

LICENSING RULES FOR CHILD CARE CENTERS

Effective December 18, 2019

BUREAU OF COMMUNITY AND HEALTH SYSTEMS CHILD CARE LICENSING DIVISION



www.michigan.gov/michildcare

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DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

BUREAU OF COMMUNITY AND HEALTH SYSTEMS

LICENSING CHILD CARE CENTERS

Filed with the secretary of state on December 11, 2019.

These rules take effect December 18, 2019 unless adopted under section 33, 34, 45a(6), or 48 of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the director of the department of licensing and regulatory affairs by section 2 of 1973 PA 116, MCL 722.112, and Executive Reorganization Order Nos. 1996-1, 1996-2, 2003-1, and 2015-1, MCL 330.3101, 445.2001, 445.2011, 400.226, and 400.227)

R 400.8101, R 400.8104, R 400.8107, R 400.8110, R 400.8113, R 400.8119, R 400.8122, R 400.8125, R 400.8128, R 400.8131, R 400.8134, R 400.8137, R 400.8140, R 400.8143, R 400.8146, R 400.8149, R 400.8152, R 400.8155, R 400.8158, R 400.8161, R 400.8164, R 400.8167, R 400.8170, R 400.8173, R 400.8176, R 400.8179, R 400.8182, R 400.8185, R 400.8188, R 400.8191, R 400.8301, R 400.8305, R 400.8310, R 400.8315, R 400.8320, R 400.8325, R 400.8330, R 400.8335, R 400.8340, R 400.8345, R 400.8350, R 400.8355, R 400.8360, R 400.8365, R 400.8370, R 400.8375, R 400.8380, R 400.8385, R 400.8501, R 400.8505, R 400.8510, R 400.8515, R 400.8520, R 400.8525, R 400.8530, R 400.8535, R 400.8540, R 400.8560, R 400.8565, R 400.8701, R 400.8720, R 400.8730, R 400.8740, R 400.8750, R 400.8760, R 400.8801, R 400.8810, R 400.8820, R 400.8830 and R 400.8840 of the Michigan Administrative Code are amended, and R 400.8102, R 400.8103, R 400.8112, R 400.8112a, and R 400.8112b are added, as follows:

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PART 1: GENERAL PROVISIONS

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PART 5: SWIMMING

PART 1. GENERAL PROVISIONS FOR ALL CHILDREN

R 400.8101 Definitions; A through I.

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 United States Department of Education.
- (b) “Act” means 1973 PA 116, MCL 722.111 to 722.128, regarding child care organizations.
- (c) “Adult” means a person 18 years of age or older.
- (d) “Ages” means all of the following:
 - (i) “Infant” - birth until 1 year of age.
 - (ii) “Toddler” – 1 year of age until 30 months of age.
 - (iii) “Preschooler” – 30 months of age until eligible to attend a grade of kindergarten or higher.
 - (iv) “School-age” – a child who is eligible to attend a grade of kindergarten or higher, but less than 13 years of age. A child is considered a school-age on the first day of the school year in which he or she is eligible.
- (e) “Applicant” means an individual who applies for a license to operate a child care center.
- (f) “CEU” means a continuing education unit awarded by an accredited college or university sponsor of continuing education units or equivalent awarded by the state board of education.
- (g) “Child care aide” means an individual who is 17 years of age, who provides services and participates in child care activities in a child care center, who shall not have unsupervised access or provide unsupervised care or supervision of children, and who has satisfactorily completed at least 1 year of a vocational-occupational child care aide training program approved by the department.
- (h) “Child care administration” means educational courses in child care administration, education administration, or business administration.
- (i) “Child care background check system” means the database maintained by the department to document a comprehensive background check and eligibility determination pursuant to section 5n of the act, MCL 722.115n.
- (j) “Child care center” means that term as defined in section 1(h) of the act, MCL 722.111.
- (k) “Child care staff member” means that term as defined in section 1(a) of the act, MCL 722.111.
- (l) “Child development associate credential” or “CDA” means a credential awarded by the Council for Professional Recognition or a similar credential approved by the department.
- (m) “Child-related field” means 1 of the following:
 - (i) For an early childhood education program director and lead caregiver, academic courses in elementary education, child guidance, child counseling, child psychology, family studies, social work, or special education.
 - (ii) For a school-age program director, academic courses in early childhood education, elementary education, secondary education, special education, physical education and recreation, child development, child guidance, child counseling, child psychology, family studies, social work, human services, or youth development.
- (n) “Communicable disease” means an infectious disease that is transmissible from person to person by direct contact with an infected individual or the individual's discharges, or by indirect means through a vector. Communicable disease includes, but is not limited to, all of the following:
 - (i) Chicken pox.
 - (ii) Hand, foot and mouth disease.
 - (iii) Influenza.
 - (iv) Measles.
 - (v) Mumps.
 - (vi) Pertussis, which is also referred to as whooping cough.
 - (vii) Rubella.
 - (viii) Tuberculosis.
- (o) “Comprehensive background check” means a department review of an individual as required in sections 5n and 5q of the act, MCL 722.115n and 722.115q.

- (p) “Conducive to the welfare of children” means that term as defined in section 5m(13)(b) of the act, MCL 722.115m(13)(b).
- (q) “Continuously employed child care staff member” means an individual who has not been disconnected from the child care background check system for a period of more than 180 days and has continuously resided in Michigan as referenced in section 5n(15) and (16) of the act, MCL 722.115n(15) and (16).
- (r) “Conviction” means that term as defined in section 1(i) of the act, MCL 722.111.
- (s) “Criminal history check” means that term as defined in section 1(j) of the act, MCL 722.111.
- (t) “Degrees and semester hours” means only those degrees and hours from an accredited college or university.
- (u) “Department” means the department of licensing and regulatory affairs.
- (v) “Developmentally appropriate” means age appropriate as well as appropriate to the individual child.
- (w) “Early childhood program director” means the program director of a center serving children of all ages.
- (x) “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.
- (y) “Eligible” means that that term as defined in section 1(m) of the act, MCL 722.111.
- (z) “Field trip” means children and personnel leaving the child care center premises for an excursion, trip, or program activity.
- (aa) “First aid kit” means a kit containing, at a minimum, all of the following: sterile gauze pads, assorted sizes, a roll of gauze, adhesive bandages, assorted sizes, adhesive cloth tape, an elastic bandage, tweezers, and scissors. A first aid kit is prohibited from containing any non-prescription or prescription medications as described under R 400.8152.
- (bb) “Group size” means the specified number of children assigned to a child care staff member or team of child care staff members 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-to-staff ratios are maintained in the room or area.
- (cc) “Hours of experience” means experience serving the ages and developmental abilities of children for which the center is licensed.
- (dd) “Immediately available” means a parent or guardian remains onsite at the address of the child care center.
- (ee) “Ineligible” means that term as defined in section 1(n) of the act, MCL 722.111.

History: 2013 AACCS; 2019 AACCS.

R 400.8102 Definitions; J through R.

Rule 102.

As used in these rules:

- (a) “Lead caregiver” means a child care staff member who is responsible for planning and implementing the daily program of activities for a group of children in a child care center.
- (b) “Licensee” means that term as defined in section 1(q) of the act, MCL 722.111.
- (c) “Licensee designee” means that term as defined in section 1(cc) of the act, MCL 722.111.
- (d) “Michigan school age or youth development credential” means a credential issued by the Michigan Afterschool Association or similar credential approved by the department.
- (e) “MiRegistry” is the electronic data system for child care providers that is maintained by the department of education to verify and track employment, training, and educational accomplishments. MiRegistry offers a statewide calendar of online and classroom training opportunities. MiRegistry can be accessed online at <http://www.miregistry.org>.
- (f) “Montessori credential” means a credential issued by the Association Montessori International (AMI), American Montessori Society (AMS), or any Montessori teaching or training institution recognized by the Montessori Accreditation Council for Teacher Education (MACTE) that meets or exceeds 270 hours of academic training.
- (g) “Parent” or “parental” means a child’s natural or adoptive parent who is legally responsible for the child or the child’s legal guardian.
- (h) “Playspace” means a piece or pieces of age-appropriate toys, play equipment, and materials that 1 child can use independently for 15 minutes.
- (i) “Personnel” means a licensee, licensee designee, child care staff member, and child care aide.

- (j) “Portable crib” means a crib that can be folded or collapsed, without disassembly, to occupy a space less than it occupies when it is used. Products with mesh, fabric, or non-rigid sides, such as a bassinet or play yard, are not considered a portable crib.
- (k) “Program components” means the different services offered by a center. They include, but are not limited to, infant and toddler, preschool, and school-age care and education; nighttime care; food service; swimming; and transportation.
- (l) “Program director” means a licensee or child care staff member who is responsible for the general management of the center and ensures compliance with the act and these rules.
- (m) “Routine transportation” means regularly scheduled travel on the same day of the week, at the same time, to the same destination. Any deviation is non-routine transportation.

History: 2019 AACCS.

R 400.8103 Definitions; S through Z.

Rule 103.

As used in these rules:

- (a) “Sanitized” means to wipe or spray the surface with a sanitizing solution, let the surface air dry or wipe dry after 2 minutes with a single service towel, or according to the manufacturer’s directions.
- (b) “School” means a building or part of a building that 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 the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, 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.
- (c) “School-age child” means that term as defined in section 1(aa) of the act, MCL 722.111.
- (d) “Serious injury” means that term as defined in section 2b of 1973 PA 116, MCL 722.122b.
- (e) “School-age program director” means the program director of a center serving only school-age children.
- (f) “Site supervisor” means an individual who oversees the daily operation of a school age program when a multi-site director has been named. The site supervisor must meet all requirements under R 400.8119.
- (g) “Staff” means any compensated employee of a center.
- (h) “Supervised volunteer” means a person 16 years of age or older, who provides service for a child care center that is not compensated, and who is supervised at all times when children are in care.
- (i) “Unsupervised volunteer” means an individual who is 18 years of age or older, who provides service for a child care center that is not compensated, and who has been determined eligible by the department to be unsupervised with children.
- (j) “Well-defined space” means space designed and used exclusively for a specific group of children.

History: 2019 AACCS.

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, must be kept on file at the child care center.
- (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 must not be granted from statutory requirements.

History: 2013 AACCS; 2019 AACCS.

5R 400.8107 Applicant qualifications.

Rule 107.

(1) An applicant shall meet all of the following qualifications:

- (a) Be suitable to meet the needs of children.
- (b) Be able to ensure that the proposed services and facilities are conducive to the welfare of children.
- (c) Act in a manner that is conducive to the welfare of children.
- (d) Demonstrate a willingness and ability to comply with the act and these rules.

(2) An applicant for a license to operate a child care center shall complete, sign, and submit the department's child care application form, along with the fee under section 5m of the act, MCL 722.115m, to the Michigan Department of Licensing and Regulatory Affairs, Bureau of Community and Health Systems, P.O. Box 30664, Lansing, MI 48909- 8164.

(3) If the applicant elects a licensee designee pursuant to section 1(cc) of the act, MCL 722.111, then the applicant shall also complete, sign, and submit the department's child care licensee designee form.

(4) The department's child care application form and child care licensee designee form are available at no cost on the department's website at www.michigan.gov/michildcare. They are also available at no cost by calling the department at (517) 284-9738 or (866) 685-0006. They are also available at no cost at the Michigan Department of Licensing and Regulatory Affairs, Bureau of Community and Health Systems, Child Care Division, 611 W. Ottawa St, Lansing, MI 48933-1070.

(5) Before issuance of the original license, and before the renewal of a license, an applicant or licensee shall comply with applicable laws and administrative rules.

History: 2013 AACS; 2019 AACS.

R 400.8110 Applicant; licensee; licensee designee; requirements.

Rule 110.

(1) The licensee or licensee designee shall do all of the following:

- (a) Act in a manner that is conducive to the welfare of children.
- (b) Comply with sections 5n and 5q of the act, MCL 722.115n and 722.115q, which requires a comprehensive background check.
- (c) Be responsible for compliance with the act and these rules.
- (d) Report to the department within 3 business days after any arraignment or conviction of 1 or more of the crimes listed in section 5r of the act, MCL 722.115r, and any subsequent conviction.

(2) The applicant, licensee, and licensee designee shall have the administrative capability to operate the center in order to provide the services and facilities that are conducive to the welfare of children.

(3) All of the following must 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 these rules and a copy of the last page of any variances granted.
- (c) A notice stating that the center requires a comprehensive background check on its employees and unsupervised volunteers.

(4) There must be a licensing notebook on the premises that includes all licensing inspection and special investigation reports and related corrective action plans for the last 5 calendar years, and a summary sheet outlining the documents contained in the notebook. The notebook must be in a place accessible to parents and prospective parents at all times during the center's normal hours of operation.

(5) The actual number and ages of children in care at any time must never exceed the number and ages of children for which the center is licensed.

(6) The licensee or licensee designee shall maintain accurate records detailing daily arrival and departure times for each child care staff member, child care aide, and volunteer.

(7) A child shall only be released to persons authorized by the child's parent or guardian.

(8) A child shall be released to either parent or the child's guardian, unless a court order prohibits release to a particular parent. A copy of the order prohibiting release must be kept on file at the center.

(9) Within 5 business days, the licensee shall notify the department of the separation of a licensee designee, program director, or a central administrator approved under R 400.8113(12), and a plan for replacement of the individual.

- (10) Written approval from the department must be obtained before making any changes in the terms of the license, including but not limited to, adding use space, changing age groups served, changing program components, changing the capacity of the center, or making changes to a room or well-defined space that will result in a change in capacity of the room or well-defined space.
- (11) The records required by, the act and these rules must be retained for a minimum of 2 calendar years or longer as specified in these rules, and made available to the department upon request.
- (12) The following records must be retained and available to the department:
- (a) The name, address, and telephone number for each child enrolled and each employee for at least 2 years after the individual leaves the center.
 - (b) Staff and volunteer health records, as required by R 400.8128, and documentation of qualifications must be retained until the individual leaves the center.
 - (c) The licensing notebook must be maintained and retained until the license is closed.
- (13) Smoking and vaping must not occur in or during both of the following:
- (a) In the child care center or on real property that is under the control of the center and upon which the center is located.
 - (b) On field trips and in vehicles when children are present.
- (14) A center shall post a notice in a place accessible and visible to parents, staff, and visitors stating that smoking and vaping are prohibited in the center and on the center's property.

History: 2013 AACCS; 2019 AACCS.

R 400.8112 Comprehensive background check; fingerprinting.

Rule 112.

- (1) Pursuant to sections 5n and 5q of the act, MCL 722.115n and 722.115q, before an individual has unsupervised contact with children, the department shall determine the individual's eligibility to be any of the following:
- (a) A licensee.
 - (b) A licensee designee.
 - (c) A child care staff member.
 - (d) A child care aide.
 - (e) An unsupervised volunteer.
- (2) An applicant or licensee shall do all of the following:
- (a) Ensure that each individual who requires an eligibility determination under subrule (1) of this rule completes, signs, and submits all of the information required in subrule (5) of this rule, and in subrule (6) of this rule if applicable, on a form prescribed by the department. The forms are available on the department's website for the child care background check system, www.michigan.gov/ccbc. The form or forms must be signed and dated prior to the individual's appointment to be fingerprinted.
 - (b) Maintain a copy of the completed and signed form or forms for each individual entered into the child care background check system under the license.
 - (c) Provide to the department, upon request, a copy of the individual's completed and signed form or forms.
 - (d) Establish and activate an account and accurately enroll each individual listed in subrule (1) of this rule in the child care background check system.
 - (e) Within the department's child care background check system, accurately complete and maintain the connection, disconnection, or withdrawn status of each individual associated with the license.
 - (f) Immediately disconnect each individual from the system once he or she is no longer a licensee, licensee designee, child care staff member, child care aide, or an unsupervised volunteer under the license.
- (3) An individual may serve as a child care staff member pending an eligibility determination by the department under sections 5n(8) and 5q of the act, MCL 722.115n and 722.115q, and shall be supervised at all times by the licensee or a child care staff member who has been determined eligible.
- (4) For an individual who is determined ineligible by the department, a licensee shall immediately do all of the following:
- (a) Prohibit the individual from being on the premises of the child care center.
 - (b) Prohibit the individual from having any contact with children in care.

(c) Disconnect the individual from the child care background check system.

(5) An individual who requires a comprehensive background check under sections 5n and 5q of the act, MCL 722.115n and 722.115q, shall submit to the department, on a form prescribed by the department, all personally identifiable information necessary to conduct the comprehensive background check, including all of the following:

(a) Full legal name.

(b) All other names used in the past, including any maiden name or alias, the approximate date the other name was used, and the reason for the name change.

(c) Suffix, if applicable.

(d) Social Security number.

(e) Date of birth.

(f) Place of birth.

(g) Country of citizenship.

(h) Height.

(i) Weight.

(j) Hair color.

(k) Eye color.

(l) Gender.

(m) Race.

(n) Current address.

(o) If the individual resided outside this state during the last 5 years, then provide each of those addresses.

(p) Driver's license identification number and state issuing the license or a state identification number and state issuing it, if available.

(q) Phone number.

(r) Email address, if available.

(s) Any other information deemed reasonably necessary by the department to determine the eligibility of the individual based on a name-based registry match.

(6) The department shall maintain the confidentiality of all personally identifiable information submitted pursuant to this rule to the extent permitted by law.

History: 2019 AACCS.

R 400.8112a Department; information; eligibility determination.

Rule 112a.

The department may request information from an applicant, licensee, licensee designee, child care staff member, child care aide, or unsupervised volunteer regarding any of the conditions listed in sections 5n, 5q, 5r, and 11 of the act, MCL 722.115n, 722.115q, 722.115r, and 722.121, and any similar or equivalent conditions that occurred in another state or legal jurisdiction in which the individual resided, on a form prescribed by the department, and limited to information necessary to ascertain whether the individual should be deemed ineligible under the statutory requirements.

History: 2019 AACCS.

R 400.8112b Eligibility determination; individual who resided out of the United States; self-certifying statement.

Rule 112b.

An individual who requires an eligibility determination under section 5n of the act, MCL 722.115n, and resided out of the United States within the preceding 5 years, shall also, under section 5n(2) of the act, MCL 722.115n(2), complete, sign and submit, on a form prescribed by the department, a self-certifying statement that the individual does not have any of the disqualifying conditions set forth in sections 5n, 5q, 5r, and 11 of the act, MCL 722.115n, 722.115q, 722.115r, and 722.121.

History: 2013 AACCS; 2019 AACCS.

R 400.8113 Program director qualifications; responsibilities.

- (1) Before hiring a new program director, a licensee or licensee designee shall submit a completed BCHS-CC 001 form, titled Child Care Licensing Information Request, and the credentials of the proposed program director to the department for review and approval.
- (2) A program director shall be present in the center in the following manner:
 - (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 per day for programs operating 6 or more continuous hours.
- (3) All program directors are responsible for the general management of the center, including the following minimum responsibilities:
 - (a) Developing, implementing, and evaluating program and center policies.
 - (b) Administering day-to-day operations, including being available to address parent, child, and staff issues.
 - (c) Monitoring staff, including annual evaluations.
- (4) If absent from the center, the program director shall designate a child care staff member to be in charge.
- (5) A substitute program director shall be appointed for a program director who has left employment or 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.
- (6) A program director shall have all of the following qualifications:
 - (a) Be at least 21 years of age.
 - (b) Have earned a high school diploma or general equivalency diploma (GED).
- (7) Early childhood program directors shall meet 1 of the following qualifications shown in Table 1:

TABLE 1

TABLE 1 Early Childhood Program Director Qualifications			
	Education	Coursework 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 including →	18 semester hours and →	480 hours
(c)	Montessori credential	18 semester hours and →	480 hours
(d)	Associate's degree in early childhood education or child development including →	18 semester hours and →	480 hours
(e)	Valid child development associate credential with →	18 semester hours and →	960 hours
(f)	Sixty semester hours with →	18 semester hours and →	1,920 hours

8) School-age program directors shall meet 1 of the following qualifications shown in Table 2:

TABLE 2			
School-Age Program Director Qualifications			
	Education	Coursework in a Child-Related Field	Hours of Experience
(a)	Bachelor's degree or higher in a child-related field		
(b)	Montessori credential with	12 semester hours and	480 hours
(c)	Associate's degree in a child-related field and →		480 hours
(d)	Valid Michigan school-age youth development credential with	12 semester hours and →	480 hours
(e)	Valid child development associate credential with →	12 semester hours and →	480 hours
(f)	Sixty semester hours with →	12 semester hours and →	720 hours
(g)	High school diploma or GED with →	6 semester hours and →	2,880 hours

(9) 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. These semester hours may satisfy a portion of the requirements of subrules (7) and (8) of this rule. The program director may also use 30 hours of administrative training from MiRegistry to meet these requirements.

(10) Any potential program director previously employed as an approved and qualified program director is exempt from meeting subrule (9) of this rule.

(11) An early childhood program director or school age program director employed as a program director for more than 10 years without a break in service is exempt from the requirements in subrules (7) and (9) of this rule.

(12) A program director is exempt from the requirements of subrule (9) of this rule with verification that all duties required by subrule (3)(a) and (c) of this rule are handled by a central administrator, and the central administrator meets the requirements of subrule (9) of this rule. Verification of the duties and education of the central administrator must be made available to the department upon request.

(13) Verification of the education, credentials, and experience of the program director must be kept on file at the center or made available online at MiRegistry.

(14) A program that has only a before school program or an afterschool program, but not both, serving school-aged children may have a program director that meets the qualifications of a site supervisor, as specified in R 400.8119.

History: 2013 AACS; 2019 AACS.

R 400.8116 Multi-site 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 to the site supervisor 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.

History: 2013 AACS.

R 400.8119 Site supervisor; qualifications; responsibilities.

Rule 119.

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

(2) Site supervisors shall meet all of the following requirements:

(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 child care staff member in a program serving school-age children.

(d) Have completed 15 clock hours, 1 semester hour, or 1.5 CEUs of documented school-age training.

(3) Site supervisors are responsible for the daily operation and implementation of the site program, supervision of the site staff, and overall care and supervision of children.

(4) Site supervisors shall assist the multi-site school-age program director in all of the following:

(a) Developing, implementing, and evaluating program and center policies.

(b) Administering day-to-day operations, including being available to address parent, child, and staff issues.

(c) Monitoring and overseeing staff.

(5) Verification of the requirements of subrule (2) must be kept on file at the center.

History: 2013 AACS; 2019 AACS.

R 400.8122 Lead caregiver; qualifications; responsibilities.

Rule 122.

(1) Lead caregivers are required only for groups of children who are preschool age and younger.

(2) At least 1 lead caregiver shall be assigned to each group of children in a 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.

(3) 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 child care staff members for a specific group of children and overall care and supervision of children.

(4) Lead caregivers shall have both of 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 shown in Table 3:

TABLE 3 Lead Caregiver Qualifications			
	Education	Coursework in Early Childhood Education, Child Development, or 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)	Montessori credential with		480 hours
(c)	Associate's degree or higher in early childhood education or child development		
(d)	Valid child development associate credential with →		480 hours
(e)	High school diploma or GED with →	12 semester hours and →	960 hours
(f)	High school diploma or GED with →	12 semester hours, 18 CEUs, or a combination to equal 180 clock hours with →	1,920 hours
(g)	High school diploma or GED with →	6 semester hours, 9 CEUs, or a combination to equal 90 clock hours with →	3,840 hours

(6) Lead caregivers qualified under subrule (5), Table 3, row (g) of this rule, have 2 years from date of hire in this position to obtain an additional 6 semester hours, 9 CEUs, or a combination to equal 90 clock hours, or 90 hours from MiRegistry.

(7) Lead caregivers for infants and toddlers shall have 3 semester hours, 4.5 CEUs, or 45 hours of MiRegistry approved infant and toddler development and care practices within 6 months of hire. These semester hours or CEUs may satisfy a portion of the requirements of subrule (6) of this rule.

(8) A substitute for a lead caregiver shall be appointed for a lead caregiver who has left employment or has a temporary absence that exceeds 30 consecutive workdays until return or replacement. A substitute lead caregiver has 90 days to meet the qualifications of a lead caregiver.

(9) Verification of the education, credentials, and experience of each lead caregiver shall be kept on file at the center or at MiRegistry.

History: 2013 AACS; 2019 AACS.

R 400.8125 Staff; volunteer; requirements.

Rule 125.

- (1) All staff and volunteers shall provide appropriate care and supervision of children at all times.
- (2) All staff and volunteers shall act in a manner that is conducive to the welfare of children.
- (3) All supervised volunteers shall receive a public sex offender registry (PSOR) clearance before having any contact with a child in care. A copy of this clearance must be kept on file at the center.
- (4) A licensee shall have a written policy regarding screening and supervision of staff and volunteers, including volunteers who are parents of a child in care. The policy must include a statement that any individual registered on the public sex offender registry (PSOR) is prohibited from having contact with any child in care.
- (5) A written statement must 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.

History: 2013 AACS; 2019 AACS.

R 400.8128 Staff; volunteer; tuberculosis.

Rule 128.

A center shall keep on file at the center evidence to verify that each child care staff member 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 (TB). Verification of TB status is required within 1 year before employment or volunteering.

History: 2013 AACS; 2019 AACS.

R 400.8131 Professional development requirements.

Rule 131.

- (1) The center shall provide an orientation about the center's policies and practices and these administrative rules for all personnel hired after the effective date of these rules and before unsupervised contact with children.
- (2) Child care staff members shall have training that includes information about prevention of sudden infant death syndrome and use of safe sleep practices before caring for infants and toddlers.
- (3) Before caring for children, all child care staff members and unsupervised volunteers who work directly with children shall be trained on prevention of shaken baby syndrome, abusive head trauma and child maltreatment, and recognition and reporting of child abuse and neglect.
- (4) Before unsupervised contact with children, all child care staff members who work directly with children shall complete prevention and control of infectious disease training, including immunizations.
- (5) Within 90 days of being hired, or the first day as an unsupervised volunteer, all child care staff members and unsupervised volunteers who work directly with children shall complete the following trainings, which may count toward annual professional development hours and are available at MiRegistry:
 - (a) Administration of medication.
 - (b) Prevention of and response to emergencies due to food and allergic reactions.
 - (c) Building and physical premises safety.
 - (d) Emergency preparedness and response planning.
 - (e) Handling and storage of hazardous materials and appropriate disposal of bio-contaminants.
 - (f) Precautions in transporting children, if applicable.
 - (g) Child development.
- (6) All child care staff members who work directly with children shall complete 16 clock hours of professional development annually on topics relevant to job responsibilities that include, but are not limited to, any of the following subjects:
 - (a) Child development and learning.
 - (b) Health, safety, and nutrition.

- (c) Family and community collaboration.
- (d) Program management.
- (e) Teaching and learning.
- (f) Observation, documentation, and assessment.
- (g) Interactions and guidance.
- (h) Child care center administrative rules.

(7) A center may count CPR and first aid training for up to 2 hours of the annual professional development hours in the year taken. Staff may use hours from MiRegistry to meet the professional development requirements in subrule (6) of this rule.

(8) An on-going professional development plan must be developed and implemented to include all the training and professional development required by these rules.

(9) On-line trainings and correspondence courses must have an assessment of learning.

(10) All child care staff members who work directly with children are required to be trained in first aid and pediatric, child, and adult cardiopulmonary resuscitation (CPR) within 90 days of being hired. Prior to issuing a license to operate a child care center, and prior to the renewal of a license, the department shall verify that at least 50% of the child care staff members who work directly with children are currently certified in first aid and pediatric, child, and adult CPR. Each of these child care staff member's first aid and CPR certificates must be valid and retained on file in the center.

(11) Verification of all professional development required by this rule must be kept on file at the center or online at MiRegistry. Verification must be issued from the training organization or trainer and include the date of the course, the name of the training organization or trainer, the topic covered, and the number of clock hours. Training hours from MiRegistry also meet this rule.

(12) When the department of licensing and regulatory affairs or the department of education publishes a notice that a new health and safety update document or a new health and safety update training activity has been published on MiRegistry, the licensee shall ensure that all personnel read and acknowledge the document or complete the activity within 6 months of the notice.

History: 2013 AACCS; 2019 AACCS.

R 400.8134 Hand washing.

Rule 134.

(1) As used in 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 all of the following times:

- (a) Prior to starting the workday at the center.
- (b) Prior to care of children.
- (c) Before preparing and serving food and feeding children.
- (d) Before giving medication.
- (e) After each diapering.
- (f) After using the toilet or helping a child use the toilet.
- (g) After handling bodily fluids.
- (h) After handling animals and pets and cleaning cages.
- (i) After handling garbage.
- (j) When soiled.

(3) Staff and volunteers shall ensure that children wash their hands at all of the following times:

- (a) Before meals, snacks, or food preparation experiences.
- (b) After toileting or diapering.
- (c) After handling animals and pets.
- (d) When soiled.

(4) Guidelines for hand washing must be posted in food preparation areas, in toilet rooms, and by all hand washing sinks.

(5) Staff may wash children's hands with non-toxic disposable wipes in the following situations:

- (a) When the child is too heavy to hold for hand washing.

- (b) When the child cannot stand safely at the sink.
 - (c) When the child is not developmentally ready to hold his or her head.
 - (d) When the child has a special need, so the child is not able to wash his or her own hands.
- (6) When soap and running water are not available during an outing, hand sanitizers, or single-use wipes may be used as a temporary measure.

History: 2013 AACS; 2019 AACS.

R 400.8137 Diapering; toileting.

Rule 137.

- (1) Except as provided in subrule (2) of this rule, diapering must 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 cleanable surfaces in good repair.
 - (d) Is of sturdy construction with railings or barriers to prevent falls.
 - (e) Is an elevated diapering table or similar structure.
 - (f) Is washed, rinsed, and sanitized after each use.
- (2) Children 1 year of age and older may be changed in a bathroom standing up or on a nonabsorbent, easily sanitized surface, with a changing pad between the child and the surface.
- (3) Diapering supplies must be within easy reach of the designated diapering area.
- (4) A plastic-lined, tightly covered container must be used exclusively for disposable diapers and training pants and diapering supplies. The container must be emptied and sanitized at the end of each day.
- (5) Only single-use disposable wipes or other single-use cleaning cloths must be used to clean a child during the diapering or toileting process.
- (6) Diapers and training pants must be checked frequently and changed when wet or soiled.
- (7) Guidelines for diapering must be posted in diapering areas.
- (8) Disposable gloves, if used for diapering, must 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.
- (9) The following apply when cloth diapers or training pants are used:
- (a) Each cloth diaper must be covered with an outer waterproof covering. Outer coverings must be removed as a singular unit with wet or soiled diapers and with wet or soiled training pants, if used.
 - (b) Diapers, training pants, and outer coverings must not be reused until washed and sanitized.
 - (c) Rinsing the contents must not occur at the center.
 - (d) Soiled diapers must be placed in a plastic-lined, covered container, wet bag, or other waterproof container, and used only for that child's soiled diapers.
 - (e) Soiled diapers or training pants must be stored and handled in a manner that will not contaminate any other items and must not be accessible to children.
 - (f) Soiled diapers or training pants must be removed from the center every day by the child's parent.
 - (g) A child's supply of clean diapers or training pants may only be used for that child.
- (10) Toilet learning or training must be planned cooperatively between the child's regular caregivers and the child's parent so the toilet routine established is consistent between the center and the child's home.
- (11) Equipment used for toilet learning or training must be provided. All of the following equipment is acceptable for toilet learning or training:
- (a) Adult-sized toilets with safe and easily cleanable modified toilet seats and step aids.
 - (b) Child-sized toilets.
 - (c) Non-flushing toilets or potty chairs, if they are all of the following:
 - (i) Made of a material that is easily cleanable.
 - (ii) Used only in a bathroom area.
 - (iii) Used over a surface that is impervious to moisture.
 - (iv) Washed, rinsed, and sanitized after each use.

History: 2013 AACS; 2019 AACS.

R 400.8140 Discipline.

Rule 140.

(1) Positive methods of discipline that encourage self-control, self-direction, self-esteem, and cooperation must be used.

(2) All of the following means of punishment are prohibited:

- (a) Hitting, spanking, shaking, biting, pinching, or inflicting other forms of corporal punishment.
- (b) Placing any substances in a child's mouth, including but not limited to, soap, hot sauce, or vinegar.
- (c) Restricting a child's movement by binding or tying him or her.
- (d) Inflicting mental or emotional punishment, such as humiliating, shaming, or threatening a child.
- (e) Depriving a child of meals, snacks, rest, or necessary toilet use.
- (f) Excluding a child from outdoor play or other gross motor activities.
- (g) Excluding a child from daily learning experiences.
- (h) Confining a child in an enclosed area, such as a closet, locked room, box, or similar enclosure.
- (i) Time out must not be used for children under 3 years of age.

(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 written policy must be developed and implemented regarding the age appropriate, non-severe discipline of children. The policy must be provided to staff and parents.

History: 2013 AACCS; 2019 AACCS.

R 400.8143 Children's records.

Rule 143.

(1) At the time of a child's initial attendance, a center shall obtain a child information card, using a form provided by the department or a comparable substitute, that is completed and signed by the child's parent. The center shall keep it on file and accessible in the center.

(2) Child information cards must be reviewed and updated by parents at least annually and when the center becomes aware of changes.

(3) For children under school-age, at the time of a child's initial attendance, a center shall obtain, keep on file, and make accessible in the center 1 of the following:

- (a) A certificate of immunization showing a minimum of 1 dose of each immunizing agent specified by the department of health and human services (DHHS).
- (b) A copy of a waiver addressed to DHHS 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 DHHS must be kept on file, unless there is a signed statement by a licensed health care provider stating immunizations are in progress.

(5) A center shall report to DHHS, by October 1 of each year and using the method established by the DHHS, immunizations for all children enrolled, under section 9211(2) of the public health code, 1978 PA 368, MCL 333.9211(2).

(6) Within 30 days of a child's initial attendance, a center shall obtain, keep on file, and make accessible in the center a record of a physical evaluation of the child that notes any restrictions and is signed by a physician or the physician's designee. An electronic record from a physician's office will be accepted. The physical evaluation must be performed within 1 of the following time limits:

- (a) For an infant, within the preceding 3 months.
- (b) For toddlers, within the preceding 6 months.
- (c) For preschoolers, within the preceding 12 months.

(7) Physical evaluations must be updated as follows:

- (a) Yearly for infants and toddlers.
- (b) Every 2 years for preschoolers.

- (8) Upon enrollment and annually thereafter, a center shall obtain and keep on file at the center a signed statement from a school-age child's parent confirming 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) A center shall ensure 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) A center that enrolls a homeless child pursuant to the section 722 of the McKinney-Vento homeless education assistance improvements act of 2001, as amended by section 9102 of the every student succeeds act, 42 USC 11432, shall not be cited for noncompliance when a homeless child is unable to produce health and immunization records. The licensee shall file any documentation of referring a child to the local educational agency liaison for homeless children and youths.
- (11) A 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. Electronic records may be used. If electronic attendance records are used, then they must be available to the department at the time of an inspection. If the electronic attendance records are not available during an on-site inspection, then the center is in violation of this rule.
- (12) A parent's written permission for the child's participation in field trips must be obtained at the time of enrollment or before each field trip, and kept on file at the center.
- (13) Parents shall be notified before each field trip.

History: 2013 AACS; 2019 AACS.

R 400.8146 Information provided to parents.

Rule 146.

- (1) A center shall provide a written information packet 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 routine.
 - (h) Parent notification plan for accidents, injuries, incidents, and illnesses.
 - (i) Transportation policy, if applicable.
 - (j) Medication policy.
 - (k) Exclusion policy for child illnesses.
- (l) Notice of the availability of the center's licensing notebook. The notice must include all of the following:
- (i) The licensing notebook contains all the licensing inspection and special investigation reports and related corrective action plans for the last 5 years.
 - (ii) The licensing notebook is available to parents during regular business hours.
 - (iii) Licensing inspection reports, special investigation reports, and corrective action plans from at least the past 3 years are available on the department's child care licensing website at www.michigan.gov/michildcare. The website address must be in bold print.
- (m) The website where parents can access these rules is www.michigan.gov/michildcare.
- (2) Written documentation that the parent received the written information packet, as required by subrule (1) of this rule, must be kept on file at the center.
- (3) For infants and toddlers, a center shall provide parents with a written daily record that includes at least the following information:
- (a) Food intake time, type of food, and amount eaten.

- (b) Sleeping patterns indicating when and how long the 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.

History: 2013 AACS; 2019 AACS.

R 400.8149 Parent permission for transportation.

Rule 149.

- (1) A center shall obtain a parent's written permission annually for routine transportation.
- (2) A center shall obtain a parent's written permission for any non-routine transportation before each trip.
- (3) Permission for all transportation must be kept on file at the center.

History: 2013 AACS; 2019 AACS.

R 400.8152 Medication; administrative procedures.

Rule 152.

- (1) Medication, prescription or nonprescription, must be given to a child by a child care staff member only.
- (2) A child care staff member shall give or apply medication, prescription or nonprescription, only with prior written permission from a parent.
- (3) All medication must be in its original container, stored according to instructions, and clearly labeled for a named child, including all nonprescription topical medications described in subrule (8) of this rule.
- (4) Prescription medication must have the pharmacy label indicating the physician's name, child's first and last name, instructions, name and strength of the medication, and must be given according to those instructions.
- (5) A child care staff member shall keep all medication out of the reach of children and shall return it to the child's parent or destroy it when the parent determines it is no longer needed or it has expired.
- (6) A child care staff member shall give or apply any prescription or nonprescription medication according to the directions on the original container, unless otherwise authorized by a written order of the child's physician.
- (7) A child care staff member shall not add medication to a child's bottle, beverage, or food unless indicated on the prescription label.
- (8) Topical nonprescription medication, including but not limited to diapering cream, triple antibiotic, sunscreen, and insect repellent, requires written parental authorization annually.
- (9) A center shall maintain a record as to the time and the amount of medication given or applied, with the exception of medications described in subrule (8) of this rule, on a form provided by the department or a comparable substitute approved by the department. One form per medication is required. The signature of the child care staff member administering the medication must be included.

History: 2013 AACS; 2019 AACS.

R 400.8155 Child accidents and incidents; child and staff illness.

Rule 155.

- (1) A center shall have a written plan for how and when a parent is notified when personnel observe any of the following:
 - (a) Changes in a child's health.
 - (b) A child experiences an accident, injury, or incident.
 - (c) A child is too ill to remain in the group.
- (2) A center shall ensure that a child who is 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 must not be used by any other individual until washed, rinsed, and sanitized.

- (4) If a center becomes aware that a staff member, volunteer, or child in care has contracted a communicable disease, then the center shall notify parents and provide all of the following information:
- (a) The name of the communicable disease the children were exposed to.
 - (b) The symptoms of the disease.
 - (c) Prevention measures as recommended by the U.S. Centers for Disease Control and Prevention (CDC) at the following website: <https://www.cdc.gov/DiseasesConditions>.
- (5) A center shall have a written policy detailing when children, staff, and volunteers will be excluded from the center due to illness.

History: 2013 AACS; 2019 AACS.

R 400.8158 Incident, accident, injury, illness, death, fire reporting.

Rule 158.

- (1) In the event of the death of a child in care, a licensee, licensee designee, or program director shall do both of the following:
- (a) Immediately report it, in-person or via phone, directly to the child's parent.
 - (b) Report it to the department within 24 hours, via phone.
- (2) A licensee, licensee designee, or program director shall report to the child's parent and the department, directly or via phone, fax, or email, 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 fire on the premises of the center that requires the use of fire suppression equipment or results in loss of life or property.
 - (d) The center is evacuated for any reason.
- (3) A licensee, licensee designee, or program director shall report to the department, via phone, fax, or email, within 24 hours of notification by a parent that a child received medical treatment or was hospitalized for an injury, accident, or medical condition that occurred while the child was in care.
- (4) A licensee, licensee designee, or program director shall submit a written report to the department of the occurrences outlined in subrules (1), (2), and (3) of this rule, in a format provided by the department, within 72 hours of the verbal report to the department.
- (5) A licensee, licensee designee, or program director shall keep a copy of the report on file at the center.

History: 2013 AACS; 2019 AACS.

R 400.8161 Emergency procedures.

Rule 161.

- (1) Written procedures for the care of children and staff for each of the following emergencies must be developed and implemented:
- (a) Fire.
 - (b) Tornado.
 - (c) Other natural or man-made disasters.
 - (d) Serious accident, illness, or injury.
 - (e) Crisis management including, but not limited to, intruders, active shooters, bomb threats, and other man-made events.
- (2) The written procedures must include all of the following:
- (a) A plan for evacuation.
 - (b) A plan for safely moving children to a relocation site.
 - (c) A plan for shelter-in-place.
 - (d) A plan for lockdown.
 - (e) A plan for contacting parents and reuniting families.
 - (f) A plan for how each child with special needs will be accommodated during each type of emergency.
 - (g) A plan for how infants and toddlers will be accommodated during each type of emergency.

- (h) A plan for how children with chronic medical conditions will be accommodated during each type of emergency.
- (3) The plans required by subrule (1)(a) to (d) of this rule must be posted in a place visible to staff and parents.
- (4) The crisis management plan required by subrule (2) of this rule must be maintained in a place known and easily accessible to all personnel.
- (5) A fire drill program, consisting of at least 1 fire drill quarterly, must be established and implemented.
- (6) A tornado drill program, consisting of at least 2 tornado drills between the months of March through November, must be established and implemented.
- (7) A written log indicating the date and time of fire and tornado drills must be kept on file at the center.
- (8) Each child care 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) of this rule.
- (9) If cribs are used in emergency evacuations, then all doors within the means of egress must be wide enough to readily accommodate the crib evacuation.

History: 2013 AACS; 2019 AACS.

R 400.8164 Telephone service.

Rule 164.

- (1) An operable phone must be available and accessible in the building during the hours the center is in operation.
- (2) During the hours the center is in operation, a phone number known to the public and available to parents to provide immediate access to the center must be provided.
- (3) Emergency phone numbers, including 911, fire, police, and the poison control center, and the facility's physical address and 2 main cross streets, must be conspicuously posted in a place visible to staff.

History: 2013 AACS; 2019 AACS.

R 400.8167 Indoor space.

Rule 167.

- (1) The required square footage of indoor space per child must be at least the following:
 - (a) Fifty square feet for infants and toddlers.
 - (b) Thirty-five square feet for preschoolers and school-agers.
- (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 closets.
 - (f) Areas used exclusively for resting, sleeping, or eating, except for infants and toddlers.
- (3) A center shall provide a floor plan of all child use areas to the department at initial licensure and before making structural changes or adding any child use space. Only space that has received prior approval for child use by the department may be used for child care.

History: 2013 AACS; 2019 AACS.

R 400.8170 Outdoor play area.

Rule 170.

- (1) As used in 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.
- (2) The outdoor play area is considered an outdoor classroom and an extension of the learning environment.

- (3) 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.
- (4) 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.
- (5) If outdoor space is not available adjacent to the center, then a center may use a park or other outdoor facility. The outdoor space must meet all of the following requirements:
- (a) The area must be easily accessible by a safe walking route.
 - (b) The play area must be inspected before each use to ensure that no hazards are present.
 - (c) The location of the alternative outdoor play area must be specified in writing to the department.
- (6) There must be a shaded area to protect children from excessive sun exposure, when necessary.
- (7) The outdoor play area must be in a safe location.
- (8) The outdoor play area must be protected from hazards, when necessary, by a fence or natural barrier that is at least 48 inches in height.
- (9) Children shall only use age-appropriate equipment.
- (10) An outdoor play area and any equipment located on the center's premises must be maintained in a safe condition and inspected daily before use to ensure that no hazards are present.
- (11) The playground equipment, use zones, and surfacing in the outdoor play area must be inspected by a certified playground safety inspector and an approval granted for playground equipment and areas used before issuance of an original license, upon request of the department, and before using any newly added playground equipment. The center shall provide documentation of the inspection to the department upon request and shall keep it on file at the center.
- (12) School-age centers operating in school buildings approved by the Michigan department of education are exempt from subrule (11) 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 do not comply with subrule (11) of this rule.
- (13) All pieces of playground equipment that have an elevated playing or climbing surface, regardless of the height of the playing or climbing surface, must be surrounded by a shock absorbing surface and meet the guidelines defined by the Consumer Product Safety Commission (CPSC) Handbook for Public Playground Safety, which is available at no cost at www.cpsc.gov. This handbook is also available for inspection, and distribution at no cost, at the Michigan Department of Licensing and Regulatory Affairs, Bureau of Community and Health Systems, Child Care Division, 611 West Ottawa Street, Lansing, MI 48933. The shock absorbing surface material may be either unitary or the loose-fill type. An exception to this subrule is provided for natural playgrounds.
- (14) Shock-absorbing surfacing materials are not required for equipment that requires a child to be standing or sitting on the ground during play.
- (15) Loose-fill surfacing material must not be installed over concrete or asphalt.
- (16) The depth of the loose-fill surface material must be restored to its required depth when it has moved or becomes otherwise compromised.
- (17) If children's wheeled vehicles and pull toys are used, then a suitable surface must be provided for their use.
- (18) Materials used on a natural playground must not be in the use zones for other playground equipment.
- (19) The elevated playing surface of materials used on a natural playground must not exceed 30 inches.
- (20) Materials used on a natural playground with elevated playing surfaces must not be installed over concrete or asphalt.
- (21) Surfacing materials are not required under elevated playing surfaces on a natural playground.

History: 2013 AACCS; 2019 AACCS.

R 400.8173 Equipment.

Rule 173.

(1) A center shall not use equipment, materials, and furnishings recalled or identified by the United States Consumer Product Safety Commission (CPSC) as being hazardous. This information is available free of charge at the CPSC website, www.cpsc.gov.

- (2) The current list of unsafe children's products that is provided by the department must be conspicuously posted in the center, as required by section 15 of the children's product safety act, 2000 PA 219, MCL 722.1065.
- (3) Materials that have a warning label indicating they are toxic for children, or to keep out of reach of children, must not be used by children.
- (4) Play equipment, materials, and furniture, must be all of the following:
- (a) Appropriate to the developmental needs and interests of children as required by R 400.8179(2).
 - (b) Safe, clean, and in good repair.
 - (c) Child-sized or appropriately adapted for a child's use.
 - (d) Easily accessible to the children.
- (5) A center shall provide a minimum of 3 playspaces per child multiplied by the number of children the center is licensed to serve.
- (6) A minimum of 2 playspaces must be accessible per child in attendance on any given day during child-initiated activity time.
- (7) 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.
- (8) A current and accurate equipment inventory must be provided to the department before issuance of the original license and updated and made available at each renewal.
- (9) A first aid kit must be readily accessible to staff and securely stored in the center.
- (10) A rocking chair or other comfortable, adult-sized seating must be provided for 50% of the child care staff members on duty who are providing infant and toddler care.
- (11) Trampolines and bounce houses must not be used by children in care at the child care center.

History: 2013 AACCS; 2019 AACCS.

R 400.8176 Sleeping equipment.

Rule 176.

- (1) All bedding and sleeping equipment must be appropriate for the child, clean, comfortable, safe, and in good repair.
- (2) Heavy objects that could fall on a child, such as shelving and televisions, must not be above sleeping equipment.
- (3) A crib or porta-crib must be provided for all infants in care.
- (4) A crib, porta-crib, cot, or mat, and a sheet or blanket of appropriate size must be provided for all toddlers and preschoolers under 3 years of age in care.
- (5) A cot or a mat and a sheet or blanket of appropriate size must be provided as follows:
- (a) For all preschoolers 3 years of age and older in care for 5 or more continuous hours.
 - (b) For any child in care who regularly naps.
 - (c) Upon a parent's request for any child in care.
- (6) Car seats, infant seats, swings, bassinets, and play yards are not approved sleeping equipment.
- (7) Documentation from the child's health care provider is required if a child has a health issue or special need that requires the child to sleep in something other than a crib or porta-crib for infants or toddlers, or cot or mat for toddlers. The documentation must include specific sleeping instructions and time frames for how long the child needs to sleep in this manner, including an end date.
- (8) Swaddling with a sleep sack swaddle attachment or swaddle wrap is allowed only for infants up to 2 months of age. If a child has a health issue or special need that requires the child use a swaddle attachment or swaddle wrap after the child is 2 months of age, documentation from the health provider is required. The documentation must include specific sleeping instructions and time frames for how long the child needs to sleep in this manner, including an end date.
- (9) A center shall not use stacking cribs.

- (10) Cribs and porta-cribs must comply with the federal product safety standards issued by the United States Consumer Product Safety Commission, which are available at no cost at the commission's website, www.cpsc.gov. These standards are also available for inspection or distribution at no cost from the Michigan Department of Licensing and Regulatory Affairs, Bureau of Community and Health Systems, Child Care Division, 611 West Ottawa Street, Lansing, MI 48933.
- (11) A crib or porta-crib must have a firm, tight-fitting waterproof mattress.
- (12) A tightly fitted bottom sheet must cover the crib or porta-crib mattress with no additional padding placed between the sheet and mattress.
- (13) Soft objects, bumper pads, stuffed toys, blankets, quilts, comforters, and other objects that could smother a child must not be placed in, or within reach of, a crib or porta-crib with a resting or sleeping infant.
- (14) Blankets must not be draped over cribs or porta-cribs when in use.
- (15) Cots and mats must be constructed of a fabric or plastic that is easily cleanable.
- (16) All sleeping equipment and bedding must be washed, rinsed, and sanitized when soiled, between uses by different children, and at least once a week regardless of use by different children.
- (17) When sleeping equipment and bedding are stored, both of the following apply:
- (a) Sleeping surfaces shall not come in contact with other sleeping surfaces.
 - (b) Bedding must not come in contact with other bedding.
- (18) All occupied cribs, porta-cribs, cots, and mats must be placed in such a manner that there is a free and direct means of egress and must be spaced as follows:
- (a) Cribs and porta-cribs must be at least 2 feet apart. Cribs or porta-cribs with solid-panel ends may be placed end-to-end.
 - (b) Cots and mats must be at least 18 inches apart.

History: 2013 AACCS; 2019 AACCS.

R 400.8179 Program.

Rule 179.

- (1) As used in this rule:
- (a) "Confining equipment" means equipment used to assist in caring for infants, including but is not limited to, swings, stationary activity centers, infant seats, and molded seats.
 - (b) "Media" means use of electronic devices with a screen, including but not limited to: televisions, computers, tablets, multi-touch screens, interactive white boards, mobile devices, cameras, movie players, e-book readers, and electronic game consoles.
 - (c) "Interactive media" means media designed to facilitate active and creative use by children and to encourage social engagement with other children and adults.
 - (d) "Non-interactive media" means media that is used passively by children.
- (2) A center shall implement a program plan that includes daily learning experiences appropriate to the developmental level of the children. Experiences must be designed to develop all of the following:
- (a) Physical development.
 - (b) Social development.
 - (c) Emotional development.
 - (d) Cognitive development.
- (3) The program must be planned to provide a flexible balance of all of the following experiences:
- (a) Quiet and active.
 - (b) Individual and group.
 - (c) Large and small muscle.
 - (d) Child initiated, and staff initiated.
- (4) Developmentally appropriate experiences must be designed so that throughout the day each child has opportunities to do all of the following:
- (a) Practice social interaction skills.
 - (b) Use materials and take part in activities that encourage creativity.
 - (c) Learn new ideas and skills.
 - (d) Participate in imaginative play.

- (e) Participate in developmentally appropriate language and literacy experiences.
- (f) Participate in early math and science experiences.
- (g) Be physically active.

(5) A school-age program must supplement the areas of development not regularly provided for during the school day.

(6) A typical daily routine must be posted in a place visible to parents.

(7) When awake, use of confining equipment for infants must be minimized, not to exceed 30 minutes at a time.

(8) Tummy time is required daily for all infants under 12 months of age, and must meet all of the following requirements:

- (a) Infants shall be directly supervised at all times while engaged in tummy time.
- (b) Infants shall be healthy, awake, and alert during tummy time. If an infant falls asleep, the infant must be immediately moved to a safe sleeping space.
- (c) During tummy time, infants shall not be placed on or near soft surfaces, including but not limited to cushions, pillows, or padded mats.
- (d) A parent may request in writing an exemption for their infant from tummy time. The request must be kept in the child's file.

(9) Use of media is prohibited for children under 2 years of age.

(10) When media are used with children 2 years of age and older, all of the following apply:

- (a) Activities must be developmentally appropriate.
- (b) Interactive media must be used to support learning and to expand children's access to content, and be suitable to the age of the child in terms of content and length of use per session.
- (c) Media with violent or adult content are prohibited while children are in care.
- (d) Use of non-interactive media must not exceed 2 hours per week per child.
- (e) When media are available for children's use, other activities must also be available to children.

(11) An exception to the requirements of subrule (10)(d) of this rule may be made under the following conditions:

- (a) School-age children using computers and any other electronic devices for academic and educational purposes.
- (b) Children using assistive and adaptive technology.

(12) For children with special needs, care must be provided according to the child's needs as identified by parents, medical personnel, or other relevant professionals.

(13) Parents may visit the center during hours of operation for the purpose of observing their children.

History: 2013 AACS; 2019 AACS.

R 400.8182 Ratio and group size requirements.

Rule 182.

(1) At least 2 adults, 1 of whom is a child care staff member, shall be present at all times when at least 3 children between the ages of birth and 3 years of age are present. A second child care staff member is required when needed to comply with subrule (3) of this rule.

(2) At least 2 adults, 1 of whom is a child care staff member, shall be present at all times when 7 or more children over 3 years of age are present. A second child care staff member is required when needed to comply with subrule (3) of this rule.

(3) In each room or well-defined space, the maximum group size and ratio of child care staff members to children, including children related to a staff member or the licensee, must be as shown in Table 4:

TABLE 4 Child Care Staff Member to Child Ratios			
	Age	Child Care Staff Member to Child Ratio	Maximum Group Size
(a)	Infants and toddlers, birth until 30 months of age	1 to 4	12
(b)	Preschoolers, 30 months of age until 3 years of age	1 to 8	16
(c)	Preschoolers, 3 years of age until 4 years of age	1 to 10	Not applicable
(d)	Preschoolers, 4 years of age until school-age	1 to 12	Not applicable
(e)	School-agers	1 to 18	Not applicable

(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. The ratio listed in subrule (3)(c) of this rule applies.

(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. The ratio listed in subrule (3)(d) of this rule applies.

(6) Children who have reached 57 months of age but who are not considered a school-ager may, when developmentally appropriate, be enrolled in a school-age classroom with written parental permission. The ratio listed in subrule (3)(e) of this rule applies.

(7) If there are children of mixed ages in the same room or well-defined space, then the ratio and group size is determined by the age of the youngest child, unless each group of children is clearly separated and the appropriate child care staff member-to-child ratios and group sizes, if applicable, 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 400.8760(1) and (2).

History: 2013 AACS; 2019 AACS.

R 400.8185 Primary care.

Rule 185.

(1) As used in this rule, “primary caregiver” means the child care staff member to whom the care of a specific infant or 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 toddler has a primary caregiver.

(3) Each infant and toddler 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 must be shared daily between primary caregivers when more than 1 primary caregiver is assigned to any infant or toddler.

(5) Primary caregiving assignments must be documented and provided to parents.

(6) An exception to this rule may be made when the center is transporting children and is in compliance with R 400.8760(1) and (2).

History: 2013 AACS; 2019 AACS.

R 400.8188 Sleeping, resting, and supervision.

Rule 188.

- (1) Children under 3 years of age shall be provided opportunities to rest regardless of the number of hours in care.
- (2) A 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 shall be 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 an alternative safe sleep position or other special sleeping arrangements for the infant must be followed and kept on file at the center. The instructions must include an end date.
- (8) A sleeping infant's breathing, sleep position, and bedding must be monitored frequently for possible signs of distress.
- (9) An infant's head must remain uncovered during sleep.
- (10) Toddlers shall rest or sleep alone in cribs, porta-cribs, or on mats or cots.
- (11) 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 age and size.
- (12) Naptime or quiet time must be provided when children under school-age are in attendance 5 or more continuous hours per day.
- (13) For children under school age who do not sleep at rest time, quiet activities must be provided such as reading books or putting puzzles together.
- (14) Resting or sleeping areas must have adequate soft lighting to allow the child care staff member to assess children.
- (15) Video surveillance equipment and baby monitors must not be used in place of subrule (8) of this rule and R 400.8125(1).

History: 2013 AACS; 2019 AACS.

R 400.8191 Nighttime care.

Rule 191.

- (1) If a child is in care between the hours of 11 p.m. and 5 a.m., a separate area, away from sleeping children, where the child can engage in quiet activities must be available.
- (2) If a child is in care for more than 1 hour between the hours of 11 p.m. and 5 a.m., a bed and mattress, with a waterproof covering, of a size appropriate to the age of the child shall be available.

History: 2013 AACS; 2019 AACS.

PART 2. ENVIRONMENTAL HEALTH**R 400.8301 Definitions.**

Rule 301. As used in this part:

- (a) "Bulk foods" means larger quantities of food that are used over time, such as flour, sugar, noodles, and rice. 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) "Food grade surface" means a surface that is easily cleanable and made from a material that will not migrate into, contaminate, or taint the food.
- (d) "Food service equipment" means stoves, ovens, ranges, hoods, slicers, mixers, meat blocks, tables, counters, refrigerators, sinks, dishwashing machines, steam tables, and similar items other than utensils, used in the operation of a 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, in a carton, 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 before being served.
- (j) “Sealed” means free of cracks or other openings that permit the entry or passage of moisture.
- (k) “Single-service articles” means those food service articles intended for 1-time, 1-person use and then discarded.
- (l) “Tableware” means multi-use eating and drinking utensils.
- (m) “Utensil” means any implement used in the storage, preparation, transportation, or service of food.

History: 2013 AACS; 2019 AACS.

R 400.8305 Plan review; approval; inspections.

Rule 305.

- (1) All local health department requirements regarding plan reviews and specifications must be followed. Written confirmation that this has occurred must be submitted to the department.
- (2) An inspection must be conducted by the local health department, and an approval granted indicating compliance with all of the rules in this part, except R 400.8330, 400.8335, and 400.8340, at all of the following times:
 - (a) Before issuance of an original license.
 - (b) Every 2 years, at the time of renewal, if the center has a private well or septic.
 - (c) Every 2 years, at the time of renewal, if the center provides food service where the food is prepared and served on-site, unless the kitchen is currently licensed to provide food service.
 - (d) Prior to adding a food service program.
 - (e) Prior to adding an infant or toddler program.
 - (f) When requested by the department.

History: 2013 AACS; 2019 AACS.

R 400.8310 Food preparation areas.

Rule 310.

- (1) Food contact surfaces must be smooth, nontoxic, easily cleanable, durable, corrosion resistant, and nonabsorbent.
- (2) Carpeting is prohibited in food preparation areas.
- (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 must be limited to residential stove and oven equipment.
- (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 are prohibited in food preparation and eating areas.
- (8) When the only food preparation is for feeding infants and toddlers, there must be a sink that is used exclusively for food preparation and clean up.

History: 2013 AACS; 2019 AACS.

R 400.8315 Food and equipment storage.

Rule 315.

- (1) Each refrigerator must have an accurate working thermometer indicating a temperature of 41 degrees Fahrenheit or below.
- (2) All artificial lighting fixtures located over, by, or within food storage, preparation, and service areas, or where utensils and equipment are cleaned and stored, must be properly shielded.
- (3) Unpackaged bulk foods must be stored in clean covered containers, dated, and labeled as to the contents.
- (4) Food not subject to further washing or cooking before serving must be stored in a way that protects it from cross-contamination from food requiring washing or cooking.
- (5) Packaged food must not be stored in contact with water or undrained ice.
- (6) Poisonous or toxic materials must not be stored with food, food service equipment, utensils, or single-service articles.
- (7) Food, food service equipment, and utensils must 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 must be stored in a cabinet or a shelf above the floor.
- (10) All food service equipment must be above the floor, moveable, or be properly sealed to the floor.
- (11) Meals that are transported must be prepared in commercial kitchens and delivered in carriers approved by the local health department.

History: 2013 AACCS; 2019 AACCS.

R 400.8320 Food preparation.

Rule 320.

- (1) Food must be in sound condition, free from spoilage, filth, or other contamination and be safe for human consumption.
- (2) Food must be prepared on food grade surfaces that have been washed, rinsed, and sanitized.
- (3) Raw fruits and vegetables must be thoroughly washed before being cooked or served.
- (4) Staff shall minimize bare-hand contact with foods that will be cooked.
- (5) Ready to eat foods must not be prepared or served using bare hands.
- (6) Food must be cooked to heat all parts of the food to the safe temperature as identified in the document titled Safe Minimum Cooking Temperatures, published by the U.S. Food Safety Working Group. This document is adopted by reference in this rule and is available at no cost on the [Foodsafety.gov](https://www.foodsafety.gov/keep/charts/mintemp.html) website, <https://www.foodsafety.gov/keep/charts/mintemp.html>. It is also available for inspection and distribution at no cost from the Michigan Department of Licensing and Regulatory Affairs, Bureau of Community and Health Systems, Child Care Division, 611 West Ottawa Street, Lansing, MI 48933.
- (7) Potentially hazardous foods must be thawed using 1 of the following methods:
 - (a) In the refrigerator at a temperature not to exceed 41 degrees Fahrenheit.
 - (b) Completely submerging the item under cold water, at a temperature of 70 degrees Fahrenheit or below, that is running fast enough to float off loose ice particles.
 - (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 must 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 or frozen must 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 must 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 must be protected from contamination at all times as required by this rule.

(12) In the absence of proper hand washing facilities on field trips, individuals preparing and serving food shall wear sanitary disposable food service gloves.

History: 2013 AACS; 2019 AACS.

R 400.8325 Sanitization.

Rule 325.

- (1) All tableware, utensils, food contact surfaces, and food service equipment must be thoroughly washed, rinsed, and sanitized after each use. Multipurpose tables must 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) Multi-use tableware and utensils must be washed, rinsed, and sanitized using 1 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, a third container suitable for complete submersion for sanitizing, and adequate drain boards.
- (5) If the manual washing method is used, as referenced in subrule (4)(c) and (d) of this rule, all of the following must be done:
 - (a) Rinse and scrape all utensils and tableware before washing.
 - (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 that measures parts per million concentration of the solution must be used when a chemical is used for sanitizing.
 - (e) Air dry.
- (6) Sponges must not be used in a food service operation.

History: 2013 AACS; 2019 AACS.

R 400.8330 Food services and nutrition generally.

Rule 330.

- (1) Snacks and meals must 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 must be kept on file at the center if the parent has agreed to provide formula, milk, or food. The center shall provide an adequate amount of formula, milk, or food if the parent does not.
- (3) Beverages and food must be appropriate for the child's individual nutritional requirements, developmental stages, and special dietary needs, including cultural preferences.
- (4) A center shall ensure a child who has special dietary needs is 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.
- (5) A center shall provide adequate staff so that food service activities do not detract from direct care and supervision of children.
- (6) A center shall make water available to drink throughout the day to children 1 year of age and older.
- (7) Infants and toddlers shall be fed on demand.
- (8) 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.
- (9) A center shall not deprive a child of a snack or meal if the child is in attendance at the time when the snack or meal is served.
- (10) Menus must be planned in advance, dated, and posted in a place visible to parents. Food substitutions must be noted on the menus the day the substitution occurs.
- (11) A center shall not serve infants and toddlers or allow them to eat foods that could easily cause choking, including but not limited to, popcorn, seeds, nuts, hard candy and uncut round foods such as whole grapes and hot dogs.
- (12) Cereal must not be added to a bottle or beverage container without written parental permission.
- (13) If food, bottles, or beverage containers are warmed, then the warming must be done in a safe, appropriate manner.
- (14) Warming bottles and beverage containers in a microwave oven or a crockpot is prohibited.
- (15) Bottle warmers must be placed where children cannot access them or reach the cords for them.
- (16) Bottle warmers must be shut off when not in use. A child care staff member shall not hold a child while removing a bottle from the heating device.
- (17) Warmed food, bottles, and beverage containers must be shaken or stirred to distribute the heat, and the temperature must be tested before feeding.
- (18) The contents of a bottle or beverage container must 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.
- (19) Formula and milk, including breast milk, left in a bottle or beverage container after a feeding must not be reused.
- (20) Bottle propping is prohibited.
- (21) When feeding, child care staff members shall hold infants, except when infants resist being held and are able to hold their bottle.
- (22) Infants or toddlers shall not have bottles, beverage containers, or food in sleeping equipment.
- (23) Children shall not have beverage containers or food while they are walking around or playing.
- (24) Child care staff members shall foster and facilitate toddlers' independence, language, and social interactions by doing all of the following:
- (a) Encouraging self-feeding.
 - (b) Serving appropriate portion sizes.
 - (c) Sitting with toddlers during meal times.
- (25) Breastfeeding must be supported and accommodated.
- (26) A designated place must be set aside for use by mothers who are breastfeeding.

History: 2013 AACCS; 2019 AACCS.

R 400.8335 Food services and nutrition; provided by center.

Rule 335.

- (1) Food and beverages provided by a center must 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 (CACFP), as administered by the Michigan department of education, based on 7 CFR part 226, 1-1-18 edition, (2018) of the United States Department of Agriculture, Food and Nutrition Service, CACFP, and is hereby adopted by reference. A copy can be obtained at no cost from CACFP at <http://www.fns.usda.gov/cacfp/meals-and-snacks>. In addition, a copy is available for inspection and distribution at no cost at the Michigan Department of Licensing and Regulatory Affairs, Bureau of Community and Health Systems, Child Care Division, 611 West Ottawa Street, Lansing, MI 48933.
- (2) Solid foods must be introduced to an infant according to the parent's or licensed health care provider's instructions.
- (3) Infants shall only be served formula to drink unless written authorization is provided by the child's licensed health care provider.

- (4) Children 12 months of age until 2 years of age shall be served whole homogenized Vitamin D-fortified cow's milk, except as provided in R 400.8330(4).
- (5) Formula must be commercially prepared and ready-to-feed.
- (6) All fluid milk and fluid milk products must be pasteurized and meet the grade "A" quality standards.
- (7) Milk must be served from 1 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.
- (8) All of the following apply to milk:
 - (a) Containers must be labeled with the date opened.
 - (b) Milk must be served within 7 days of opening.
 - (c) Milk must not be served if the contents appear to be unsanitary or have been unrefrigerated for a period exceeding 1 hour.
 - (d) Milk must not be combined with the contents of other partially filled containers.
- (9) Contents remaining in single-service containers of milk shall must be discarded at the end of the snack or meal time.
- (10) All containers of ready-to-feed formula, once opened, must be labeled with the date and time of opening, refrigerated, and used within 48 hours or be discarded.
- (11) Prepared bottles and beverage containers of milk and formula must be refrigerated and labeled with the child's first and last name, date, and time of preparation.
- (12) Contents of unused bottles of formula must be discarded, along with any bottle liners, after 48 hours.
- (13) All liners, nipples, formula, milk, and other materials used in bottle preparation must be prepared, handled, and stored in a sanitary manner.
- (14) Reusable nipples and bottles must be washed, rinsed, and sanitized before reuse.
- (15) Bottle liners and disposable nipples must be for single use only, by an individual child, and discarded with any remaining formula or milk after use.
- (16) Commercially packaged baby food must be served from a dish, not directly from a factory-sealed container, unless the entire container will be served to only 1 child and will be discarded at the end of the feeding period.
- (17) Uneaten food that remains on a dish from which a child has been fed must be discarded.
- (18) Food that has been served and handled by the consumer of the food, may not be served again, unless it is in the original, unopened wrapper.
- (19) Home canned products are prohibited.

History: 2013 AACS; 2019 AACS.

R 400.8340 Food services and nutrition; provided by parents.

Rule 340.

- (1) As used in this rule:
 - (a) "Same-day supply" means for use during a single day.
 - (b) "Multi-day supply" means for use over a multiple day period, up to 7 days.
- (2) Breast milk, formula, milk, or other beverages provided in a same-day supply must be furnished daily in either of the following:
 - (a) Clean, sanitary, ready-to-feed bottles or beverage containers.
 - (b) A clean, sanitary, beverage container. The beverage must be poured into a clean, sanitary bottle or beverage container before each feeding.
- (3) Breast milk, formula, milk, other beverages, and food furnished in a same-day supply s must be covered and labeled with the child's first and last name and the date.
- (4) Any food or beverages furnished in a same-day supply must be returned to the parent at the end of the day or discarded.
- (5) Milk, other beverages, and non-perishable food items may be furnished in a multi-day supply in an unopened commercial container.
- (6) Breast milk may be supplied in a multi-day supply in a clean, sanitized container kept in the refrigerator for up to 4 days or kept in the freezer for no more than 2 weeks.

- (7) Milk and other beverages furnished in a multi-day supply must be labeled with the child's first and last name and the date of opening and be returned to the parent or discarded 7 days after opening.
- (8) Non-perishable food items furnished in a multi-day supply must be labeled with the date of opening and when applicable, the first and last name of the child for whom its use is intended.
- (9) Beverages and food must be fed only to the child for whom the item is labeled.
- (10) Breast milk, formula, and milk must be refrigerated until used.
- (11) Other perishable beverages and food items must be refrigerated or otherwise kept at a safe temperature until used. Fresh, whole fruits and vegetables may be unrefrigerated for up to 3 calendar days in a clearly labeled and dated container.

History: 2013 AACCS; 2019 AACCS.

R 400.8345 Water supply; plumbing.

Rule 345.

- (1) The water system must comply with the requirements of the local health department.
- (2) Plumbing must be designed, constructed, installed, and maintained to prevent cross-connection with the water system.
- (3) Sinks, lavatories, drinking fountains, and other water outlets must 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 must be properly installed and maintained in good working condition.
- (5) Each water heater must be equipped with a thermostatic temperature control and a pressure relief valve, both of which must be in good working condition.

History: 2013 AACCS; 2019 AACCS.

R 400.8350 Toilets; hand washing sinks.

Rule 350.

- (1) A center shall provide toilet and hand washing sinks as follows:
 - (a) 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.
 - (b) A center operating with children in attendance 5 or more continuous hours a day shall provide at least 1 toilet and 1 hand washing sink for every 15 children or fraction thereof.
- (2) After December 6, 2006, any center that is new, adds an infant and toddler component, or increases the licensed infant and toddler capacity shall have a diapering area with a readily accessible, designated hand washing sink.
- (3) After December 6, 2006, a separate hand washing sink is required in the kitchen for all of the following:
 - (a) A new center with a food service component.
 - (b) A center with a food service component that remodels the kitchen.
 - (c) Any center that adds a food service component.
- (4) Hand washing sinks for children must be accessible to children by platform or installed at children's level.
- (5) Hand washing sinks must have warm running water not to exceed 120 degrees Fahrenheit.
- (6) Soap and single service towels or other approved hand drying devices must be provided near hand washing sinks.
- (7) Toilet rooms for school-age children must provide for privacy.

History: 2013 AACCS; 2019 AACCS.

R 400.8355 Sewage disposal.

Rule 350.

- (1) Sewage and other water-carried wastes must be disposed of through a municipal or private sewer system.
- (2) Private sewer and septic systems must be designed and operated to safely dispose of all wastewater generated, be adequate in size for the projected use, and meet the criteria of the local health department.

History: 2013 AACS; 2019 AACS.

R 400.8360 Garbage and refuse.

Rule 360.

- (1) All garbage must be removed from the center daily.
- (2) Garbage containers must be washed when soiled.
- (3) Garbage stored outside must be in sealed plastic bags in watertight containers with tight-fitting covers or in a covered dumpster.
- (4) Outside garbage and refuse must be picked up or removed at a minimum of once a week.

History: 2013 AACS; 2019 AACS.

R 400.8365 Heating; temperature.

Rule 365.

- (1) The temperature in child use areas must be maintained at a safe and comfortable level so that children in care do not become overheated or chilled.
- (2) The indoor temperature must be at least 65 degrees Fahrenheit in child use areas at a point 2 feet above the floor.
- (3) If temperatures exceed 82 degrees Fahrenheit, then a center shall take measures to cool the children.

History: 2013 AACS; 2019 AACS.

R 400.8370 Light, ventilation, and screening.

Rule 370.

- (1) The total ventilation area in every habitable room, as provided by openable windows, must be not less than 4½% of the floor area, unless central air conditioning is provided.
- (2) If ventilation is dependent on a mechanical system, then the system must 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) Windows and doors used for ventilation must be supplied with screening of not less than 16 mesh, which must be kept in good repair. This subrule does not apply to child care programs operating in school buildings.

History: 2013 AACS; 2019 AACS.

R 400.8375 Premises.

Rule 375.

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

History: 2013 AACS; 2019 AACS.

R 400.8380 Maintenance of premises.

Rule 380.

- (1) The premises must be maintained in a clean and safe condition and must not pose a threat to health or safety.
- (2) The premises must be maintained so as to eliminate and prevent rodent and insect harborage.
- (3) Roofs, exterior walls, doors, skylights, and windows must be weathertight and watertight and kept in sound condition and good repair.
- (4) Floors, interior walls, and ceilings must be kept in sound condition, good repair, and maintained in a clean condition.
- (5) There must be no flaking or deteriorating paint on interior and exterior surfaces or on equipment accessible to children.
- (6) All toilet room floor surfaces must be easily cleanable and constructed and maintained so as to be impervious to water.
- (7) Light fixtures, vent covers, wall-mounted fans, and similar equipment attached to walls and ceilings must be easily cleanable and maintained in good repair.
- (8) A lead hazard risk assessment must be completed by a certified lead risk assessor on all centers built before 1978. Any lead hazards identified must be addressed as noted in the lead hazard risk assessment report before issuance of the original license. The results of the assessment must be kept on file at the center. Centers that operate in a school building serving only school-age children are exempt from the requirements in this rule.
- (9) A center shall adopt and implement an integrated pest management policy as required by section 8316 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.8316.

History: 2013 AACCS; 2019 AACCS.

R 400.8385 Poisonous or toxic materials.

Rule 385.

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

History: 2013 AACCS; 2019 AACCS.

PART 3. FIRE SAFETY

R 400.8501 National Fire Protection Association standards; adoption by reference.

Rule 501.

The following National Fire Protection Association (NFPA) standards, as displayed in Table 5, are adopted by reference in these rules. Copies of the adopted standards are available for inspection and may be purchased at the NFPA website www.nfpa.org, or from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9109, Quincy, Massachusetts 02269-9101. The cost of single copies of each standard at the time of the adoption of these rules is indicated after the title. They are also available for inspection at the Michigan Department of Licensing and Regulatory Affairs, Bureau of Community and Health Systems, Child Care Division, 611 West Ottawa Street, Lansing, MI 48933.

TABLE 5 National Fire Protection Association Standards			
Standard	Title	Edition	Cost
NFPA-10	Standard for Portable Fire Extinguishers	2018	\$54.00
NFPA-13	Standard for the Installation of Sprinkler Systems	2019	\$110.00
NFPA- 25	Standard for the Inspection, Testing and Maintenance of Water-Based Fire Protection Systems	2017	\$63.50
NFPA-72	National Fire Alarm Code and Signaling Code	2019	\$102.50
NFPA-80	Standard for Fire Doors and Other Opening Protectives	2019	\$54.00
NFPA-251	Standard Methods of Fire Resistance of Building Construction and Materials	2006	\$49.00
NFPA-265	Standard Methods of Fire Tests for Evaluation Room Fire Growth Contribution of Textile Coverings on Full Height Panels and Walls	2019	\$50.50
NFPA-701	Standard Methods of Fire Tests for Flame Propagation of Textiles and Films	2015	\$42.00

History: 2013 AACS; 2019 AACS.

R 400.8505 Definitions.

Rule 505.

As used in this part:

- (a) “Basement” means a story of a building or structure having ½ 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 center.
- (e) “Existing licensed center” means a center that was licensed December 7, 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.
- (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 does not prohibit 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) "New construction" means a created structure, addition, replacement, or alteration of structural components, such as walls.
- (s) "Noncombustible" means materials that will not ignite and burn when subjected to fire.
- (t) "Protected ordinary construction" means all of the following types of construction:
 - (i) Roofs and floors and their supports having 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.
- (u) "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"x4" studs. Doorways in these walls are protected with minimum 1¾-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 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.
- (v) "Textile material" means having a napped, tufted, looped, woven, non-woven, or similar surface.
- (w) "Wired glass" means glass not less than ¼-inch thick, reinforced with wire mesh, number 24 gauge or heavier, with spacing not greater than 1 square inch.
- (x) "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.

History: 2013 AACS; 2019 AACS.

R 400.8510 Plans and specifications; submission; approval; inspections.

Rule 5010.

- (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 department for review and approval. If the total cost of the project is \$15,000.00 or more, including labor and materials, the plans shall bear the seal of a registered architect or engineer.
- (2) Written approval shall be obtained from the department before initiating any construction.
- (3) 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 license and every 4 years thereafter, at the time of renewal.
- (4) 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.
- (5) Fuel-fired furnaces shall be inspected by a licensed mechanical contractor before issuance of an original license and every 2 years at renewal.
- (6) Fuel-fired water heaters shall be inspected by a licensed mechanical contractor or a licensed plumbing contractor before issuance of an original license and every 2 years at renewal.

(7) New furnace and water heater installations shall be inspected and approved by the local mechanical inspecting authority at the time of installation.

History: 2013 AACS; 2019 AACS.

R 400.8515 Construction.

Rule 515.

- (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 to provide a protected means of egress to the outside with proper termination to grade.
 - (c) All door openings contained in subdivision (b) of this subrule shall meet all of the following requirements:
 - (i) Be protected with 1¾-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 are 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 is 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 45-minute rated fire doors and frame assemblies. "B" labeled fire doors are acceptable.
 - (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 exits comprised of any combination of subdivisions (a) and (b) of this subrule.
- (5) If basement occupancy is limited to not more than 30 children, then all of the following apply:
 - (a) One of the exits required by subrule (4) 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 to exceed 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 1¾-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.

History: 2013 AACS; 2019 AACS.

R 400.8520 Interior finishes.

Rule 520.

(1) The classifications of interior finishes for flame spread and smoke development, as displayed in Table 6, shall be used as follows:

TABLE 6		
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 is 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 or III interior wall and ceiling finish materials are permitted in any location where class B or II is required and class B or II interior wall and ceiling finish materials are permitted in any location where class A or I is required.

(6) In an existing licensed center or conversion, existing interior finishes that 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 department.

(7) Interior finish materials of classes B or II and C or III that are less than 1/4 inch in thickness shall be applied directly against a noncombustible backing or be furred out not more than 1 inch unless, the tests under which such material has been classed were made without a backer.

(8) Centers licensed before 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 are 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 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 are 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 department.

(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% of each wall in each room. Combustible materials and decorations suspended from or near the ceiling are prohibited.

History: 2013 AACS; 2019 AACS.

R 400.8525 Exits.

Rule 525.

(1) Except as referenced in R 400.8515(4)(b) and subdivision (c) of this subrule 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.

(2) Travel distance to an exit shall be as follows:

(a) For infants and toddlers, travel shall be 50 feet or less from the door of the occupied room to the exit.

(b) For preschoolers and school-agers, 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 July 1, 2000 are exempt from the requirements of this rule.

(3) For all centers initially licensed after December 6, 2006, programs with infants and 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, 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 the 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 shall not exceed ½ inch.

(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 sections 404.2.3 to 404.2.3.5 of the International Code Council/American National Standards Institute (ICC/ANSI) standard A117.1, Accessible and Usable Buildings and Facilities which is adopted by reference in this International Code Council at www.iccsafe.org or 1-800-786-4452 at a cost of \$47.50. They are also available for inspection at the Michigan Department of Licensing and Regulatory Affairs, Bureau of Community and Health Systems, Child Care Division, 611 West Ottawa Street, Lansing, MI 48933.

(10) For new construction, additions and remodeling, an exit door shall be not less than 36 inches wide. 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 wide. Any remodeled door openings, other than the door swing, shall comply with subrule (10) of this rule.

(12) Centers licensed before December 7, 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 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 ¾-inch wide. The word "EXIT" shall have letters that are not less than 2 inches wide, except the letter "I".

(14) Exit signs shall be internally or externally illuminated at all times. To ensure continued illumination for a duration of not less than 90 minutes, in case of primary power loss, the sign illumination means shall be connected to an emergency power system provided from storage batteries, unit equipment, or an on-site generator.

(15) 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.

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

History: 2013 AACCS; 2019 AACCS.

R 400.8530 Hazard Areas.

Rule 530.

(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 1¾-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 between June 4, 1980 and July 1, 2000, areas used for the storage of combustibles and other hazards will continue to be approved if they are enclosed by 1 of the following:

(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 45-minute rated fire door and frame assembly, including an approved self-closing device and positive latching hardware. “B” labeled doors are acceptable.

(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 1¾-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, areas used for the storage of combustibles and other hazards will continue to be approved if they are enclosed by 1 of the following:

(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 45 minute-rated fire door and frame assembly, including an approved self-closing device and positive latching hardware. “B” labeled doors are acceptable.

(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 child use area, it shall be separated from the remainder of the building with minimum 1-hour fire resistive construction, including a minimum of 45-minute rated 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. “B” labeled doors are acceptable.

(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 45-minute rated 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 1¾-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. “B” labeled doors are acceptable.

(5) In centers licensed before December 7, 2006, a properly installed heating plant located in a basement that is not used for child occupancy does not require additional protection where there is a qualified fire separation and with at least a 1¾-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 subrule (4) or (5) of this rule, as applicable.

(7) Where electric heating is used, it shall be Underwriters’ Laboratories, Inc. (UL) listed, permanent, fixed-type electrical heating such as recognized panel or baseboard fixed-type. Electric heating that 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 that 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 45-minute rated fire door and frame assembly in an interior door opening that would expose the center. "B" labeled doors are acceptable.
- (13) Dryer vents shall be metal and vented completely to the exterior.
- (14) The department does not require fire dampers 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.

History: 2013 AACS; 2019 AACS.

R 400.8535 Fire alarm.

Rule 535.

- (1) In any building used as a center, an approved fire alarm, either electrical or manual, shall be installed.
- (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 members.

History: 2013 AACS; 2019 AACS.

R 400.8540 Smoke detectors; carbon monoxide detectors.

Rule 540.

- (1) All child care centers 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, listed by a nationally recognized testing laboratory, on all levels approved for child care and in each 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.

History: 2013 AACS; 2019 AACS.

R 400.8545 Fire extinguishers.

Rule 545.

- (1) Multipurpose fire extinguishers, having ratings of not less than 2A10BC, 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 department or a department-approved qualified fire inspector 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.

History: 2013 AACS.

R 400.8550 Electrical service.

Rule 550.

- (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.
- (4) Extension cords, listed by a nationally recognized testing 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 use 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 6 feet or be connected to another power strip.

History: 2013 AACS.

R 400.8555 Open-flame devices; candles.

Rule 555.

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

History: 2013 AACS.

R 400.8560 Multiple occupancy.

Rule 560.

- (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, are not permitted for center use. However, an exception may be made for a vocational education center approved by the department.

History: 2013 AACS; 2019 AACS.

R 400.8565 Fire safety; exemptions for public and nonpublic school buildings.

Rule 565.

The rules with respect to fire prevention and fire safety do not apply to a 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 center is located in a school building that is approved by the state fire marshal or other similar authority for school purposes.

History: 2013 AACS; 2019 AACS.

PART 4. TRANSPORTATION

R 400.8701. Definitions.

Rule 701.

As used in this part:

- (a) “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.
- (b) “Motor vehicle” means a self-propelled device in which persons are or may be transported upon a highway, built on an automobile or truck chassis specifically designed by the manufacturer to transport passengers, or specially modified to transport handicapped passengers, and that meets the safety equipment requirements of sections 683 to 711 of the Michigan vehicle code, 1949 PA 300, MCL 257.683 to 257.711.
- (c) “Multifunction school activity bus” means that term as described in section 7 of the pupil transportation act, 1990 PA 187, MCL 257.1807.
- (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 bus” means that term as defined in section 7 of the pupil transportation act, 1990 PA 187, MCL 257.1807.
- (f) “School transportation” means transportation provided by a public, non-public, or private school.
- (g) “Transportation” means the conveyance of children by means of a motor vehicle to or from a center and to and from all activities planned for children by or through the center.
- (h) “Transportation component” means when a center uses center owned vehicles, vehicles of staff or volunteers, or other private or contracted transportation to transport children for any reason. Transportation component does not include either of the following:
 - (i) Transportation is not a component of the child care program if a child care center uses public transportation or public or private school transportation; however, certain transportation rules still apply.
 - (ii) If a child care center contracts with, or is established and operated by an intermediate school district, the board of a local school district, or by the board or governing body of a state-approved nonpublic school, then the school is responsible for the health and safety of children during transportation, and transportation is not considered a component of the child care program. If this paragraph applies, a child care center is not required to complete a comprehensive background check on the transportation staff through the Child Care Background Check System.
- (i) “Volunteer motor vehicle” means a motor vehicle not owned by, leased by, or registered to the center or principle or employee of the center.

History: 2013 AACCS; 2019 AACCS.

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, 400.8770, and 400.8149 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.

History: 2013 AACCS.

R 400.8720 All motor vehicles.

Rule 720.

- (1) All motor vehicles must be in safe operating condition.
- (2) All motor vehicles, except multifunction school activity buses and school buses inspected by the department of state police as indicated in subrule (3) of this rule, must be inspected annually by a licensed mechanic. A copy of the inspection must be kept on file at the center. Volunteer vehicles are not required to be inspected.
- (3) Centers that use multifunction school activity buses and school buses must do all of the following:

- (a) Contact the department of state police to determine if an annual inspection by the department of state police is required under section 39 of the pupil transportation act, 1990 PA 187, MCL 257.1839.
- (b) If directed by the department of state police, obtain an annual inspection by the department of state police. A copy of the inspection must be kept on file at the center.
- (4) A statement verifying that all motor vehicles, including volunteer vehicles, are in compliance with Michigan vehicle code safety equipment requirements, as defined in sections 683 to 711 of the Michigan vehicle code, 1949 PA 300, MCL 257.683 to 257.711, must be kept on file at the center.
- (5) The use of passenger vans with a rated seating capacity of 11 or more, including volunteer vehicles, is prohibited.
- (6) Multifunction school activity buses used for transporting children between the child care center and school must comply with all minimum safety specifications, except color, identification, and alternating flashing lights, as defined in the pupil transportation act, 1990 PA 187, MCL 257.1801 to 257.1877.
- (7) Motor vehicle seats used by children, staff, and volunteers must not face sideways.
- (8) A truck must not be used to transport children, except in the cab.
- (9) There must be no loose or heavy objects in the passenger compartment of any motor vehicle.

History: 2013 AACS; 2019 AACS.

R 400.8730 Safety equipment in motor vehicles.

Rule 730.

- (1) All motor vehicles used to transport children must carry all the following safety equipment:
 - (a) Three bidirectional emergency reflective triangles properly cased and securely stored in the motor vehicle.
 - (b) A first aid kit securely stored in an accessible location in the driver compartment.
- (2) Any motor vehicle with a manufacturer's rated seating capacity of more than 10 occupants used to transport children must carry both of the following additional safety equipment:
 - (a) Not less than 3 15-minute flares or an approved battery-operated substitute properly cased and securely stored in the driver's compartment.
 - (b) Fire extinguisher of dry chemical type rated not less than 2A-10BC mounted in an accessible place in the driver's compartment. The fire extinguisher must be inspected and maintained in accordance with NFPA-10. The fire extinguisher must bear a tag indicating the last date of inspection or service and the initials of the person who performed the inspection or service.
- (3) Volunteer motor vehicles are exempt from subrule (1)(a) of this rule.

History: 2013 AACS; 2019 AACS.

R 400.8740 Manufacturer's rated seating capacity; restraint devices; safety belts.

Rule 740.

- (1) Each child transported shall be seated according to the manufacturer's rated seating capacity and properly restrained by a passenger restraint device as required by sections 710d and 710e of 1949 PA 300, MCL 257.710d and 257.710e.
- (2) Passenger restraint devices, as required by subrule (1) of this rule, are not required for children transported on a school bus or a multifunction school activity bus.
- (3) Each restraint device must 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 must be in good working condition.

History: 2013 AACS; 2019 AACS.

R 400.8750 Motor vehicle operator.

Rule 750.

- (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 chapter III of the Michigan vehicle code, 1949 PA 300, MCL 257.301 to 257.329.
 - (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) All of the following documents must be kept on file at 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 driver's license for each driver.
- (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.

History: 2013 AACS; 2019 AACS.

R 400.8760 Staff and volunteer-to-child ratio and supervision in transit.

Rule 760.

- (1) The ratio of staff and volunteers-to-children in transit, including children related to a staff member, volunteer, licensee, or driver, must be based on the following provisions:
 - (a) For infants and toddlers, there must be 1 staff member or volunteer for 4 children. The driver does not count in the staff and volunteer-to-child ratio.
 - (b) For preschoolers under 3 years of age, there must be 1 staff member or volunteer for 8 children. The driver does not count in the staff and volunteer-to-child ratio.
 - (c) For 3-year-olds, there must be 1 staff member or volunteer for 10 children. The driver may be counted in the staff or volunteer-to-child ratio.
 - (d) For 4-year-olds, there must be 1 staff member or volunteer for 12 children. The driver may be counted in the staff or volunteer-to-child ratio.
 - (e) For school-agers, there must be 1 staff member or volunteer for 18 children. The driver may count in the staff or volunteer-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 or volunteer is not required if only 1 child under 36 months of age is transported.
- (2) To count in the staff member or volunteer-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 must be taken:
 - (a) The accompanying staff member, volunteer, or driver shall ensure 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.

History: 2013 AACS; 2019 AACS.

R 400.8770 Time limitation on child transit.

Rule 770.

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.

History: 2013 AACCS.

PART 5. SWIMMING

R 400.8801 Definitions.

Rule 801.

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 the American 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 that term as defined in section 12521 of the public health code, 1978 PA 368, MCL 333.12521.

History: 2013 AACCS; 2019 AACCS.

R 400.8810 Swimming; child care staff member-to-child ratio.

Rule 810.

(1) Written parental permission regarding their child's participation in swimming activities must 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 child care staff member-to-child ratio.

(3) For children under 3 years of age, there shall be an in-the-water ratio of 1 child care staff member to 1 child.

(4) For all non-swimmers 3 years of age and older, there shall be an in-the-water ratio of 1 child care staff member 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 child care staff member to 1 child.

(5) For swimmers 3 years of age and older, there shall be an in-the-water child care staff member-to-child ratio as required by R 400.8182(3).

History: 2013 AACCS; 2019 MAACS.

R 400.8820 Swimming activity supervision.

Rule 820.

All child care staff members counted in the child care staff member-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.

History: 2013 AACCS; 2019 AACCS.

R 400.8830 Instructional swim.

Rule 830.

- (1) Instructional swim must be conducted under the supervision of a qualified water safety instructor (WSI), who is certified by the American Red Cross, in an organization such as the YMCA or YWCA, and where instructional swim is part of the organized program.
- (2) The child care staff member-to-child ratio under R 400.8182(3) must be maintained. The instructor shall not be included in the ratio.

History: 2013 AACCS; 2019 AACCS.

R 400.8840 Swimming activity area.

Rule 840.

- (1) All swimming areas must be maintained in a clean and safe condition.
- (2) A public pool used for swimming must be inspected by the local health department and issued a license by the department of environmental quality.
- (3) The water at a public or private beach must not be used if deemed unsafe by the local health department.
- (4) A working phone must be accessible on the premises.
- (5) All of the following safety equipment must be readily accessible:
 - (a) First aid kit.
 - (b) Rescue pole or throwing rope and ring buoy.
 - (c) Signaling device.
- (6) The use of hot tubs and private wading pools is prohibited.

History: 2013 AACCS; 2019 AACCS.

APPENDIX A

PROMULGATION PROCESS/SUGGESTED CHANGES

The promulgation process is lengthy. This is due, in part, to the Department's desire to develop rules that are clear, reasonable, necessary, fair and enforceable. Serious consideration is given to the recommendations of the Ad Hoc Committee, licensees, child care organizations, interested citizens, parents, and staff.

In the interest of continuing to serve the public by considering its wishes, the Department welcomes any comments or suggestions that you feel will help improve future revisions of these regulations. Your comments will be reviewed when changes in the rules are being considered. 1973 PA 116 requires the Department to conduct a review of the rules every other year and a major review by an Ad Hoc Committee every five years.

You are invited to send your comments to:

Division Director
Child Care Licensing Division
Michigan Department of Licensing and Regulatory Affairs
PO BOX 30664
Lansing, MI 48909
www.michigan.gov/michildcare

In forwarding comments or suggestions, please use an outline similar to the one below. Send to the Division Director for the Department's consideration and review.

Rule Number	Subrule Number
SUGGESTED CHANGE:	
REASON FOR CHANGE:	
Signature	Date
Print Name	
Address (Number, Street)	
City, State, Zip Code	

APPENDIX B

CONTESTED CASE HEARINGS

(By authority conferred on the director of the department of consumer and industry services by section 2 of Act No. 116 of the Public Acts of 1973, as amended, section 10 of Act No. 218 of the Public Acts of 1979, as amended, and Executive Reorganization Order No. 1996-1, being §§722.112, 400.710, and 330.3101 of the Michigan Compiled Laws)

R 400.1600 Definitions.

Rule 1. (1) As used in these rules:

- (a) "Act" means Act No. 116 of the Public Acts of 1973, as amended, being §722.111 et seq. of the Michigan Compiled Laws.
- (b) "Act No. 218" means Act No. 218 of the Public Acts of 1979, as amended, being §400.701 et seq. of the Michigan Compiled Laws.
- (c) "Noncompliance" means a violation of the act or act 218, an administrative rule promulgated under the act or act 218, or the terms of a license or a certificate of registration.
- (d) "Substantial noncompliance" means repeated violations of the act or act 218 or an administrative rule promulgated under the act or act 218, or noncompliance with the act or act 218, or a rule promulgated under the act or act 218, or the terms of a license or a certificate of registration that jeopardizes the health, safety, care, treatment, maintenance, or supervision of individuals receiving services or, in the case of an applicant, individuals who may receive services.
- (e) "Willful noncompliance" means, after receiving a copy of the act or act 218, the rules promulgated under the act or act 218 and, for a license, a copy of the terms of a license or a certificate of registration, an applicant or licensee knew or had reason to know that his or her conduct was a violation of the act or act 218, rules promulgated under the act or act 218, or the terms of a license or a certificate of registration.

(2) Except as provided in subrule (1) of this rule, a term defined in Act No. 306 of the Public Acts of 1969, as amended, being §§24.201 et seq. of the Michigan Compiled Laws, shall have the same meaning when used in these rules.

(3) The definitions in this rule apply to matters under the act and act 218 for the contested case hearings.

History: 1998-2000 AACS.



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