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7.700 CHILD CARE FACILITY LICENSING

7.701 GENERAL RULES FOR CHILD CARE FACILITIES

7.701.1 INTRODUCTION

7.701.10 Rule Application

Rev. eff. 6/1/00 All rules in 7.701 will be known and hereinafter referred to as the General Rules for Child Care Facilities and will apply to all child care applicants and licensees subject to the Child Care Licensing Act, Sections 26-6-101 to 26-6-115, C.R.S.

7.701.11 Licensing Exemptions

Rev. eff. 11/1/98 A. A license must be obtained before care begins unless such care is exempt as set forth below.

B. A license is not required for:

1. A special school or class in which more than 50 percent of the time that children are present is spent in religious instruction. Religious instruction is defined to include such activities as worship, singing religious songs, listening to religious stories, learning and practicing religious cultural activities, and participating in religious celebrations.

Rev. eff. 11/1/01 2. A child care center operated in connection with a church, shopping center, or business where children are cared for during short periods of time, not to exceed three hours in any twenty-four hour period of time, while parents or persons in charge of such children, or employees of the church, shopping center, or business whose children are being cared for at such location are attending church services at such location, shopping, patronizing or working on the premises of the business. This facility must be operated on the premises of the church, business, or shopping center. Only children of parents or guardians who are attending a church activity or patronizing the business or shopping center or working at the church, shopping center or business can be cared for in the center.

Rev. eff. 11/1/98 3. Occasional care of children with or without compensation, which means the offering of child care infrequently and irregularly.

4. A family care home in which less than 24-hour care is given for only one child or two or more children who are siblings from the same family household at any one time.

5. A child care facility that is approved, certified, or licensed by any other state department or agency, or by a federal government department or agency, which has standards for operation of the facility and inspects or monitors the facility.

6. The medical care of children in nursing homes.

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7.701.11 Licensing Exemptions (continued)

Rev. eff. 6/1/00 C. Any child care providers wishing to be declared exempt from the Child Care Licensing Act based on the nature of their program must submit a request for exemption to the Department. That request must include the name and address of the facility, the number of children in care and their approximate ages, the hours of operation, and a basic description of the program and its curriculum.

Rev. eff. 11/1/98 D. Decisions of the Department regarding exemption are the final agency decision of the Department and cannot be reviewed by an Administrative Law Judge.

7.701.12 Civil Penalties and Injunctions

Rev. eff. 6/1/00 A. Violation of any provision of the Child Care Licensing Act or intentional false statements or reports made to the Department or to any agency lawfully delegated by the Department to make an investigation or inspection may result in fines assessed to a maximum of \$10,000.

1. A civil penalty will be assessed by the Department only in conformity with the provisions and procedures specified in Article 4 of Title 24, C.R.S. No civil penalty will be assessed without a hearing conducted pursuant to the Child Care Licensing Act and Article 4 of Title 24, C.R.S., before an Administrative Law Judge acting on behalf of the Department.

2. Prior to receipt of a cease and desist order from the Department or from any agency delegated by the Department to make an investigation or inspection under the provision of the Child Care Licensing Act, any unlicensed child care facility may be fined up to \$100 a day to a maximum of \$1,000 for providing care for which a license is required.

Rev. eff. 11/1/98 3. For providing child care for which a license is required after receipt of a cease and desist order, an unlicensed facility will be fined \$100 a day to a maximum of \$10,000.

4. Assessment of any civil penalty under this section will not preclude the Department from initiating injunctive proceedings pursuant to Section 26-6-111, C.R.S.

Rev. eff. 6/1/00 5. A licensed child care facility may be fined up to \$100 a day to a maximum of \$10,000 for each violation of the Child Care Licensing Act or for any statutory grounds as listed at Section 26-6-108(2), C.R.S.

Rev. eff. 11/1/98 6. Assessment of any civil penalty does not preclude the department from also taking action to deny, suspend, revoke, make probationary, or refuse to renew that license.

Rev. eff. 6/1/00 7. Any person intentionally making a false statement or report to the Department or to any agency delegated by the Department to make an investigation or inspection under the provisions of the Child Care Licensing Act may be fined up to \$100 a day to a maximum of \$10,000.

Rev. eff. 11/1/98 8. Civil penalties assessed by the department must be made payable to the Colorado Department of Human Services.

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7.701.12 Civil Penalties and Injunctions (continued)

Rev. eff. 11/1/98 B. In addition to civil penalties that may be assessed under Section 7.701.12, A, when an individual operates a facility after a license has been denied, suspended, revoked, or not renewed, or before an original license has been issued, injunctive proceedings may be initiated to enjoin the individual from operating a child care facility without a license.

Add eff. 6/1/00 C. Within 10 working days after receipt of a notice of final agency action with regard to a negative licensing action or the imposition of a fine, each child care center or family child care home must provide the Department with the names and mailing addresses of the parents or legal guardians of each child cared for at the facility so that the Department can notify the parents or legal guardians of the negative licensing action taken. The facility will be responsible for paying a fine to the Department that is equal to the direct and indirect costs associated with the mailing of the notice.

7.701.13 Waivers

Rev. eff. 6/1/00 A. A person who has applied for or been issued a certificate or license to operate a child care facility or child placement agency has the right to request a waiver of any rule or regulation which, in his/her opinion, works an undue hardship on the person, facility, or the community, or has been too stringently applied by a representative of the Department.

B. Requests for waivers must be submitted to the department in writing within 60 calendar days of the date on which the rule allegedly was too stringently applied or created the hardship. Requests must include the name and address of the facility, its assigned license number, the citation of the rule for which a waiver is being sought, and all relevant information regarding the alleged hardship or evidence of the rule being too stringently applied.

C. The Department will designate, pursuant to the Child Care Licensing Act, an appeal panel, which will meet to review appeal requests and make recommendations to the Department. Requests should be submitted to the Division of Child Care Services.

Add eff. 6/1/00 D. If a child care facility or agency is aggrieved by the decision of the appeal panel, the facility or agency has a right to a formal hearing pursuant to Section 24-4-105, C.R.S., if the facility or agency petitions the Department in writing within 30 calendar days of receipt of the written appeal decision.

E. Written decisions of the appeal panel must be posted beside the child care license.

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7.701.14 Civil Rights

Rev. eff. 6/1/00 All facilities licensed under the Child Care Licensing Act are subject to the non-discrimination provisions of Title VI of the Civil Rights Act of 1964, as amended, and its implementing regulation, Title 45 Code of Federal Regulations (CFR), Part 80; the Age Discrimination Act of 1975, as amended, and its implementing regulation, Title 45 CFR, Part 91; Section 504 of the Rehabilitation Act of 1973, as amended, and its implementing regulation, Title 45 CFR, Part 84.

All facilities licensed under the Child Care Licensing Act are also subject to Titles I through V of the Americans with Disabilities Act, as amended, and its implementing regulation, Title 29 C.F.R., Part 1630. Decisions related to the enrollment, placement, or dismissal of a child with a disability or chronic condition must be in compliance with the Americans with Disabilities Act. The facility must provide reasonable accommodations for the child with a disability who has special needs.

Rev. eff. 11/1/98 A lack of independent ambulation or the need for assistance in feeding, toileting, or dressing or in other areas of self care cannot be used as sole criteria for enrollment or placement or denial of enrollment or denial of placement. Efforts must be made to accommodate the child's needs and to integrate the child with his/her peers who do not have disabilities.

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7.701.2 DEFINITIONS

7.701.21 Family Care Home

Rev. eff. 11/1/98 "Family Care Home", defined at Section 26-6-102(4), C.R.S., includes the following types of facilities:

- A. A "Family Foster Home" is a facility providing care for a child or children not related to the head of household, or a certified kinship foster care home, for regular 24-hour care.
- B. A "Family Child Care Home" is a type of family care home that provides less than 24-hour care for 2 or more children on a regular basis in a place of residence. Children in care are from different family households and are not related to the head of household.

Rev. eff. 8/1/01 C. A "Specialized Group Facility" is sponsored and supervised by a county department or a licensed child placement agency for the purpose of providing 24-hour care for 5 or more children, but fewer than 12 children except as noted below, from 3 to 18 years of age, and for those persons to 21 years old who are placed by court order prior to their eighteenth birthday whose special needs can best be met through the medium of a small group. A specialized group facility may serve a maximum of 1 child enrolled in Children's Habilitation Residential Program (CHRP) and 8 other foster children or 2 children enrolled in CHRP and 5 other foster children. Emergency placements will not exceed maximum established limits. Facilities that exceed established capacity at the time the rule takes effect may not accept additional children into the home until capacity complies with the rule.

Rev. eff. 12/1/00

SPECIALIZED GROUP FACILITY MAXIMUM CAPACITY		
CHRP	Non-CHRP	Total Children
1	8	9
2	5	7

Add eff. 7/1/00 1. "Specialized Group Homes or Group Centers" who are serving children enrolled in the Children's Habilitation Residential Program (CHRP) waiver shall be in compliance with rules contained within the Department of Health Care Policy and Financing's Medical Assistance Manual at Section 8.508 (10 CCR 2505-10).

Rev. eff. 11/1/98 2. A "Specialized Group Home" is located in a house owned or otherwise controlled by the group home parents who are primarily responsible for the care of the children and reside at the home.

3. A "Specialized Group Center" is located in a facility owned or controlled by a governing body that hires the group center parents or personnel who are primarily responsible for the care of the children.

7.701.22 Child Care Center

"Child care centers", less than 24-hour programs of care defined at Section 26-6-102(1), C.R.S., include the following types of facilities:

- A. A "large child care center" provides care for 16 or more children between the ages of 2 1/2 and 16 years.

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- 7.701.22 Child Care Center (continued)
- Rev. eff. 11/1/98
- B. A "small child care center" provides care for 5 through 15 children between the ages of 2 and 16 years.
- C. An "infant nursery" provides care for children between the ages of 6 weeks and 18 months.
- D. A "toddler nursery" provides care for children between the ages of 12 months (when_walking independently) and 36 months.
- Rev. eff. 11/1/01
- E. "Preschool" is a part-day child care program for 5 or more children between the ages of 2 ½ and 7 years.
- Rev. eff. 11/1/98
- F. "Kindergarten" provides a program for children the year before they enter the first grade.
- G. A "school-age child care center" is a child care center that provides care for 5 or more children who are between 5 and 16 years of age. The center's purpose is to provide child care and/or an outdoor recreational experience using a natural environment. The center operates for more than one week during the year. The term includes facilities commonly known as "day camps," "summer camps," "summer playground programs," "before and after school programs," and "extended day programs." This includes centers operated with or without compensation for such care, and with or without stated educational purposes.
1. A "building-based school-age child care program" is a child care program that provides care for 5 or more children who are between 5 and 16 years of age. The center is located in a building that is regularly used for the care of children.
 2. A "mobile school-age child care program" provides care for 5 or more children who are at least 7 years of age or have completed the first grade. Children move from one site to another by means of transportation provided by the governing body of the program. The program uses no permanent building on a regular basis for the care of children.
 3. An "outdoor-based school-age child care program" provides care for 5 or more children who are at least 7 years of age or have completed the first grade. This program uses no permanent building on a regular basis for the care of children. Children are cared for in a permanent outdoor or park setting.
- H. A "Residential Camp" is a facility operating for three or more consecutive 24-hour days for the care of 5 or more children. The campers must have completed kindergarten or be at least 6 years old to 18 years old.
1. A residential camp may have a "Primitive Camp" which is a portion of the permanent camp premises or another site at which the basic needs for camp operation such as places of abode, water supply systems, and permanent toilet and/or cooking facilities are not usually provided.

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7.701.22 Child Care Center (continued)

Rev. eff. 11/1/98 2. A "Trip Camp" is a camp in which children move from one site to another by means of the child's own power or by a transportation mode permitting the child's guidance of a vehicle or animal. The trip camp originates in Colorado and operates for three or more consecutive 24-hour days during the year for the care of 5 or more children who are at least 10 years old or have completed the fourth grade to 18.

I. A "Day Treatment Center" is a facility that provides less than 24-hour care for groups of 5 or more children from 5 to 18 years of age and for those persons to 21 years old who are placed in the program by court order prior to their eighteenth birthday. The center must provide a structured program of various types of psycho-social and/or behavioral treatments to prevent or reduce the need for placement of the child out of the home or community. This definition does not include special education programs operated by a public or private school system or programs that are licensed by other regulations of the Department of Human Services for less than 24-hour care of children, such as a child care center or part-day preschool.

7.701.23 Child Placement Agency

Rev. eff. 11/1/01 A "Child Placement Agency", defined at 26-6-102(2), C.R.S., is any corporation, partnership, association, firm, agency, institution, or person unrelated to the child being placed, who places or arranges for placement any child under the age of 18 years with any family, person or institution for purposes of foster care, treatment and/or adoption. The natural parents or legal guardian of any child who places that child for care shall not be deemed to be a Child Placement Agency.

Rev. eff. 11/1/98 To arrange for placement is to act as an intermediary by assisting a parent or guardian or legal custodian to place or plan to place a child with persons unrelated to the child for 24-hour care.

Any agency from out of state placing a child within Colorado must be licensed as a child placement agency by the Colorado Department of Human Services unless the placement services are coordinated with and provided by a county department of social services or a child placement agency licensed by the department.

7.701.24 Residential Child Care Facility

A "Residential Child Care Facility", defined at 26-6-102(8), C.R.S., shall provide 24-hour residential group care and treatment for 5 or more children between the ages of 3 and 18 years old and for those persons to 21 years old who are placed by court order prior to their eighteenth birthday. A residential child care facility must offer opportunities for a variety of experiences through a group living program and specialized services that can be used selectively in accordance with an individual plan for each child. A residential child care facility includes "Shelter Care Facilities" and "Crisis Care Facilities" (see Sections 7.705.81 and 7.705.91).

7.701.25 Secure Residential Treatment Center

A "Secure Residential Treatment Center", defined at 26-6-102(9), C.R.S., provides care and treatment in a secure setting for persons up to 21 years of age.

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7.701.26 Other Definitions

- Rev. eff. 11/1/01 A. "Affiliate of a licensee" means any person or entity that owns more than five (5) percent of the ownership interest in the business operated by the licensee or the applicant for a license, or any person who is directly responsible for the care and welfare of children served, any executive, officer, member of the governing board, or employee of a licensee, or a relative of a licensee, which relative provides care to children at the licensee's facility, or is otherwise involved in the management or operations of the licensee's facility.
- Rev. eff. 6/1/00 B. For the purposes of all child care licensing rules, the terms "child battering", "child abuse", "child molesting", and "child neglect" are terms to be considered within the definition of abuse set forth in Section 19-1-103, C.R.S., unless otherwise indicated.
- Add eff. 6/1/00 C. The "Consumer Product Safety Commission", as referred to in rules regulating child care facilities, means the National Commission that establishes standards for the safety of children's equipment and furnishings and for playground safety. Information about these guidelines may be obtained from the Office of Information and Public Affairs, U.S. Consumer Product Safety Commission (CPSC), Washington, D.C. 20207. The CPSC web address is <http://www.cpsc.gov>. The local U.S. Consumer Product Safety Commission Office is located at 1961 Stout Street, Denver, Colorado 80294. You may contact a Senior Resident Investigator in the Denver office for information. This rule refers to the current edition of the Consumer Product Safety Commission standards, in effect when rules referencing the Commission are referenced, and does not include later amendments to or editions of the standards. The standards may be examined at any State Publications Depository Library.
- Rev. eff. 6/1/00 D. A "critical incident" is a serious life safety or potential life safety incident or concern that poses a danger to the life, health, and/or well-being of a child or children at the facility or of a staff member at the facility.
- E. "Department" is the Colorado Department of Human Services.
- F. "Facility" is any business or operation established for the purpose of providing child care services that are required to be licensed pursuant to the Child Care Licensing Act, Section 26-6-101 et seq., C.R.S.
- Add eff. 6/1/00 G. "Final Agency Action" means the determination made by the State Department, after opportunity for hearing to deny, suspend, revoke, or demote to probationary status a license issued pursuant to the Child Care Licensing Act or an agreement between the Department and the licensee concerning the demotion of such a license to a probationary license.
- Rev. eff. 6/1/00 H. "Governing body" is the individual, partnership, corporation, or association in whom ultimate authority and legal responsibility are vested for the administration and operation of the child care facility.
- I. "Licensing specialist" is the authorized representative of the Colorado Department of Human Services who inspects child care facilities to ensure compliance with licensing requirements and to investigate possible violations of those requirements.

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7.701.26 Other Definitions (continued)

Add eff. 6/1/00 J. "Negative licensing action" means a Final Agency Action resulting in the denial, suspension, or revocation of a license issued pursuant the Child Care Licensing Act or the demotion of such a license to a probationary license.

7.701.3 APPLICATION PROCESS

7.701.31 Original Application

Rev. eff. 11/1/98 A. A completed original application accompanied by the appropriate fee must be submitted to the Department a minimum of 60 days prior to the proposed opening date for the facility.

B. A licensing evaluation will occur only after the department has received the complete application and appropriate fee.

7.701.32 Central Registry of Child Protection

Rev. eff. 6/1/00 A. A review of the Central Registry of Child Protection is required to determine whether any owner, applicant, employee, licensee, or resident of a licensed facility is the subject of a report of child abuse or neglect.

Rev. eff. 11/1/00 B. A review of the Central Registry of Child Protection (Central Registry) must be requested within 10 working days of the first day of employment for each employee of a facility, except for out-of-state employees of a children's resident camp working in a temporary capacity for fewer than ninety days. A review of the Central Registry need not occur if the employee changes employment to a different facility that has the same governing body.

Rev. eff. 6/1/00 1. The request to the Department must be made on a form prescribed by the Department. The form must be submitted to the Department with the required fee paid by check or money order.

2. The Department will inform the operator or director in writing whether or not a report is confirmed or not confirmed on the Central Registry or whether an employee's name is listed as "status pending", pending the outcome of reviews and hearings.

3. If there is a confirmed report of abuse or neglect on the Central Registry, the Department will supply the director or operator with the incident date, type of abuse or neglect, and will identify the county agency that investigated the incident.

Rev. eff. 11/1/98 C. Any information obtained about an applicant for employment or employee must be kept confidential pursuant to Section 19-3-313(10), C.R.S. The director or operator may inform an applicant or employee that the director or operator's decision with regard to the applicant or employee's employment was, in whole or in part, the result of the report from the Central Registry.

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7.701.33 Criminal Record Check

- Rev. eff. 6/1/00 A. Each applicant for an original license or certificate for a foster care home, or original license for a center, facility, or agency and any adult who resides in the licensed or certified facility must submit to the Colorado Bureau of Investigation (CBI) a complete set of fingerprints taken by a qualified law enforcement agency to obtain any criminal record held by the CBI. Payment of the fee for the criminal record check is the responsibility of the individual being checked or the home, center, facility, or agency.
- Rev. eff. 11/1/00 B. Only in the case of a children's resident camp, out-of-state persons employed in a temporary capacity for less than 90 days are not required to be fingerprinted to obtain a criminal record check. Each person exempted from fingerprinting and being checked with the state Central Registry of Child Protection must sign a statement which affirmatively states that she/he has not been convicted of any charge of child abuse or neglect, unlawful sexual offense, or any felony. Prospective employers of such exempted persons shall conduct reference checks of the prospective employees in order to verify previous work history and shall conduct personal interviews with each such prospective employee.
- Rev. eff. 6/1/00 C. At the time the annual declaration of compliance is submitted to the department, a criminal record check is required only for adults living at the licensed facility who have not previously obtained one. Because the Colorado Bureau of Investigation (CBI) provides the Department with ongoing notification of arrests, owners, applicants, licensees, and persons who live in the licensed facility who have previously obtained a criminal record check are not required to obtain additional criminal record checks.
- D. Each owner, employee, and newly hired employee of a facility or agency must submit to CBI a complete set of fingerprints to obtain any criminal record held by the CBI. Payment of the fee for the criminal record check is the responsibility of the individual being checked or the facility or agency. The results of the criminal record check must be maintained at the home, center, facility, or agency and must be available for review upon request by a licensing specialist.
- Rev. eff. 11/1/01 1. Employees and volunteers who are transferring from one child care facility to another or from a school district to a child care facility are not required to be re-fingerprinted if they complete the following process:
- Add eff. 11/1/01 a. New employees must obtain their CBI clearance letter or a photocopy of their processed fingerprint card from their former employer or school district. They must attach it to a new fingerprint card, the top portion of which they have completed. The new fingerprint card must include the new employer's address and the new employer's license I.D. number in the box labeled MNU. "Transfer - Child Care" must be inserted in the "Reason Fingerprinted" block. The CBI clearance letter (or photocopy of the old fingerprint card) and the new fingerprint card must be sent with a \$2 money order payable to CBI to: Colorado Bureau of Investigation, 690 Kipling St., Ste. 3000, Denver, CO 80215. Those facilities that have accounts with CBI are not required to send the \$2 money order; instead, they shall enter their CBI account number in the OCA block of the new fingerprint card.

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7.701.33 Criminal Record Check (continued)

- Add eff.
11/1/01
- b. New employees who cannot obtain the CBI clearance letter or photocopy of the processed fingerprint card from their former employer must have their fingerprints retaken and follow the process detailed in Section 7.701.33, D, 1, a.
 - c. When an individual leaves employment, the facility must submit to CBI a completed Notification of Name Removal form to request the removal of the individual's name from their facility license number in the CBI database.
 - d. School district employees who currently work at a child care facility must have their criminal history report linked to the license number of the child care facility as well as the school district. These employees can be linked to the child care license number by following the transfer process detailed at Section 7.701.33, D, 1, a.
- Rev. eff.
11/1/98
- 2. Licensees must send a copy of an employee's or a resident's criminal record check to his/her new employer upon written request from that employer
 - 3. Any adult volunteer, working as a staff member to meet the required staff-child ratio or staff qualifications, who works 14 days or more in a calendar year, must submit to CBI a complete set of fingerprints taken by a qualified law enforcement agency to obtain a criminal record check. The results of the criminal record check must be maintained at the facility or agency and must be available for inspection by a licensing specialist.
 - 4. Requests for a criminal record check must be submitted to the CBI within 5 working days of the day that the individual begins to work at the facility or agency.
- Rev. eff.
11/1/01
- 5. Facilities and agencies that hire individuals who have been convicted of any felony, except those listed in a-f below, misdemeanor child abuse, unlawful sexual behavior, or any misdemeanor, the underlying factual basis of which has been found by the court on record to include an act of domestic violence must inform the department of that hiring within 15 calendar days of receiving knowledge of the conviction.
- Add eff.
11/1/01
- 6. A child care facility shall not employ, or a child placement agency shall not employ or certify, an individual who has been convicted of:
 - a. Felony child abuse, as specified in Section 18-8-401, C.R.S.
 - b. A crime of violence, as defined in Section 16-11-309, C.R.S.
 - c. Any felony offenses involving unlawful sexual behavior, as defined in Section 18-3-412.5, C.R.S.

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7.701.33 Criminal Record Check (continued)

- Add eff.
11/1/01
- d. Any felony, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in Section 18-6-800.3, C.R.S.
 - e. Any felony involving physical assault, battery, or a drug-related/alcohol-related offense within the five years preceding the date of application for a license or certificate;
 - f. Any felony offense in any other state, the elements of which are substantially similar to the elements listed in a-e above; or,
 - g. Has been determined to be insane or mentally incompetent by a court of competent jurisdiction and, should a court enter, pursuant to Part 3 or Part 4 of Article 14 of Title 15, C.R.S. or Section 27-10-109(4) or 27-10-125, C.R.S., an order specifically finding that the mental incompetency or insanity is of such degree that the applicant is incapable of operating a family child care home, foster care home, child care center, or child placement agency, the record of such determination and entry of such order being conclusive evidence thereof.
- Rev. eff.
11/1/98
- E. Any individual who is obtaining a criminal record check and who has lived in Colorado for 24 or fewer months must request that the CBI obtain a criminal record check from the Federal Bureau of Investigation (FBI). Payment of the fee for the FBI check is the responsibility of the individual who is obtaining the check or the facility or agency.
- Add eff.
11/1/01
- F. The Department may deny, revoke, suspend, change to probationary or fine a child care facility or child placement agency if the applicant(s), an affiliate of the applicant, or any person living with or employed by the applicant has:
 1. Been convicted in Colorado or in any other state of any felony, or has entered into a deferred judgment agreement or a deferred prosecution agreement in Colorado or in any other state to any felony other than those offenses specified in Section 26-6-104(7), C.R.S., or child abuse, as specified in Section 18-6-401, C.R.S., the record of conviction being conclusive evidence thereof, notwithstanding Section 24-5-101, C.R.S.; or,
 2. Been convicted of third degree assault, as described in Section 18-3-204, C.R.S., any misdemeanor, the underlying factual basis of which has been found by the court on any record to include an act of domestic violence, as defined in Section 18-6-800.3, C.R.S., any misdemeanor violation of a restraining order, as described in Section 18-6-803.5, C.R.S., any misdemeanor offense of child abuse as defined in Section 18-6-401, C.R.S., or any misdemeanor offense in any other state, the elements of which are substantially similar to the elements of any one of the offenses described in this paragraph; or,

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7.701.33 Criminal Record Check (continued)

3. Used any controlled substance as defined in Section 12-22-303(7), C.R.S. or consumed any alcoholic beverage or been under the influence of a controlled substance or alcoholic beverage during the operating hours of the facility; or,
4. Been convicted of unlawful use of a controlled substance as specified in Section 18-18-404, C.R.S., unlawful distribution, manufacturing, dispensing, sale, or possession of a controlled substance as specified in Section 18-18-405, C.R.S., or unlawful offenses relating to marijuana or marijuana concentrate as specified in Section 18-18-406, C.R.S.; or,
5. Consistently failed to maintain standards prescribed and published by the Colorado Department of Human Services; or,
6. Furnished or made any misleading or any false statement or report to the Colorado Department of Human Services; or,
7. Refused to submit to the Colorado Department of Human Services any reports, or refused to make available to the Department any records required by it in making investigation of the facility for licensing purposes; or,
8. Failed or refused to submit to an investigation or inspection by the Colorado Department of Human Services or to admit authorized representatives of the Department at any reasonable time for the purpose of investigation or inspection; or,
9. Failed to provide, maintain, equip, and keep in safe and sanitary condition premises established or used for child care pursuant to standards prescribed by the Colorado Department of Public Health and Environment and the Colorado Department of Human Services or by ordinances of regulations applicable to the location of the foster care home; or,
10. Willfully or deliberately violated any of the provisions of the Child Care Licensing Act; or,
11. Failed to maintain financial resources adequate for the satisfactory care of children served in regard to upkeep of premises and provision for personal care, medical services, clothing, and other essentials in the proper care of children; or,
12. Been charged with the commission of an act of child abuse or an unlawful sexual offense, as specified in Section 18-3-411(1), C.R.S., if:
 - a. Such individual has admitted committing the act or offense and the admission is documented or uncontroverted; or,
 - b. An Administrative Law Judge finds that such charge is supported by substantial evidence; or,

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7.701.33 Criminal Record Check (continued)

- Add eff.
11/1/01
13. Admitted to an act of child abuse or if substantial evidence is found that the licensee, person employed by the licensee, or person who resides with the licensed in the foster home has committed an act of child abuse, as defined at Section 19-1-103(1), C.R.S.; or,
14. Been the subject of a negative licensing action.
- G. The Department may deny an application for a child care facility license or a child placement agency license if the applicant is a relative affiliate of a licensee, as described in Section 26-6-102(1)(d), C.R.S., of a child care facility or child placement agency, which licensee is the subject of a previous negative licensing action or is the subject of a pending investigation by the Department that may result in a negative licensing action.
- H. For all CBI fingerprint checks required in this Section 7.701.33, including those confirming a criminal history as well as those confirming no criminal history, the Department will conduct a comparison search on the State Judicial Department's ICON system. The ICON search, based on name, date of birth, and any other available criminal history data that the Department deems appropriate, is used to determine the type of crime(s) for which a person was arrested or convicted and the disposition thereof.

7.701.34 Fire and Health Inspections, Zoning Codes

- Rev. eff.
11/1/01
- A. Prior to the original license being issued, following the renovation of the facility that would affect the licensing of the facility and at least every 2 years thereafter, all child care facilities except family child care homes must be inspected and obtain an approving inspection report from the local department of health or the State Department of Public Health and Environment and from the local fire department. These reports must be maintained at the facility and be available for review upon request by a licensing specialist.
- Add eff.
11/1/00
- B. Prior to the original license being issued, all child care facilities, except for family foster homes, must submit to the state department written approval from the local zoning department approving operation of the facility. The approval must include the address of the child care facility and the ages and numbers of children to be served. The facility must also submit written zoning department approval to the state department any time there is a change to the license, including moving the facility to another location, increasing the capacity, or adding different ages of children.
- Rev. eff.
11/1/00
- C. All child care facilities must operate in compliance with local planning and zoning requirements of the municipality, city and county, or county where the facility is located.

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7.701.35 Changes Requiring a New Application

Rev. eff. 11/1/98 A license is deemed surrendered and a new application is required in the following circumstances:

- A. Change of licensee, owner, or governing body.
- B. Change in classification of facility or service offered.
- C. Change in location of the facility.

7.701.36 Permanent License

Rev. eff. 6/1/00 A. A permanent license is granted when the Department is satisfied that the facility or agency is in compliance with the appropriate Department rules and the Child Care Licensing Act. The permanent license remains in effect until surrendered or revoked.

Rev. eff. 11/1/98 B. Once a permanent license has been issued, the licensee must annually submit to the Department a declaration of compliance with the applicable licensing rules and notice of continuing operation on the form prescribed by the Department, along with the appropriate annual fee as set forth at Section 7.701.4.

C. Failure to submit the annual declaration and fee will constitute a consistent failure to maintain department standards and may result in revocation of the license.

D. At the time the annual declaration of compliance is submitted to the Department, the licensee must also complete a written self-evaluation on the forms prescribed by the Department. The self-evaluation form must be maintained by the facility and be available for review upon request by the licensing specialist.

7.701.37 Provisional License

A. A provisional license or certificate may be issued only for the initial 6-month licensing period.

B. This license permits the facility to operate while it is temporarily unable to conform to all rules upon proof by the applicant that attempts are being made to comply with the rules.

C. If an applicant holds a valid provisional license at the time of application for a permanent license, the provisional license will remain in effect until the application is acted on by the Department.

7.701.38 Probationary License

A. A probationary license or certificate may be granted to a licensed facility or agency as provided in Section 26-6-108(2), C.R.S.

B. If the applicant holds a valid probationary license at the time of application for a permanent license, the current license will remain in effect until the application is acted on by the Department.

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STAFF MANUAL VOLUME 7
SOCIAL SERVICES

PROGRAM AREA 7 -- GENERAL RULES FOR CHILD CARE FACILITIES

7.701.39 - 7.701.4

7.701.39 Multiple Licenses

- Rev. eff. 11/1/98
- A. If a licensee wishes to assume child care responsibility in more than one classification of care, separate applications, fees, and licensing evaluations are required for each classification.
 - B. If a licensee wishes to operate more than one facility of the same classification but at different locations, a separate application, fee, and evaluation are required for each location.

7.701.4 FEES

- Rev. eff. 7/1/00
- A. The appropriate application fee outlined in 7.701.4, C, must be submitted to the department with the application for a child care license at least 60 calendar days prior to the opening date of the facility or the expiration date of the provisional or probationary license.
 - B. The appropriate application fee outlined in 7.701.4, C, must be submitted to the department annually, at least 60 calendar days prior to the anniversary date of the license, along with a completed continuation declaration.
 - C. Following is a schedule of original and annual fees for all types of child care facilities and agencies:

Family Child Care Homes (1-8 children)	
Original/Continuation	\$16
Large Family Child Care Homes (7-12 children)	
Original/Continuation	\$24
Experienced Family Child Care Homes	
Original Application	\$25
Continuation	\$16

Child Care Centers, Preschools, School Age Child Care and Resident Camps	
Original/Continuation (5-20 children)	\$50
Original/Continuation (21-50 children)	\$80
Original/Continuation (51-100 children)	\$120
Original/Continuation (101-150 children)	\$180
Original/Continuation (151-250 children)	\$250
Original/Continuation (250 or more children)	\$350

Day Treatment Center Original/Continuation	\$30
Specialized Group Facility Original/Continuation	\$80

Child Placement Agencies Licensed for Foster Care	
Original Application	\$420
Continuation (0-5 homes)	\$210
Continuation (6-15 homes)	\$270
Continuation (16-30 homes)	\$340
Continuation (31-50 homes)	\$400
Continuation (51 or more homes)	\$460

7.701.4 FEES (continued)

Rev. eff.
7/1/00

Child Placement Agencies Licensed for Adoption	
Original Application	\$320
Continuation (0-5 finalized adoptions)	\$160
Continuation (6-11 finalized adoptions)	\$180
Continuation (12-17 finalized adoptions)	\$190
Continuation (18-23 finalized adoptions)	\$210
Continuation (24 or more finalized adoptions)	\$220
A Child Placement Agency licensed for both foster care and adoptions will pay only one fee - either the foster care fee or the adoption fee, whichever is greater. The annual report required by regulation 7.710.72, B, must be attached.	

Residential Child Care Facility	
Original Application	\$530
Continuation (under 12 children)	\$160
Continuation (13-25 children)	\$260
Continuation (26-50 children)	\$370
Continuation (51 or more children)	\$480
RCCF/RTC's pay one continuation fee per year based on the total licensed capacity of the facility.	

Homeless Youth Shelter Original/Continuation	\$220
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Secure Residential Treatment Center Original/Continuation	\$620
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Changes to Licenses (Capacity and/or Number of Children)	\$25
Duplicate Licenses	\$20

7.701.5 ADMINISTRATION

7.701.51 Governing Body

Rev. eff.
11/1/98

- A. The governing body must be identified by its legal name on the original application and annual declaration. The names and addresses of individuals who hold primary financial control and officers of the governing body must be fully disclosed to the Department.
- B. The governing body must demonstrate to the Department, upon request, that there is sufficient financial support to operate and maintain the facility in accordance with all rules in Section 7.701, the rules regulating the specific type of facility, and the goals and objectives of the facility.

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7.701.52 Reports

- Rev. eff. 10/1/99 A. Within 24 hours, excluding weekends and holidays, of the occurrence of a critical incident at the facility or within 24 hours of a child's return to the facility if the child was on authorized or unauthorized leave from the facility, the facility or child placement agency must report in writing to the licensing or certifying authority the following critical incidents involving a child in the care of the facility or a staff member on duty:
- Add eff. 9/3/99 1. The death of a child or staff member as a result of an accident, suicide, assault, or any natural cause while at the facility, or while on authorized or unauthorized leave from the facility.
- Rev. eff. 10/1/99 2. An injury to a child or staff member that requires emergency medical attention by a health care professional or admission to a hospital.
3. A mandatory reportable illness, as required by the Colorado Department of Public Health and Environment, of a child or staff member that requires emergency medical attention by a health care professional or admission to a hospital.
- Add eff. 9/3/99 4. Any allegation of physical, sexual, or emotional abuse or neglect to a child that results in reporting to a law enforcement or social services agency.
5. Any fire that is responded to by a local fire department.
6. Any major threat to the security of a facility including, but not limited to, a threat to kidnap a child, riots, bomb threats, hostage situations, use of a weapon, or drive by shootings.
7. A drug or alcohol related incident involving a staff member or a child that requires outside medical or emergency response.
8. An assault, as defined by Sections 18-3-201 through 18-3-204, C.R.S., by a child upon a child, a child upon a staff member, or a staff member upon a child which results in a report to law enforcement.
- Rev. eff. 10/1/99 9. A suicide attempt by a child at the facility which requires emergency intervention.
10. Felony theft or destruction of property by a child while in placement at the facility for which law enforcement is notified.
11. Any police or sheriff contact with the facility for a crime committed by a resident while in placement at the facility.

A report of a critical incident must be submitted on the Colorado Department of Human Services, Division of Child Care, critical incident form.

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7.701.52 Reports (continued)

- Rev. eff. 9/3/99
- B. The following items must be reported in writing to the department within 10 working days, unless otherwise noted:
1. Any legal action against a facility, agency, owner, operator, or governing body that relates to or may impact the care or placement of children.
 2. Change of director of facility or agency.
 3. Proposed change in the number, sex, or age of children for whom the facility is licensed that differs from that authorized by the license.
 4. Change of address of child placement agency.
 5. Changes in the physical facility or use of rooms for child care at a facility.
 6. Closure of the facility or agency.
 7. Change of name of the facility or agency.
 8. Change of residents in the facility, not to include those residents placed in the facility by a county department or a child placement agency.

7.701.53 Reporting of Child Abuse

- Rev. eff. 11/1/98
- A. A child care facility must require each staff member of the facility to read and sign a statement clearly defining child abuse and neglect pursuant to state law and outlining the staff member's personal responsibility to report all incidents of child abuse or neglect according to state law.
- B. Any caregiver or staff member in a child care facility who has reasonable cause to know or suspect that a child has been subjected to abuse or neglect or who has observed the child being subjected to circumstances or conditions that would reasonably result in abuse or neglect must immediately report or cause a report to be made of such fact to the county department of social services or local law enforcement agency.
- C. If the suspected child abuse occurred at the child care facility, the report of suspected child abuse must be made to the county department of social services, police department, or other law enforcement agency in the community or county in which the child care facility is located.
- D. If the suspected child abuse did not occur at the child care facility, the report of suspected child abuse must be made to the county department of social services in the county in which the child resides or to the local law enforcement agency in the community in which the incident is believed to have occurred.
- E. At the time of admission the facility must give the child's parent or guardian information that explains how to report suspected child abuse or child neglect.

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7.701.54 Investigation of Child Abuse

- Rev. eff. 11/1/98
- A. Staff members of the county department of social services or a law enforcement agency that investigates an allegation of child abuse must be given the right to interview staff and children in care and to obtain names, addresses, and telephone numbers of parents of children enrolled at the child care facility.
- B. Any report made to the law enforcement authorities or a county department of social services of an allegation of abuse of any child at the child care facility will result in the temporary suspension or reassignment of duties of the alleged perpetrator to remove the risk of harm to the child/children if there is reasonable cause to believe that the life or health of the victim or other children at the facility is in imminent danger due to continued contact between the alleged perpetrator and the child/children at the facility. Such suspension or reassignment of duties will remain in effect pending the outcome of the investigation by the appropriate authorities.

7.701.55 Reporting of Licensing Complaints

Rev. eff. 9/3/99

Child care facilities must provide written information to parents at the time of admission and staff members at the time of employment on how to file a complaint concerning suspected licensing violations. The information must include the complete name, mailing address, and telephone number of the Colorado Department of Human Services, Division of Child Care.

7.701.56 Posting Licensing Information

- Rev. eff. 11/1/01
- A. At all times during the operation hours of the facility, except for foster care homes, must post the following documents in a prominent and conspicuous location easily observable by those entering the child care facility or agency:
- Rev. eff. 11/1/98
1. The current child care license.
 2. The facility's most recent licensing, fire department, and health department inspection reports, or a notice as to where the parent or legal guardian of a child or their designee may review the reports at the facility.
- Add eff. 11/1/00
3. Information regarding the procedures for filing a complaint with the Colorado Department of Human Services, Division of Child Care, including the telephone number and mailing address.
- Rev. eff. 11/1/98
- B. The facility must post in every room of the child care facility, excluding bedrooms and living areas, the license capacity of the room and the staff-to-child ratio required by regulation to be maintained for the age of children cared for in the room.

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7.701.6 CONFIDENTIALITY OF RECORDS

Rev. eff.
11/1/98

- A. The records concerning the licensing of facilities and agencies are open to the public except as provided below.
- B. Anyone wishing to review a record must make a written request to the department.
- C. The following documents are confidential and not available for review:
1. Information identifying children or their families.
 2. Scholastic records, health reports, social or psychological reports. These are available only to the person in interest.
 3. Personal references requested by the department.
 4. Reports and records received from other agencies, including police and child protection investigation reports.

7.701.7 PARENTAL ACCESSIBILITY

- A. During hours of operation, a facility must allow access to parents and guardians having legal custody of a child in care to those areas of the facility that are licensed for child care.
- B. During the hours of operation, the facility's most recent licensing, fire department, and health department inspection reports must be accessible to parents and legal guardians of children in care or their designee and to parents and legal guardians considering placing their children in care at the facility.

7.701.8 PERJURY STATEMENT – APPLICATION FORMS FOR EMPLOYMENT WITH A CHILD CARE PROVIDER

Add eff.
9/3/99

Every application used in the State of Colorado for employment with a child care provider or facility, or for the certification of a foster home, shall include the following notice to the applicant:

“Any applicant who knowingly or willfully makes a false statement of any material fact or thing in the application is guilty of perjury in the second degree as defined in Section 18-8-503, C.R.S., and, upon conviction thereof, shall be punished accordingly.”

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