected by a minimum of 1-hour or "B" labeled fire doors and frame assemblies.

- (b) One approved exit from the occupied room or use area shall discharge directly to the outside with proper termination to grade. Travel distance from any point in this room or area to this exit shall be less than 50 feet.
- (c) Two remote exits comprised of any combination of subrules (a) and (b) of this rule.
- (5) If basement occupancy is limited to not more than 30 children, then the following shall apply:
  - (a) One of the exits required by subrule (5) of this rule shall discharge directly to the outside with proper termination to grade or through a 1-hour fire-resistive enclosure.
  - (b) The second exit may terminate at the first floor level with an approved floor separation, meeting the requirements of standard partition construction, between the basement and the first floor.
  - (c) For new construction and conversions, the separation shall be located at the first floor with travel distance from the door to an approved exit not exceeding 100 feet.
- (6) All vertical openings and stairways that are not required shall be constructed and arranged with effective fire and smoke separation under the requirements of standard partition construction. All door openings shall be as follows:
  - (a) Protected with 1 3/4-inch flush solid core wood doors or 20 minute labeled fire-rated doors.
  - (b) Installed in fully stopped smoke-tight substantial frames.
  - (c) Equipped with approved self-closing devices and non-locking-against-egress positive latching hardware.

**R 400.8515 Interior finishes**

Rule 515. (1) The classifications of interior finishes for flame spread and smoke development in Table 1 shall be used as follows:

**TABLE 1  
FLAME SPREAD AND SMOKE DEVELOPMENT FOR INTERIOR FINISHES**

Class	Flame Spread	Smoke Developed
A OR I	0-25	0-450
B OR II	26-75	0-450
C OR III	76-200	0-450

- (2) Basic materials in a means of egress and basement use occupancies shall be class A or I or B or II.
- (3) Basic materials in all other areas shall be class C or III.
- (4) Interior finish material more hazardous than class C or III shall be prohibited in child use areas.
- (5) If an approved automatic sprinkler system is installed and maintained in accordance with NFPA-13 and NFPA-25, then class C interior wall and ceiling finish materials shall be permitted in any location where class B is required and class B interior wall and ceiling finish materials shall be permitted in any location where class A is required.

- (6) In an existing licensed center or conversion, existing interior finishes which do not comply with the classifications in subrule (1) of this rule may have their surfaces protected with an approved fire-retardant coating to meet the classifications for interior finishes. The coatings shall be applied to interior finishes that are attached to, or furred out not more than 1 inch from a noncombustible backing and applied according to manufacturer's recommendations. Documentation shall be provided as required by the bureau of fire services.
- (7) Interior finish materials of classes B and C which are less than 1/4 inch in thickness shall be applied directly against a noncombustible backing or shall be furred out not more than 1 inch unless the tests under which such material has been classed were made with out a backer.
- (8) Centers licensed prior to December 7, 2006 may retain previously approved fire retardant coated interior finishes.
- (9) Textile materials having a class A or I rating and used as an interior finish shall be permitted as follows:
  - (a) On walls or ceilings of rooms or areas protected by an automatic sprinkler system approved by the department.
  - (b) On room partitions that are less than  $\frac{3}{4}$  of the floor-to-ceiling height not to exceed 8 feet in height.
  - (c) To extend up to 4 feet above the finished floor on ceiling-height walls and ceiling-height partitions.
  - (d) Textile materials shall be permitted on walls and partitions where tested in accordance with and meeting the standards of NFPA 265. If compliance is achieved by application of a flame-proofing product in accordance with NFPA-701, documentation shall be provided as required by the bureau of fire services.
- (10) Drapery material may be used for stage curtains, room dividers, and similar uses if the material has been tested and approved in accordance with NFPA-701.
- (11) Drapery material applied to surfaces of a facility as an interior finish shall meet the requirements of subrule (9) of this rule.
- (12) All vinyl and wooden wall dividers shall meet the interior finish requirements of subrules (1), (2), and (3) of this rule, as applicable.
- (13) Bulletin boards shall meet the interior finish requirements of subrules (2) and (3) of this rule.
- (14) Combustible materials and decorations may be displayed on walls, not to exceed 20 percent of a wall space. Combustible materials and decorations suspended from or near the ceiling are prohibited.

#### **R 400.8520 Exits.**

Rule 520. (1) Except as referenced in R 400.8510(4) and (5)(c), each occupied floor shall have not less than 2 approved exits directly to the outside with proper termination to grade, remote from each other by 50% of the longest dimension of the floor or area served, and occupied rooms within the center shall be located between means of egress, unless a first floor, self-contained, occupied room has an approved exit direct to the outside with proper termination to grade with a maximum travel distance of 50 feet from the most remote point in the room to the exit.

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- (2) Travel distance to an exit shall be as follows:
  - (a) For infants and young toddlers, travel shall be 50 feet or less from the door of the occupied room to the exit.
  - (b) For older toddlers to school-age, travel shall be 100 feet or less from the door of the occupied room to the exit.
  - (c) Buildings having complete automatic sprinkler protection may increase their travel distances by 50 feet.
  - (d) Those areas approved before December 6, 2006 are exempt from the requirements of this rule.
- (3) For all centers initially licensed after December 6, 2006, programs with infants and young toddlers shall have exits with proper termination and within 30 inches of grade or exits properly ramped to grade.
- (4) Exit doors and all doors in the means of egress shall be side-hinged and equipped with knob, or lever-type, non-locking-against-egress or panic-type hardware.
- (5) Exit doors and doors in rooms occupied by 21 or more children shall swing in the direction of egress.
- (6) Means of egress shall be maintained in an unobstructed, easily traveled condition at all times that the center is in operation. Means of egress shall not be exposed to inherent hazards of the building, including heating plant, flammable storage, commercial kitchen, or other similar conditions.
- (7) In new construction, additions, remodeling, and conversions, there shall be a floor or landing on each side of an exit door. The floor or landing shall be at the same elevation on each side of the door except for variations in elevation due to differences in finish materials, which may not exceed 1/2 inches.
- (8) In conversions, landings shall have a width not less than the width of the stairway or the width of the door, whichever is greater. Landings shall have a length not less than the width of the door.
- (9) In new construction, additions and remodeling, landings shall comply with the latch-side clearance requirements of International Code Council/American National Standards Institute standard A117.1 (ICC/ANSI A117.1), 2003, Standard for Maneuvering. ICC/ANSI A117.1 is hereby adopted by reference. Copies of the adopted matter may be purchased from the International Code Council at [www.iccsafe.org](http://www.iccsafe.org) or 1-800-786-4452.
- (10) For new construction, additions and remodeling, an exit door shall be not less than 36 inches in width. Doors to multiple use bathrooms shall not be less than 32 inches wide.
- (11) For the conversion of an existing building, exterior exit doors shall be not less than 36 inches wide. Other use room doors shall be not less than 28 inches wide. Single use toilet room doors shall not be less than 24 inches in width. Any remodeled door openings, other than door swing, shall comply with subrule (10) of these rules.
- (12) Centers licensed before December 6, 2006 may retain previously approved door widths.
- (13) Exterior exits shall be marked or denoted by an approved exit sign. All exit signs shall be distinctive in color and shall provide contrast with decorations, interior finish, or other signs. Each exit sign shall have the word "exit" in plain, legible

letters not less than 6 inches high on a background of contrasting color with strokes not less than 3/4-inch wide.

(14) When nighttime care is provided, the center shall have exits with proper termination and within 30 inches of grade or exits properly ramped to grade.

(15) When nighttime care is provided, exit signs shall be illuminated and emergency lighting provided at exits.

#### **R 400.8525 Hazard Areas.**

Rule 525. (1) Hazard areas shall be separated from the parts of the building used as a center in the following manner:

- (a) In centers licensed before June 4, 1980, areas used for the storage of combustibles and other hazard areas will continue to be approved if they are enclosed with a minimum ¾-hour fire resistive construction and doorways to the areas are protected with a minimum 1 3/4-inch flush solid core wood or 20 minute labeled fire-rated doors equipped with approved self-closing devices and positive latching hardware.
  - (b) In centers licensed prior to July 1, 2000, the following shall apply:
    - (i) Where the area used for the storage of combustibles exceeds 100 square feet, by construction having a minimum 1-hour fire resistance rating, openings in the separation shall be protected with a minimum of 1-hour or "B" labeled fire door and frame assembly, including an approved self-closing device and positive latching hardware.
    - (ii) Where the area used for the storage of combustibles does not exceed 100 square feet, by construction having a minimum ¾-hour fire resistance rating, all door openings shall be protected by minimum 1 3/4-inch flush solid core wood doors or 20 minute labeled fire-rated doors hung in substantial frames and equipped with approved self-closing devices and positive latching hardware.
  - (c) In centers licensed after July 1, 2000, all of the following shall apply:
    - (i) Where the area used for the storage of combustibles exceeds 100 square feet, by construction having a minimum 1-hour fire resistance rating, openings in the separation shall be protected with a minimum of 1-hour or "B" labeled fire door and frame assembly, including an approved self-closing device and positive latching hardware.
    - (ii) Where the area used for the storage of combustibles does not exceed 100 square feet, by construction having a minimum 1-hour fire resistance rating. All door openings shall be protected by minimum 1¾ inch flush solid core wood doors or 20 minute labeled fire-rated doors in substantial frames and equipped with approved self-closing devices and positive latching hardware.
- (2) Where a kitchen with commercial cooking equipment exposes a required means of egress or use area, it shall be separated from the remainder of the building with minimum 1-hour fire resistive construction including a minimum of 1-hour or "B" labeled fire door and frame assemblies in all common openings. Kitchens having commercial cooking equipment protected by an approved automatic kitchen hood suppression system are exempt from this requirement.

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- (3) The use of an incinerator is prohibited.
- (4) Heating shall be by a central heating plant or an approved permanently installed electrical heating system. If heating is provided by a central heating plant and located on the same floor that is used for child occupancy, it shall be installed in an enclosure providing not less than a 1-hour fire-resistive separation, including a minimum of 1-hour or "B" labeled fire door and frame assembly equipped with an approved self-closing device and positive latching hardware in any interior door opening. Door openings for heat plant enclosures not located on the same floor that is used for child occupancy may have 1 ¾-inch flush solid wood core doors or 20 minute labeled fire-rated doors having positive latching hardware and an approved self-closing device. Air for proper combustion, a minimum of 1 square inch per 4,000 BTUs input, shall be provided directly from the outside through a permanently opened louver or metal duct.
- (5) In centers licensed before December 6, 2006, a properly installed heating plant located in a basement which is not used for child occupancy does not require additional protection where there is a qualified fire separation and with at least a 1 ¾-inch flush solid core wood doors or 20 minute labeled fire-rated doors hung in a substantial frame and equipped with an approved self-closing device and positive latching hardware in all stairway openings.
- (6) Any fuel-fired water heater or other similar equipment shall be located according to subrules (4) or (5) of this rule, as applicable.
- (7) Where electric heating is used, it shall be Underwriters' Laboratories, Inc. labeled or listed permanent, fixed-type electrical heating such as recognized panel or baseboard fixed-type. Electric heating which complies with this requirement may be installed in any location.
- (8) Auxiliary heating units, such as portable combustion or electrical types, are prohibited.
- (9) The center shall not store flammable materials, including fuels, pressurized cans, cleaning fluids and supplies, polishes, and matches, in heat plant enclosures. These items may be stored outside of child use areas in metal cabinets or storage facilities accessible only to authorized personnel.
- (10) The center shall not store combustible materials within the central heating plant or fuel fired water heater rooms or in basements containing fuel-fired heating equipment, without a proper fire separation.
- (11) The center shall not permit flammable gases, gasoline or gasoline-powered equipment in the part of a building which is used as a center or in other parts of the building from which there is a door, window, or other opening into the center, unless that part of the building is separated from the remainder of the building by minimum 2-hour fire resistive construction.
- (12) If commercial-type laundry equipment is installed, then the equipment shall be enclosed to provide a 1-hour resistance to fire, including a minimum of 1-hour or "B" labeled fire door and frame assembly in an interior door opening which would expose the center.
- (13) Dryer vents shall be metal and vented completely to the exterior.
- (14) Fire dampers shall not be required in ¾-hour and 1-hour fire-resistive enclosures.

(15) All appliances and equipment in the center shall be installed and maintained in accordance with their manufacturer's specifications.

(16) Centers shall be kept free of all conditions that constitute fire safety hazards.

**R 400.8530 Fire alarm.**

Rule 530. (1) In any building used as a center, an approved fire alarm, either electrical or manual, shall be established.

(2) In centers of more than 4 child-occupied rooms, excluding bathrooms, or in centers licensed for more than 60 children, an approved fire alarm system shall be installed and maintained in compliance with NFPA-72.

(3) In new construction, conversions, remodeling, or newly licensed centers, the trouble signal for required fire alarm systems shall be located in an area normally occupied by child care staff.

**R 400.8535 Smoke detectors; carbon monoxide detectors.**

Rule 535. (1) Newly constructed centers, additions, and conversions shall at a minimum be equipped with approved single station smoke detectors covering all use areas and their means of egress. These smoke detectors shall be located and spaced according to NFPA-72.

(2) Centers with any fuel-fired heating systems shall have a carbon monoxide detector, bearing a safety certification mark of a recognized testing laboratory such as UL (Underwriters Laboratories) or TL (Electrotechnical Laboratory), on all levels approved for child care and in each child care use area covered by a different furnace zone.

(3) Centers shall properly install and maintain all detectors in operable condition in accordance with manufacturer's recommendations.

**R 400.8540 Fire extinguishers.**

Rule 540. (1) Multipurpose fire extinguishers, having ratings of not less than 2A-10BC, shall be installed in or adjacent to the kitchen or cooking area and in or adjacent to the door of the heating plant room.

(2) The requirement of having additional multipurpose fire extinguishers with ratings of not less than 2A-10BC shall be determined by the fire inspecting authority and shall be based on the capacity of the center and on other conditions in the facility.

(3) Fire extinguishers shall be properly mounted, inspected, and maintained in accordance with NFPA-10. The fire extinguisher shall bear a tag indicating the last date of inspection or service and the initials of the person who performed the inspection or service.

**R 400.8545 Electrical service.**

Rule 545. (1) The electrical service shall be maintained in a safe condition.

(2) For new construction and additions, electrical systems and service shall be inspected and approved by the electrical inspecting authority having jurisdiction. A copy of the certificate of approval shall be maintained at the center at all times.

(3) When warranted, conversions of existing buildings and existing rooms to child care use, as well as existing licensed centers, may require an electrical inspection.

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- (4) Extension cords listed by a nationally recognized laboratory, and used in accordance with all manufacturer's recommendations, may be used on a temporary basis, and for short periods of time.
- (5) All electrical outlets in child use areas for children who are not yet school-age shall be made inaccessible to children.
- (6) All electrical outlets in approved child care space located within 6 feet of a sink or other water source shall be protected by a ground-fault circuit interrupter (GFCI).
- (7) Power strips shall be equipped with surge protectors and shall not be longer than six feet or be connected to another power strip.

### **R 400.8550 Open flame devices; candles.**

Rule 550. All open-flame devices, candles and incense are prohibited, except for religious celebrations.

### **R 400.8555 Multiple occupancy.**

Rule 555. (1) Multiple occupancy of a building may qualify for licensure if the entire building does not present a life safety hazard. A center currently licensed in such a building may continue as long as such occupancies do not change in character.

- (2) A building, part of which is used for hazardous operations or for occupancy that is unpredictable, such as taverns, garages, repair shops, and industrial operations, shall not be permitted for center use. However, an exception may be made for a vocational education center approved by the department of licensing and regulatory affairs.

### **R 400.8560 Fire safety; exemptions for public and nonpublic school buildings.**

Rule 560. The rules with respect to fire prevention and fire safety shall not apply to a child care center established and operated by an intermediate school board, the board of a local school district, or by the board or governing body of a state-approved nonpublic school, or by a person or entity with whom a school contracts for services, if the child care center is located in a school building that is approved by the state fire marshal or other similar authority.

## **TRANSPORTATION PROVISIONS**

### **R 400.8701. Definitions.**

Rule 701. As used in this part:

- (a) "Child passenger restraint device" means a device that is used to restrain a child weighing less than 65 pounds that meets the requirements of federal motor vehicle safety standard no. 213, child seating systems, 49 C.F.R. §571, revised 10-1-2002, and is hereby adopted by reference. Copies of the adopted matter may be obtained at no cost from the U.S. Department of Transportation at [www.nhtsa.dot.gov/cars/rules](http://www.nhtsa.dot.gov/cars/rules).
- (b) "Manufacturer's rated seating capacity" means the number of places or spaces provided by the manufacturer of a vehicle for the driver and passengers to sit while the vehicle is in motion.

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- (c) “Motor vehicle” means a self-propelled device in which persons are or may be transported upon a highway, which is built on an automobile or truck chassis, which is specifically designed by the manufacturer to transport passengers, or specially modified to transport handicapped passengers, and which meets the safety equipment requirements of the Michigan vehicle code, 1949 PA 300, MCL 257.683 to 257.714b.
- (d) “Safety belt” means an automobile lap belt or lap-shoulder belt combination designed to restrain and protect a passenger or driver of a vehicle from injury.
- (e) “School transportation” means transportation by a public, non-public or private school.
- (f) “Transportation” means the conveyance of children by means of a motor vehicle to or from a child care center and to and from all other activities planned for children by or through the child care center.
- (g) “Volunteer motor vehicle” means a motor vehicle not owned by, leased by, or registered to the child care center, or principal or employee of the child care center.

### **R 400.8710 Transportation.**

Rule 710. (1) If transportation other than public transportation or school transportation is provided, contracted, or sponsored by the center, all rules in this part apply.

- (2) If public transportation or school transportation is used, then only R 400.8760, R 400.8780, R 400.8790, and R 400.8146 apply.
- (3) If a parent makes a private arrangement for the transportation of his or her child, not including arrangements made with the center, the rules in this part do not apply.

### **R 400.8720 All motor vehicles.**

Rule 720. (1) All motor vehicles shall be in safe operating condition.

- (2) Motor vehicle seats used by children, staff, and volunteers shall not face sideways.
- (3) A truck shall not be used to transport children, except in the cab.
- (4) There shall be no loose or heavy objects in the passenger compartment of any motor vehicle.
- (5) Motor vehicles with a manufacturer's rated seating capacity of 10 passengers or fewer, including the driver, other than volunteer vehicles, shall be inspected annually by a licensed mechanic. A copy of the inspection shall be on file in the center.
- (6) The use of passenger vans with a rated seating capacity of 11 or more, including volunteer vehicles, shall be prohibited.
- (7) A statement verifying that the motor vehicle is in compliance with the Michigan vehicle code safety equipment requirements shall be kept on file in the center.

### **R 400.8730 Multifunction school activity buses.**

Rule 730. (1) Multifunction school activity buses used for transporting children shall comply with all minimum safety specifications, except color, identification, and alternating flashing lights, as defined in 1990 PA 187, MCL 257.1810.

- (2) All multifunction school activity buses shall be inspected annually by a licensed mechanic or by the Department of State Police if used to transport children to and from school. A copy of the inspection shall be on file in the center.

**R 400.8740 Safety equipment in motor vehicles with a manufacturer's rated seating capacity of 10 or fewer occupants.**

Rule 740. (1) Each motor vehicle with a manufacturer's rated seating capacity of 10 or fewer occupants shall carry the following safety equipment:

- (a) Three bidirectional emergency reflective triangles properly cased and securely stored in the motor vehicle.
  - (b) A first aid kit shall be securely stored in an accessible location in the driver compartment.
- (2) Volunteer motor vehicles are exempt from sub~~rule~~ (a) of this rule.

**R 400.8750 Safety equipment in vehicles with a manufacturer's rated seating capacity of more than 10 occupants.**

Rule 750. (1) Each motor vehicle with a manufacturer's rated seating capacity of more than 10 occupants shall carry the following safety equipment:

- (a) Three bidirectional emergency reflective triangles properly cased and securely stored in the driver's compartment.
- (b) Not less than 3 15-minute fusees or an approved battery operated substitute properly cased and securely stored in the driver's compartment.
- (c) Fire extinguisher of dry chemical type, approved by underwriters' laboratories, inc., rated not less than 2A-10BC, mounted in an accessible place in the driver compartment. The fire extinguisher shall be kept properly filled and in satisfactory operating condition at all times.
- (d) A first aid kit shall be securely stored in an accessible location in the driver compartment.

**R 400.8760 Manufacturer's rated seating capacity; restraint devices; safety belts.**

Rule 760. (1) Each child transported shall remain seated and properly restrained by a passenger restraint device as defined by 1949 PA 300, MCL 257.710d(1), MCL 257.710e(3), (4), and the manufacturer's rated seating capacity while the motor vehicle is in motion.

- (2) Passenger restraint devices, as required by subrule (1), are not required for school-age children transported on a school bus or a multifunction school activity bus manufactured after September 2003.

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- (3) Each restraint device shall be properly anchored to the vehicle seat and used according to the manufacturer's specifications. Allowing 2 or more children to share a seat belt or restraint device is prohibited.
- (4) The driver of a motor vehicle and all adult passengers shall be seated according to the manufacturer's rated seating capacity and properly restrained by safety belts when the motor vehicle is in motion.
- (5) All safety belts and restraint devices used while transporting children and adults shall be in good working condition.

### **R 400.8770 Motor vehicle operator.**

Rule 770. (1) The driver of any motor vehicle transporting children shall comply with all of the following:

- (a) Be at least 18 years of age.
  - (b) Possess a valid operator or chauffeur's license with the appropriate endorsement as required by 1949 PA 300, MCL 257.301.
  - (c) Have a personal driving record with not more than 6 active points as determined by the Secretary of State.
  - (d) Have proof of valid automobile insurance and registration.
  - (e) Be familiar with the contents of the first aid kit.
  - (f) Be familiar with the operation of the fire extinguisher, if a fire extinguisher is required.
- (2) The following documents shall be on file in the center:
- (a) A copy of each driver's driving record, except for drivers of volunteer motor vehicles, obtained from the Secretary of State at least once a year.
  - (b) A self-certifying statement that all volunteer drivers comply with subrule (1) of this rule.
  - (c) A copy of a valid operator license.
- (3) Drivers shall be provided with a copy of the child information card or comparable substitute for each child being transported in their motor vehicles.

### **R 400.8780 Staff-to-child ratio and supervision in transit.**

Rule 780. (1) The ratio of staff to children in transit, including children related to the staff member, licensee, or driver, shall be based on the following provisions:

- (a) For infants and young toddlers, there shall be 1 staff member for 4 children. The driver shall not count in the staff to child ratio.
- (b) For older toddlers, there shall be 1 staff member for 8 children. The driver shall not count in the staff to child ratio.
- (c) For children 3 years of age, there shall be 1 staff member for 10 children. The driver may count in the staff to child ratio.
- (d) For children 4 years of age, there shall be 1 staff member for 12 children. The driver may count in the staff to child ratio.

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- (e) For school-age children, there shall be 1 staff member for 18 children. The driver may count in the staff to child ratio. This requirement does not apply when school-age children are transported to and from school on school transportation or are using public transportation.
- (f) An additional staff member is not required if only 1 child under 36 months of age is transported.
- (2) To count in the staff to child ratios, staff members or volunteers shall be all of the following:
  - (a) At least 16 years of age.
  - (b) Seated with the children.
  - (c) Responsible for the supervision of the children.
- (3) When children are entering or leaving the motor vehicle, the following safety precautions shall be taken:
  - (a) The accompanying staff member, volunteer, or driver shall assure that the children are received by a staff member, parent, or other person as designated by the parent.
  - (b) Children shall enter and leave the motor vehicle from the curbside unless the vehicle is in a protected parking area or driveway.
- (4) Children shall not be left unattended in a motor vehicle.
- (5) When children under school-age are entering or leaving the motor vehicle, the children shall be carried or helped into and out of the motor vehicle.

### **R 400.8790 Time limitation on child transit.**

Rule 790. For children under school-age, transportation routes shall be planned so that a child is not in the motor vehicle longer than 1 continuous hour.

## **SWIMMING PROVISIONS**

### **R 400.8801 Definitions.**

Rule 801. (1) As used in this part:

- (a) "Lifeguard" means a person who meets the following criteria:
  - (i) Possesses an appropriate and current life guard training and certification by Red Cross, YWCA, YMCA, or equivalent in 1 of the following:
    - (A) Basic lifeguard for pool only.
    - (B) Full life guarding for pool and all other water activities.
  - (ii) Is dressed suitably to act in an emergency.
  - (iii) Is providing constant supervision.
- (b) "Public swimming pool" means an artificial body of water used collectively by a number of individuals primarily for the purpose of swimming, wading, recreation, or instruction and includes related equipment, structures, areas, and enclosures intended for the use of individuals using or operating the swimming pool such as equipment, dressing, locker, shower, and toilet rooms. Public swimming pools include those which are for parks, schools,

motels, camps, resorts, apartments, clubs, hotels, mobile home parks, subdivisions, and the like. A pool or portable pool located on the same premises with a 1-, 2-, 3-, or 4-family dwelling and for the benefit of the occupants and their guests, a natural bathing area such as a stream, lake, river, or man-made lake, an exhibitor's swimming pool built as a model at the site of the seller and in which swimming by the public is not permitted, or a pool serving not more than 4 motel units is not a public swimming pool.

**R 400.8810 Swimming caregiver-to-child ratio.**

Rule 810. (1) Written parental permission regarding their child's participation in swimming activities shall be kept on file at the center.

- (2) A lifeguard shall be on duty at all swimming activities and shall not be included in the caregiver-to-child ratio.
- (3) For children under 3 years of age, there shall be an in-the-water ratio of 1 caregiver to 1 child.
- (4) For all nonswimmers 3 years of age and older, there shall be an in-the-water ratio of 1 caregiver to 4 children when the water level is at the child's chest height or lower. When the water level is above the child's chest height, there shall be an in-the-water ratio of 1 caregiver to 1 child.
- (5) For swimmers 3 years to 4 years of age, there shall be an in-the-water ratio of caregivers to children as required by R 400. 8179(3).

**R 400.8820 Swimming activity supervision.**

Rule 820 (1) All caregiving staff counted in the caregiver-to-child ratio shall be both of the following:

- (a) Actively engaged in providing direct care, supervision, and guidance.
- (b) Physically able to assist children quickly.

**R 400.8830 Instructional swim.**

Rule 830. (1) Instructional swim shall be conducted under the supervision of a qualified water safety instructor (WSI), in an organization such as the ymca or ywca, and where instructional swim is part of the organized program.

- (2) The ratio of caregivers to children under R 400. 8179(3) shall be maintained. The instructor shall not be included in the ratio.

**R 400.8840 Swimming activity area.**

Rule 840. (1) All swimming areas shall be maintained in a clean and safe condition.

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- (2) When a swimming pool is utilized by children while under the care of a center, it shall be constructed and operated in compliance with 1978 PA 368, MCL 333.1101 et. seq.
- (3) A public or private pool used for swimming shall be inspected and issued a permit for operation by the local health department.
- (4) The water at a public or private beach shall not be used if deemed unsafe by the local health department.
- (5) A working telephone shall be accessible on the premises.
- (6) All of the following safety equipment shall be readily accessible:
  - (a) First aid kit.
  - (b) Rescue pole or throwing rope and ring buoy.
  - (c) Signaling device.
- (7) The use of hot tubs and private wading pools is prohibited.

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