

ORDINANCE NO. 2023-43

1 AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD
2 COUNTY, FLORIDA, PERTAINING TO LICENSURE OF CHILD CARE FACILITIES;
3 REPEALING ARTICLE XV OF CHAPTER 20 OF THE BROWARD COUNTY CODE OF
4 ORDINANCES ("CODE"), REPEALING AND REPLACING CHAPTER 7 OF THE CODE,
5 AND AMENDING SECTION 8½-16 OF THE CODE; AND PROVIDING FOR
6 SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

7 (Sponsored by the Board of County Commissioners)
8

9 WHEREAS, the regulation of child care facilities is governed by Section 402.301,
10 et seq., Florida Statutes;

11 WHEREAS, pursuant to its authority under Article VIII of the Florida Constitution
12 and Chapter 402, Florida Statutes, the Broward County Board of County Commissioners
13 (the "Board") enacted the Broward County Child Care Ordinance and the Family Child
14 Care Home Licensing Ordinance, codified in Chapter 7 and Article XV of Chapter 20,
15 respectively, of the Broward County Code of Ordinances (collectively, the "Child Care
16 Ordinances"), to administer, enforce, and regulate the operation of child care facilities
17 and family child care homes in Broward County;

18 WHEREAS, Section 402.306, Florida Statutes, provides that any county whose
19 licensing standards meet or exceed state minimum standards may designate a local
20 licensing agency to license child care facilities in the county;

21 WHEREAS, the standards set forth in the Child Care Ordinances meet or exceed
22 state minimum standards, and, as permitted by Florida law, Broward County has
23 designated its agency, the Broward County Child Care Licensing and Enforcement
24 Section ("CCLE"), as the local licensing agency for child care;

25 WHEREAS, as a result, CCLE enforces not only the Child Care Ordinances, but
26 also certain State statutes and rules promulgated by the Florida Department of Children
27 and Families ("DCF");

28 WHEREAS, DCF has revised and reorganized its child care regulations in various
29 respects; and

30 WHEREAS, the Board desires to amend the Child Care Ordinances to align with
31 the DCF regulations, as revised, and to ensure that, where appropriate for Broward
32 County, higher standards remain included in the Child Care Ordinances,

33 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
34 BROWARD COUNTY, FLORIDA:

35 Section 1. Article XV of Chapter 20 of the Broward County Code of Ordinances
36 is hereby repealed in its entirety.

37 Section 2. Chapter 7 of the Broward County Code of Ordinances is hereby
38 repealed in its entirety, and a new Chapter 7 is hereby created to read as follows:

39 [Underlining omitted]

40 Chapter 7

41 **CHILD CARE**

42 **ARTICLE I. GENERAL PROVISIONS, ADMINISTRATION, AND ENFORCEMENT**

Sec. 7-1. General provisions.

(a) *Authority.* The Broward County Board of County Commissioners (“Board”) finds that Section 402.306, Florida Statutes, expressly vests counties with authority to adopt child care licensing standards that meet or exceed state minimum standards, and to appoint a local licensing agency to license child care facilities within the applicable county. This authority is in addition to the Board’s general authority to legislate pursuant to Article VIII, Section 1(g), of the Florida Constitution.

(b) *Additional legislative findings.* The Board finds and declares that Broward County (“County”) has regulated child care licensing for more than 45 years, and that such regulation has been beneficial for the health, safety, and welfare of children in Broward County. The Board further finds that a number of child care regulations originally enacted by the County have since been adopted by the State of Florida and implemented statewide as part of the required minimum standards for child care established by the State of Florida.

(c) *Legislative intent.* It is the Board’s intent to continue to protect the health, safety, and well-being of the children of Broward County and to promote their emotional and intellectual development and care through reasonable regulations of child care.

(d) *Appointment of local licensing agency.* Pursuant to Section 402.306, Florida Statutes, the Board reaffirms the appointment of the Broward County Child Care Licensing and Enforcement Section (“CCLE”), or its successor, as the local licensing agency within the meaning of Florida law.

(e) *Incorporation of Florida law.* The following legal authorities (collectively, “State Requirements”), as may be amended from time to time, are incorporated by reference as if fully set forth in this Chapter 7:

- (1) Sections 402.301 through 402.319, Florida Statutes;
- (2) Chapters 65C-20, 65C-22, and 65C-25, Florida Administrative Code;
- (3) The Florida Department of Children and Families (“DCF”) Child Care Facility Handbook;
- (4) The DCF School-Age Child Care Licensing Handbook; and
- (5) The DCF Family Day Care Home and Large Family Child Care Home Handbook.

(f) *Construction.* This chapter provides regulations that meet or exceed the State Requirements and shall be construed in light of this purpose. Any reference to compliance with any portion of this chapter or these regulations shall include compliance with the State Requirements that are applicable to the same subject matter of that portion of this chapter or these regulations.

(g) *Conflicting provisions.* In the event the minimum standards for licensure of child care arrangements under this chapter differ from the State Requirements, the more stringent provision shall apply.

Sec. 7-2. Definitions.

(a) All terms used in this chapter that are defined in the State Requirements shall have the meaning defined in the State Requirements. All other terms used in this chapter shall have their common meanings unless specifically defined or otherwise incorporated herein.

(b) Except as otherwise specified in this chapter, the following definitions, including as such may be amended by the State of Florida from time to time, are hereby adopted and incorporated for purposes of this chapter:

(1) All definitions of terms used in Sections 402.302 - 402.319, Florida Statutes, and Chapters 65C-20 and 65C-22, Florida Administrative Code;

(2) All definitions as stated in DCF's then-current Child Care Facility Handbook incorporated into Chapters 65C-20 and 65C-22, Florida Administrative Code;

(3) All definitions as stated in DCF's then-current School-Age Child Care Facility Handbook incorporated into Chapters 65C-20 and 65C-22, Florida Administrative Code; and

(4) All definitions as stated in DCF's then-current Family Child Care Home Licensing Handbook incorporated into Chapters 65C-20 and 65C-22, Florida Administrative Code.

(c) The following additional definitions and definitional limitations shall supplement those referenced in Section 7-2(b) above:

Administrative costs mean the costs incurred by the County in enforcing this chapter. Administrative costs include, but are not limited to, postage, photocopies, staff time, and hearing officer expenses.

Board or County Commission means the Broward County Board of County Commissioners.

Children with disabilities means children with one or more physical or mental impairments that substantially limit one or more life activities, such as eating, seeing, hearing, speaking, learning, reading, concentrating, thinking, and communicating.

Child care means the care, protection, and supervision of a child, for a period of less than 24 hours a day, on a regular basis, that supplements parental care, enrichment, and health supervision for the child, in accordance with the child's individual needs, and for which a payment, fee, or grant is made.

Child care arrangement means a family child care home, child care facility, or substantial compliance facility.

Child care facility means any person or entity that provides child care for more than five children unrelated to the operator and receives a payment, fee, or grant for any of the children receiving care, whether or not operated for profit. Notwithstanding the foregoing, the following are not included within the definition of child care facility:

(1) Public schools and the programs identified in Section 402.3025(1)(a), Florida Statutes. For clarity, programs identified in Section 402.3025(1)(b), Florida Statutes, are deemed to be child care and are subject to the provisions of this chapter;

(2) Nonpublic schools, and the programs identified in Section 402.3025(2)(b), Florida Statutes; in addition, the programs identified in Section 402.3025(2)(c), Florida Statutes, provided that (a) the programs are operated and staffed directly by the schools, (b) a majority of the children enrolled in the schools are five years of age or older, and (c) the programs comply with the screening requirements for child care facility staff described

131 in this chapter. For clarity, nonpublic school programs for children under
132 three years of age, or for children between three and five years of age that
133 do not meet the exemption in Section 402.3025(2)(c), Florida Statutes, are
134 deemed child care and subject to the provisions of this chapter; however,
135 any nonpublic school program that includes children under age five that is
136 not defined as child care under this chapter or the applicable State
137 Requirements is a substantial compliance facility within the meaning of this
138 chapter;

139 (3) Religious-affiliated child care facilities operating pursuant to
140 Section 402.316, Florida Statutes; however, such exempt facilities
141 constitute substantial compliance facilities within the meaning of this
142 chapter;

143 (4) Summer camps for children in full-time residence;

144 (5) Summer day camps for children aged five years or older;

145 (6) Those religious schools normally conducted during vacation periods that
146 are exempt under Section 402.302(2)(d), Florida Statutes;

147 (7) Operators of transient establishments, as defined in Chapter 509, Florida
148 Statutes, providing child care services solely for the guests of the transient
149 establishment, provided that all persons providing that child care have
150 undergone screening according to the requirements stated or incorporated
151 into this chapter;

152 (8) Family child care homes or large family child care homes, which are
153 regulated under Article IV of this chapter; and

(9) All programs that provide child care exclusively for children grades six and above, regardless of location.

Code means the Broward County Code of Ordinances.

Corporation means a corporation or limited liability company.

County Administrator means the Broward County Administrator or designee.

DCF means the Florida Department of Children and Families.

Division means the Broward County Consumer Protection Division, or its successor.

Drop-in child care means child care provided occasionally for no more than a four-hour period per child in a shopping center where the parent remains on the premises of the shopping center at all times when the child is being cared for.

Elementary school-age child means a child attending public or nonpublic elementary school who has attained the age of five years by the preceding September 1.

Family child care home means an occupied residence in which child care is regularly provided for children of at least two unrelated families for which the owner of the residence receives a payment, fee, or grant for any of the children receiving care, whether or not operated for profit. A private residence used for an informal cooperative arrangement among neighbors or relatives, or for the occasional care of children with or without compensation, is not included in the definition of a family child care home.

Family child care home personnel refers to all owners, operators, employees, volunteers, and substitutes working in the family child care home, along with any other person (whether related to the operator or not) over the age of 12 who resides at the family child care home.

177 *First-aid training* means the successful completion of a course of instruction
178 designed to provide fundamental principles, knowledge, and skills regarding first aid and
179 accident prevention directly related to the care of children.

180 *Hearing officer* means a person designated by the County Administrator to preside
181 over hearings as specified in this chapter.

182 *Local licensing agency* means the Broward County Child Care Licensing and
183 Enforcement Section or its successor agency (“CCLE”).

184 *Nighttime child care* means child care provided between 8:00 p.m. and 6:00 a.m.

185 *Notice of violation* or *NOV* means a notice from the Division alleging a violation of
186 this chapter for either (a) a Class I violation, or (b) a lesser violation identified in a local
187 licensing agency inspection report that has not been timely corrected.

188 *Operator* or *Provider* means the person or business entity that holds a license to
189 operate a family child care home issued in accordance with the provisions of this chapter.
190 If a license is issued in the name of an individual, the operator is the person residing in
191 the family child care home who is responsible for the operation of the home. If a license
192 is issued in the name of a business entity, the operator is the officer, member, partner, or
193 other representative of the entity residing in the family child care home who is designated
194 on the license as the individual responsible for the operation of the home.

195 *Parent* shall mean a child’s biological parent, adoptive parent, or legal guardian or
196 custodian appointed by a court of competent jurisdiction.

197 *Staff member* shall have the same meaning as child care facility personnel or
198 family child care home personnel, depending on the applicable type of facility. It also
199 includes employees and volunteers at substantial compliance facilities.

200 *Substantial compliance facility* shall mean a religious-affiliated child care facility
201 operating pursuant to Section 402.316, Florida Statutes, or a child care facility affiliated
202 with a nonpublic school that is not defined as a child care facility pursuant to
203 Section 402.3025(2), Florida Statutes.

204 *Summer day camp* means recreational, educational, and/or other enrichment
205 programs for children who are at least five years of age on or before September 1 of the
206 current school year that operate during periods of time during the summer recess of
207 Broward County public schools.

208 *Usable indoor floor space* means space available for indoor play, classrooms,
209 children's work areas, or nap space, excluding means of egress and permanent fixtures.

210 *Volunteer* means any person who provides services to, for, or at a child care facility
211 or family child care home, whether in the presence or absence of staff members, for no
212 compensation.

213 **Sec. 7-3. License for child care facilities and family child care homes.**

214 (a) No person or entity is permitted to operate a child care facility or family child
215 care home within Broward County, Florida, unless it has obtained and maintains a license
216 approved by the local licensing agency. Violations of this chapter are subject to
217 enforcement pursuant to Chapter 8½ of this Code or as otherwise provided by law and
218 the penalties and remedies provided in Section 8½-16 of this Code or Section 402.312,
219 Florida Statutes, including without limitation a civil penalty against the owner, director,
220 and/or operator.

(b) A license issued under this section applies only to that portion of the building/facility initially designated for licensure unless the local licensing agency approves, in writing, additional space for operation under the issued license.

(c) The local licensing agency shall only issue or renew a license after determination that all standards required by this chapter and any other applicable regulations have been met. Any information obtained by the local licensing agency from DCF pursuant to Section 39.202, Florida Statutes, or otherwise, may be used by the local licensing agency as part of its licensure determination.

(d) Any application for a license to operate a child care facility or family child care home within Broward County, Florida, that is not rejected by the local licensing agency within the time period established in Section 120.60, Florida Statutes, shall be deemed approved.

(e) Any license issued under this chapter shall be issued in the name of the owner of the child care facility or family child care home, which may be an individual or business entity. The license is limited to the specified address and operation by the specified person or business entity. A license is not transferable or assignable to another owner or another address and, upon sale or transfer of ownership of an entity holding a license, such license shall become null and void.

(f) Licenses for family child care homes issued in the name of an individual are issued in the name of the operator residing in the home. Licenses for family child care homes issued in the name of a business entity shall identify one of the corporate officers designated by the licensee as the operator who resides on-site at the family child care home and is responsible for the operation of the home. Any operator requirements

shall, in the case of a business entity, be the responsibility of the designated operator as well as the business entity. The designated operator shall act on behalf of the business entity in all areas related to compliance with the requirements of this chapter, including, but not limited to, enforcement of said requirements by the local licensing agency. Any notices required to be provided by the local licensing agency to the operator or applicant shall be furnished to the designated individual.

(g) The license issued by the local licensing agency must be conspicuously displayed inside the child care facility at all times.

(h) The license of the child care facility is limited to the permitted capacity stated in the license and determined by the local licensing agency pursuant to this chapter. Prior to increasing their capacity or adding services or ages, the facility or family child care home must comply with the provisions of this chapter regarding obtaining the required approvals for such changes.

(i) A change to the license or registration of a child care arrangement will not be approved if there are outstanding fines or fees owed.

(j) Licenses for child care facilities and registrations for substantial compliance facilities expire one year after the last day of the month of issuance and must be renewed on or before that expiration date. Licenses for family child care homes expire 12 months after the date of issuance. Notwithstanding anything in this section to the contrary, the local licensing agency may, for administrative convenience, issue an initial license or registration that expires on the last day of a calendar month that is at least 180 days but not more than one year after the initial date of licensure.

(k) Renewal applications received within 45 days before the expiration date of the license shall be assessed a late processing fee as set forth in Section 40.51 of the Broward County Administrative Code.

(l) License renewal applications shall not be approved if the local licensing agency receives Florida abuse history information records from DCF pursuant to Section 39.202, Florida Statutes, containing verified indicators of abuse/neglect by one or more child care staff members at the facility, until such time as the local licensing agency has the opportunity to thoroughly review same as part of its licensure determination. The local licensing agency shall not renew the license if the information received from DCF indicates an immediate danger to the health, safety, or welfare of children.

(m) The local licensing agency shall not renew a facility's license if the facility has not paid any final administrative fines imposed for violation(s) of this chapter or has any other unpaid, overdue amounts owing to Broward County. "Final" means the time period to request a hearing to contest the administrative fine has expired and any administrative proceedings to contest the fine have concluded.

Sec. 7-4. Exemption from licensure.

Substantial compliance facilities are exempt from licensure as child care facilities but must comply with the standards set forth in Article III of this chapter, must register with the local licensing agency, and must meet the local licensing agency's minimum standards for substantial compliance in order to maintain the status as exempt from licensure. Violations of these requirements are subject to enforcement pursuant to

Chapter 8½ of this Code or as otherwise provided by law, and subject to the penalty for operating an unlicensed child care home provided in Section 8½-16 of this Code.

Sec. 7-5. License fees.

(a) Initial license applications for a new prospective child care facility or family child care home must be accompanied by a nonrefundable preliminary application fee as set forth in Section 40.51 of the Broward County Administrative Code. Initial license applications will not be processed until the local licensing agency receives the preliminary application fee.

(b) In addition to the preliminary application fee, all child care facilities and family child care homes will be assessed a nonrefundable annual license fee based on the permitted capacity of the facility pursuant to the schedule stated in Section 40.51 of the Broward County Administrative Code.

Sec. 7-6. Licensing procedures of child care facilities and family child care homes.

(a) Application for a license or renewal of a license shall be made in a manner and on the forms prescribed by the local licensing agency, and must be accompanied by the appropriate fees.

(b) Checks, cashier's checks, and money orders shall be made payable to Broward County. Other payment methods, including credit cards, may be accepted and are subject to additional fees as determined by the local licensing agency or as provided for in the Broward County Administrative Code.

(c) The application for a license or renewal of a license must be signed by the owner, prospective owner, or designated representative of the owner or prospective

owner of a child care facility and the operator of a family child care home. A completed application for renewal of a license must be submitted to the local licensing agency at least 45 days prior to the expiration date of the current license to ensure that a lapse in licensure does not occur. Within 30 days after receipt, the local licensing agency shall examine the application, notify the applicant of any errors or omissions, and request any additional information needed to complete the application. Whenever information required to be submitted to the local licensing agency concerns qualifications or characteristics personal to the applicant, including age, moral character, and criminal records, the term "applicant" means the individual applicant if the applicant is an individual, and means the designated representative if the applicant is a business entity.

(d) All business entities seeking to obtain or renew a license must be in good standing and authorized to transact business in the State of Florida. If the application is in the name of a business entity, the application must contain the name and address of each partner, officer, director, manager, and member of the business entity, as applicable, and the application must include copies of the business entity's organizational documents listing all partners, officers, directors, managers, and members, as applicable.

(e) For new family child care homes, the application must include written authorization from the owner of the property that the operator is permitted to operate a family child care home at that location.

(f) The application and all supporting documentation must be complete, truthful, and correct. Falsification of application information is grounds for denial of the application and subjects the applicant to penalties as stated in Section 402.319, Florida Statutes.

(g) Prior to the renewal of a license, the local licensing agency shall reexamine the premises and records of the licensee.

(h) All new and renewal applications must identify all employees by their full legal names and any educational and training credentials issued by DCF.

(i) If a license has been revoked by the local licensing agency, the applicant may not apply or reapply for a license for any location for one year after the date of revocation. If the license is issued in the name of a business entity, the prohibition on reapplying for a license within one year applies to all partners, officers, managers, and members, as applicable, of that business entity as well as any other business entity with any of the same partners, officers, managers, or members.

Sec. 7-7. Transfer of ownership.

(a) Whenever a licensed child care facility or family child care home is sold or the ownership is changed, the new or prospective owner or designated representative of the prospective owner must apply to the local licensing agency for a new license prior to the date of sale or change in ownership. The new owner must receive approval for a license prior to assuming any responsibility for the child care facility or family child care home. Prior to issuance of a new license, the local licensing agency shall make a complete on-site inspection to determine compliance with all applicable licensing requirements. The local licensing agency may grant an exception to the complete on-site inspection requirement if the licensee merely undergoes a change in its form of ownership, e.g., from individual ownership to corporate ownership, conversion from a corporation to a limited liability company, etc., provided the same individuals are involved in owning the facility.

(b) Licensees selling or transferring a majority ownership interest in a child care facility or family child care home must provide written notice to the local licensing agency of the sale or transfer and provide contact information for the purchaser or transferee. The written notice must be provided at least 90 days before the closing of the sale or transfer or, if the closing is less than 90 days after execution of the contract for sale or transfer, then within five business days after said execution.

(c) Any application for a new license as a result of a change in majority ownership of a child care facility or family child care home that is not rejected by the local licensing agency within 45 days after the date the applicant submits (i) a complete application, (ii) any additional information requested by the local licensing agency, and (iii) correction of any application errors or omissions identified by the local licensing agency, is deemed approved. Failure to obtain a new license after any transfer in ownership is a violation of this chapter and subjects the violator to penalties for operating without a license in accordance with this chapter and Section 402.312, Florida Statutes.

(d) For the purposes of a business entity that holds a license for a child care facility or family child care home, any change in majority control or other change in the owners of more than fifty percent (50%) of the ownership interest in the entity shall be deemed a transfer of majority ownership interest subject to the requirements of this section.

(e) A change in the name of a licensee shall not constitute a change in ownership, but the licensee must notify the local licensing agency in writing in advance of such name change and a new license will be issued in the new name.

(f) Notwithstanding any change in ownership of a licensee, the current licensee will continue to be responsible for compliance with this chapter until the new owner has been issued a license. Prior to the new owner taking operational control, the current licensee must notify all parents in writing of the change in ownership.

(g) Whenever the ownership of a licensee changes and a new license is issued pursuant to this section, the new licensee shall be responsible for any outstanding final administrative fines (as defined in Section 7-3(m)) that were imposed against the prior owner for violation(s) of this chapter.

Sec. 7-8. Advertisements.

Any advertisement for a licensed child care facility or family child care home in any medium must include the facility's license number. If the license is pending, the advertisement must indicate pending status. This requirement does not apply to employment advertisements.

Sec. 7-9. Provisional licenses.

(a) *Conditions.* The local licensing agency may issue a provisional license to applicants or licensees who, due to circumstances beyond their control, are unable to conform to all of the standards provided in this chapter. No provisional license may be issued unless the applicant or licensee makes adequate provisions for the health and safety of the children and the child care facility or family child care home is in compliance with the requirements for screening of staff members pursuant to this chapter.

(b) *Time limits.* No provisional license may be issued for a period longer than six months. In the sole discretion of the local licensing agency, a provisional license may

be renewed by the local licensing agency time for up to an additional six months due to unusual circumstances beyond the control of the licensee.

(c) *Suspension procedures.* If periodic inspection by the local licensing agency determines that insufficient progress has been made toward full compliance with all requirements for a license, a provisional license may be suspended as follows:

(1) Upon a determination that there are grounds for suspension of the provisional license, a letter of intent will be sent by the local licensing agency stating the grounds for suspension.

(2) Within 15 days after the date of the letter of intent, a conference between the applicant and the local licensing agency will be scheduled. At the time of such conference, the parties may enter into a stipulated agreement with respect to the provisional license.

(3) If no agreement is reached and the local licensing agency determines that violations still exist, the local licensing agency shall notify the applicant in writing that the provisional license will be suspended. If the applicant does not make a written request for a hearing to the local licensing agency within 15 days after receipt of such notice, the provisional license shall be automatically suspended.

(4) If a hearing is timely requested, the hearing will be scheduled by the local licensing agency and held within 30 days after receipt of the request.

Sec. 7-10. Probationary status.

(a) *Conditions.* A probationary status indicates that a current license is in jeopardy of being suspended, revoked, or not renewed due to violations of applicable

standards by the licensee. A probationary status shall not be issued as an initial license for a new child care facility or family child care home.

(b) A probationary status is a disciplinary sanction for repeated noncompliance with licensing requirements. Probationary status shall not last longer than six months and may not be renewed. While on probationary status, the local licensing agency may not approve any additions, revisions, or other changes to the license, other than suspension or revocation.

(c) Within ten days after being placed on probationary status, the licensee must submit a corrective action plan to the local licensing agency for consideration. If the licensee fails to submit a corrective action plan acceptable to the local licensing agency, then the local licensing agency may suspend or revoke the probationary license in the manner provided for in this chapter. The local licensing agency, as part of its approval of a corrective action plan, may place additional requirements, conditions, or restrictions on the licensee.

(d) The local licensing agency shall inspect all licensees on probationary status at least once per month. A probationary status may be suspended or revoked if monthly inspections find that the licensee is not in compliance with the terms of the corrective action plan or is otherwise not making sufficient progress toward compliance with applicable standards.

(e) The local licensing agency may place a licensee on a probationary status after issuing Notice(s) of Violation pursuant to Section 7-13(i) for three or more Class I Violations within a rolling 12-month period.

(f) A licensee will immediately be placed on a probationary status if a Notice of Violation is issued for a Class I Violation where harm has occurred to a child in the licensee's care. The probationary status shall commence on the later of (i) the issuance date of the Notice of Violation if the licensee elects not to contest the Notice of Violation; or (ii) the date the Notice of Violation is upheld after the hearing process set forth in this chapter and any subsequent appeal.

(g) The local licensing agency may place a child care arrangement on probationary status if a Notice of Violation is issued to that child care arrangement for any Class I Violation that placed a child in imminent danger of harm, including without limitation any violation in which a child departed the facility without adult supervision. The probationary status shall commence on the later of (i) the issuance date of the Notice of Violation if the licensee elects not to contest the Notice of Violation; or (ii) the date the Notice of Violation is upheld after the hearing process set forth in this chapter and any subsequent appeal.

(h) If a licensee placed on a probationary status is issued a Notice of Violation(s) for a Class I Violation by the local licensing agency during the probationary period, the local licensing agency may, in its discretion, schedule a hearing before a hearing officer, regardless of whether the Class I Violation resulted in harm to a child. The hearing officer shall review the events leading to the issuance of the Class I Violation(s) and determine if the violation reflects continuing, recurring, and unresolved problems that adversely affect, or that may adversely affect, the health, safety, or well-being of one or more children at the child care arrangement and whether the license

should be suspended or revoked. At the conclusion of the hearing, the hearing officer shall issue written Findings and Recommendations as provided for in Section 7-18(b).

Sec. 7-11. Denial of license.

(a) When the local licensing agency determines that grounds exist for the denial of a new or renewal license application, it shall notify the applicant in writing, stating the grounds upon which the application is being denied. If the applicant does not make a written request for a hearing to the local licensing agency within 15 days after receipt of such notice, the license shall be denied.

(b) If a hearing is timely requested, the hearing will be scheduled by the local licensing agency and held within 30 days after receipt of the request.

Sec. 7-12. Inspections.

(a) Child care arrangements subject to licensure or registration under this chapter are subject to investigation and inspection without prior notice by the local licensing agency (including inspections of the physical site of the child care arrangement and access to personnel and records) during the child care arrangement's regular business hours to ensure compliance with all applicable provisions of this chapter.

(b) Failure to comply with reasonable requests of the local licensing agency in connection with the investigation or inspection of a child care arrangement shall be grounds for revocation or denial of a license or for the loss of a substantial compliance facility's exemption.

(c) If the local licensing agency issues a written report of any investigation or inspection, the child care arrangement must display the report in a conspicuous place accessible to parents. The child care arrangement must also post each Notice of Violation

issued by the local licensing agency. If the child care arrangement has elected to contest the issuance of a Notice of Violation and has provided written notice to the local licensing agency of its request for a hearing, a copy of the written request for a hearing may also be posted. Unless the Notice of Violation is dismissed after hearing by a hearing officer, the Notice of Violation and description of corrective action, if any, taken by the child care arrangement must remain posted for one year after the date of the Notice of Violation.

(d) All licensed child care facilities and family child care homes shall be inspected by the local licensing agency at least three times each calendar year.

(e) Any child care arrangement that closes for a period longer than three consecutive weeks (other than periods during which Broward County public schools are in summer recess) must notify the local licensing agency in writing of said closure as soon as possible. A satisfactory inspection by the local licensing agency is required prior to reopening. Any child care arrangement that is ordered closed by a governmental entity with jurisdiction over the arrangement for any violations related to the health, safety, and welfare of the children in care must, prior to reopening, notify the local licensing agency and obtain a satisfactory inspection by the local licensing agency.

(f) Child care arrangements must correct all violations reported by the local licensing agency within the time period specified in the inspection report.

(g) No person shall hinder, resist, or oppose an employee or agent of the local licensing agency in the performance of their duties under this section or knowingly provide false statements or documents or misrepresent their identity to an employee or agent of the local licensing agency. Failure to cooperate with, or harassment of, an employee or agent of the local licensing agency in connection with an investigation of a complaint or

inspection of a child care arrangement is grounds for revocation or denial of a license for a child care facility or family child care home, or for loss of a substantial compliance facility's exemption and revocation of its registration.

Sec. 7-13. Violations/penalties.

(a) When the local licensing agency determines that a child care arrangement is not in compliance with applicable standards set forth in this chapter, it shall make a reasonable attempt to discuss each violation with the owner, operator, and/or director, document the violation(s) in a written inspection report, and establish the time frame within which the child care arrangement must correct the violation(s). For each violation, the inspection report shall include the following information:

- (1) A reference to the statute, rule, or section of this chapter that was violated;
- (2) A factual description of the nature of the violation, stating the manner in which the child care arrangement failed to comply with the specified statute, rule, or section of this chapter; and
- (3) A specific statement as to how the violation should be corrected, if deemed necessary or appropriate by the local licensing agency.

(b) If the local licensing agency determines that a child care arrangement has not corrected the violation(s) noted in the inspection report within the time frame for corrective action, it may issue a Notice of Violation. The Notice of Violation shall be in writing and include the following information:

- (1) A reference to the statute, rule, or section of this chapter that was violated;

(2) A factual description of the nature of the violation(s), stating the manner in which the child care arrangement failed to comply with the specified statute, rule, or section of this chapter;

(3) A specific statement as to the failure of the child care arrangement to correct the violation(s) within the time frame established in the inspection report and/or any related prior Notice(s) of Violation(s); and

(4) The date by which each violation must be corrected.

(c) Notwithstanding Sections 7-13(a) and (b), if the local licensing agency determines that a child care arrangement has violated a child care standard classified in this chapter as a Class I Violation, it shall document the violation in an inspection report and issue a Notice of Violation to the child care arrangement. Due to the nature of Class I Violations, the fact that the violation(s) occurred is sufficient to issue an inspection report and Notice of Violation requiring immediate corrective action. The local licensing agency shall make a reasonable attempt to discuss each such violation with the operator or director of the child care arrangement and explain the severity of this action. A Notice of Violation issued pursuant to this Section 7-13(c) shall otherwise conform to the requirements stated in Section 7-13(b) above.

(d) The local licensing agency may document any actions by a child care arrangement taken to correct any violation(s) cited.

(e) All Notices of Violation shall be dated and signed by the local licensing agency's monitor and a staff member of the child care arrangement. The signature of the child care arrangement's staff member serves only as an acknowledgment of receipt of the Notice of Violation and is not an admission that any violation(s) occurred. Delivery of

a Notice of Violation shall be sufficient if it is hand-delivered to the licensee, registrant, or any employee of the child care arrangement at the address at which the relevant Notice of Violation(s) was issued, or if it is sent via by certified mail, return receipt requested, and addressed to the appropriate person and to the address at which the license was issued under this chapter or that was provided by the registrant.

(f) Each day that a violation is determined to exist constitutes a separate and distinct violation.

(g) Upon receipt of the Notice of Violation, the child care arrangement must correct the violation(s) within the time specified in the Notice of Violation. To contest the Notice of Violation, the child care arrangement must, within 15 days after receipt of the Notice of Violation, make a written request for a hearing to the local licensing agency (addressed and furnished to the Child Care Licensing and Enforcement Section; Attention: Hearings). If the child care arrangement does not timely deliver a written request for a hearing to the local licensing agency, the violation(s) stated in the Notice of Violation are deemed admitted and the child care arrangement is deemed to have waived the right to contest the substantive issues contained in that Notice of Violation(s). Notwithstanding a child care arrangement's failure to timely deliver a request for a hearing on the Notice of Violation(s), if the local licensing agency seeks to impose an administrative fine based on the Notice of Violation, the child care arrangement may contest the amount of the administrative fine by requesting a hearing in writing as described above within 15 days after receiving notice of the fine amount.

(h) If a hearing is timely requested, the hearing will be scheduled by the local licensing agency and held within 30 days after receipt of the request. The local licensing

584 agency may consolidate a hearing challenging a Notice of Violation with a hearing
585 challenging any administrative fine or other sanction requested in any administrative
586 complaint arising from the Notice of Violation. A child care arrangement's initial written
587 request for a hearing shall be deemed sufficient notice to the local licensing agency of
588 the child care arrangement's desire to contest the substance and issuance of the Notice
589 of Violation and the imposition of the associated administrative fine.

590 (i) The local licensing agency may issue a Notice of Violation to a child care
591 arrangement for which the local licensing agency has identified at least three violations in
592 any rolling 12-month period or at least two separate violations of the same nature in any
593 rolling 12-month period and, thereafter, may schedule a hearing before a hearing officer.
594 The hearing officer shall review the events leading to the issuance of the prior violations
595 and determine if the violations reflect continuing, recurring, and unresolved problems that
596 adversely affect, or that may adversely affect, the health, safety, or well-being of one or
597 more children enrolled at the child care arrangement and whether the license should be
598 suspended or revoked. At the conclusion of the hearing, the hearing officer shall issue
599 Findings and Recommendations as provided for in Section 7-18(b) of this chapter.

600 (j) A violation of Section 7-3(a) or 7-4 of this chapter may be prosecuted by
601 the State Attorney's Office in the same manner as misdemeanors are prosecuted
602 pursuant to Section 775.082 or 775.083, Florida Statutes. Violations prosecuted by the
603 State Attorney's Office shall be prosecuted in the name of the State of Florida in a court
604 having jurisdiction of misdemeanors, and, if convicted, the violator shall be punished by
605 a fine not to exceed \$500, or imprisonment in a county jail not to exceed 60 days, or both.

(k) Pursuant to Florida law, it is a misdemeanor of the first degree, punishable as provided in Section 775.082 or 775.083, Florida Statutes, for any person to knowingly:

(1) Fail, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose in any application for voluntary or paid employment or for licensure regulated under Sections 402.301 - 402.318, Florida Statutes, all information required under those sections or a material fact pertinent to determination of such person's qualifications to be child care personnel, as defined in Section 402.302, Florida Statutes, in a child care facility, family child care home, or other child care arrangement.

(2) Operate or attempt to operate a child care facility or family child care home without having obtained a license required by this chapter.

(3) Operate or attempt to operate a child care facility or family child care home under a license that is suspended, revoked, or terminated.

(4) Misrepresent, by action or omission, a child care facility or family child care home to be duly licensed pursuant to this chapter without being so licensed.

(5) Make any other misrepresentations, by action or omission, regarding the licensure or operation of a child care facility or family day care home to a parent who has a child placed in the facility or home or who is inquiring as to placing a child in the facility or home, or to a representative of the local licensing agency, or to a representative of a law enforcement agency, including, but not limited to, any misrepresentation as to:

a. The number of children at the child care facility or the family child care home;

- b. The part of the child care facility or family child care home designated for the provision of child care;
- c. The qualifications or credentials of child care personnel at the child care facility or home;
- d. Whether a child care facility or family child care home complies with the screening requirements of Section 402.305, Florida Statutes; or
- e. Whether the child care personnel have the training as required by Section 402.305, Florida Statutes.
- (l) Nothing contained in this chapter shall prohibit the County from enforcing the rules and regulations set forth herein by any other means legally available.
- (m) Licensees and registrants are responsible for ensuring that their employees, officers, and agents comply with this chapter.
- Sec. 7-14. Administrative fines.**
- (a) Whenever the local licensing agency seeks to impose an administrative fine against a child care arrangement based on a Notice of Violation for violation(s) of the standards/requirements of this chapter, it shall issue an administrative complaint against the licensee (or registrant, if a substantial compliance facility).
- (b) The administrative complaint shall include the following for each violation alleged:
- (1) The amount of the administrative fine the local licensing agency seeks to impose;
- (2) The classification of the violation;

(3) A reference to the statute, rule, or section of this chapter that was allegedly violated;

(4) A factual description of the nature of the violation, stating the manner in which the child care arrangement failed (i) to comply with the specific statute, rule, or section of this chapter, and (ii) to take corrective action to remedy the violation(s) within the time frame specified in the Notice of Violation; in addition, with respect to any administrative fine to be imposed for a Class I Violation, stating that the administrative fine is being imposed regardless of whether the child care arrangement immediately corrected the violation;

(5) The licensee's or registrant's right to a hearing before a hearing officer if the administrative fine imposed is being disputed.

(c) Within 15 days after receipt of the administrative complaint, the licensee or registrant must either pay the administrative fine imposed by the local licensing agency or make a written request to the local licensing agency for a hearing before a hearing officer. If a hearing is timely requested, the hearing will be scheduled by the local licensing agency and held within 30 days after receipt of the request. At the conclusion of the hearing, the hearing officer shall issue Findings and Order as provided for in Section 7-18 of this chapter.

(d) If the licensee or registrant previously timely requested a hearing on the Notice of Violation, no additional hearing request is required to contest the imposition or amount of the administrative fine, if any. The licensee's or registrant's initial written request for a hearing to contest the Notice of Violation constitutes sufficient notice to the

674 local licensing agency of the request to contest the administrative fine. The local licensing
675 agency will schedule the hearing to occur within 30 days after the request, and the hearing
676 shall address both the substance of the Notice of Violation and the imposition and amount
677 of an administrative fine.

678 (e) If a licensee or registrant fails to pay an administrative fine imposed against
679 it after the final disposition of any and all administrative actions, including appellate
680 procedures, the local licensing agency may send written notice to the licensee or
681 registrant that it has 15 days after receipt to pay the administrative fine. Failure to timely
682 pay all administrative fines within the 15-day period may result in the local licensing
683 agency seeking revocation of the child care arrangement's license in accordance with
684 the procedures set forth in this chapter.

685 (f) In any civil action brought by Broward County, whether filed by the Broward
686 County Attorney's Office or by outside counsel retained by Broward County, to recover
687 administrative fines not timely paid, Broward County shall also be entitled to recover
688 attorneys' fees, prejudgment and postjudgment interest, and court costs, in addition to
689 the unpaid administrative fine.

690 **Sec. 7-15. Violations – classification.**

691 The local licensing agency will use the following classifications as a guideline for
692 determining the severity of the violation(s) and the amount of the administrative fine to be
693 imposed:

694 (a) *Class I Violations.* This is the most serious category of violations. It includes
695 any violation of a child care standard that could or does result in death or serious harm to
696 the health, safety, or well-being of one or more children at the child care arrangement.

Class I Violations shall also include actions or omissions by a child care operator that misrepresent material facts or hinder or impede the local licensing agency's ability to carry out its duties (including, without limitation, an investigation or inspection of the child care arrangement). A Class I Violation is subject to an administrative fine of up to \$500 per day for each violation. A fine shall be imposed for a Class I Violation even if corrective action is completed immediately by the child care arrangement. Repeat occurrences of the same type of Class I Violation will result in an increased amount of the administrative fine, up to a maximum fine of \$500 per day for each violation. Class I Violations include, but are not limited to, the following violations:

- (1) Violation of the background screening requirements for child care personnel;
- (2) Violation of the requirement for direct supervision of children at the child care arrangement at all times;
- (3) Violation of reporting requirements regarding an illness, accident, injury, or emergency at the child care arrangement that results in the serious injury or death of a child;
- (4) Violation of the provisions of this chapter regarding releasing a child from the child care arrangement;
- (5) Transporting children without seat belts or proper child safety restraints;
- (6) Intentionally disengaging vehicle child safety alarm devices while one or more children are being transported;

(7) Hindering and/or impeding the local licensing agency's ability to carry out its duties (including the conducting of investigations and inspections of the child care arrangement);

(8) Misrepresenting or failing to disclose material facts to the local licensing agency; and

(9) Use of any method of discipline prohibited under this chapter that results in physical, psychological, or emotional harm to a child.

(b) *Class II Violations.* This category includes violations that could reasonably be anticipated to pose a threat to the health, safety, or well-being of one or more children enrolled at the child care arrangement, although the threat need not be imminent. A Class II Violation is subject to an administrative fine of up to \$100 per day for each violation. No fine will be imposed for a Class II Violation if corrective action is completed by the child care arrangement within the time period stated in the inspection report or otherwise established by the local licensing agency, or if corrective action was taken immediately after the fact and prior to the local licensing agency becoming aware of the violation. Repeat occurrences of, or failure to timely correct, the same type of Class II Violation will result in an increased amount of the administrative fine, up to a maximum fine of \$500 per day for each violation. Class II Violations include, but are not limited to, the following violations:

(1) Violation of the requirement to have, at all times when children are present at the child care arrangement, a staff member on site trained in first aid/CPR;

(2) Violation of the requirement to have a first-aid kit on site;

- (3) Violation of the requirements related to the physical facility of the child care arrangement;
- (4) Violation of sanitation requirements;
- (5) Violation of the applicable staff-to-children ratios;
- (6) Violation of the child care arrangement's maximum licensed capacity;
- (7) Violation of the requirement to maintain a daily log for attendance of children in care; and
- (8) Use of any method of discipline prohibited under this chapter that does not result in harm to a child.

A Class II Violation can be deemed a Class I Violation if such violation was serious enough to rise to the level of a Class I Violation. In such event, the local licensing agency may issue a Notice of Violation for a Class I Violation.

(c) *Class III Violations.* This category includes all violations that are not Class I or Class II Violations. A Class III Violation is subject to an administrative fine of up to \$50 per day for each violation. No fine will be imposed for a Class III Violation if corrective action is completed by the child care arrangement within the time period stated in the inspection report or otherwise established by the local licensing agency, or if corrective action was taken immediately after the fact and prior to the local licensing agency becoming aware of the violation. Class III Violations include, but are not limited to, the following violations:

- (1) Violation of record keeping for enrollment of children and child care staff information;
- (2) Violation of record keeping on mandatory fire drills;

- (3) Failure to provide proof of a current and satisfactory fire inspection;
- (4) Failure to provide proof of current and proper insurance; and
- (5) Violation of educational requirements for child care staff.

A Class III Violation may be deemed either a Class I or II Violation if the violation was serious enough to rise to the level of a Class I or Class II Violation. In such event, the local licensing agency may issue a Notice of Violation for a Class I or Class II Violation, depending on the nature and circumstances surrounding the particular violation.

Sec. 7-16. Disciplinary action.

(a) In determining the appropriate disciplinary action to be taken for violation(s), which may, in accordance with Section 402.310, Florida Statutes, include fines, suspension, probation, or revocation, the local licensing agency shall consider, but not be limited to, the following factors:

- (1) Action(s) taken by the licensee or registrant to correct the violation(s) or to remedy previous complaints;
- (2) The severity and nature of the violation(s), including the probability that death or serious harm to any person may result or has resulted, the severity of the actual or potential harm, and the extent to which the standards established by this chapter were violated; and
- (3) Any previous violation(s) issued to the licensee or registrant.

(b) The local licensing agency, on behalf of Broward County, is authorized to enter into voluntary settlement agreements with child care arrangements regarding violations and/or administrative fines when it determines it is in the best interest of Broward County to do so. Any settlement agreement between the local licensing agency

and the applicable child care arrangement shall be in writing and approved as to form and legal sufficiency by the Broward County Attorney's Office. The settlement agreement may contain conditions the child care arrangement must adhere to, including, but not limited to, additional training for personnel, additional inspections, and payment of any administrative costs incurred by the local licensing agency to develop and enforce the agreement. The local licensing agency may establish written policies providing the conditions under which a licensee or registrant may reduce the amount of the imposed administrative fine after successful completion of an in-person training course by specific personnel of the child care arrangement. The local licensing agency shall issue a written report quarterly to the County Administrator listing any matters settled pursuant to this section.

Sec. 7-17. Creation and powers of hearing officer.

There is hereby created for the purposes of this chapter the position of hearing officer. Hearing officer(s) shall be selected by the County Administrator or designee from a list of candidates approved by the Board. Said hearing officer(s) shall be a member in good standing of The Florida Bar, engaged in the practice of law in Broward County, with experience preferably in the areas of family and/or administrative law. The Division shall provide reasonable clerical support to the hearing officer(s). Alternatively, or in addition, the Board may contract with the Florida Division of Administrative Hearings ("DOAH") to provide administrative law judges to serve as hearing officers who shall conduct hearings under the rules provided for in this chapter.

Sec. 7-18. Notice of hearing.

(a) If a licensee or registrant makes a timely written request for a hearing pursuant to this chapter, the local licensing agency shall provide the licensee or registrant with no less than seven business days' written notice, excluding Saturdays, Sundays, and legal holidays, of the time, date, and place of the hearing, and any administrative costs that may be associated with the request. This time period commences on the date of the mailing or hand delivery of the notice of hearing. A hearing may be held with less than seven business days' written notice by mutual agreement of the local licensing agency and the affected party.

(b) Notwithstanding the time periods in Section 7-18(a), if the local licensing agency determines that existing conditions at a child care arrangement pose an imminent threat to the health, safety, or welfare of one or more children, or there is a substantial probability that death or serious physical or emotional harm to one or more children may result therefrom, in addition to the local licensing agency ordering the immediate closure of the child care arrangement pursuant to Section 7-21(c), a hearing may be held after giving the licensee or registrant at least 48 hours' written notice, including Saturdays, Sundays, and legal holidays.

(c) Notices of hearing must be sent by certified mail, return receipt requested, and addressed to the appropriate person and to the address at which the license was issued under this chapter or that was provided by the licensee or registrant. Service of the notice of hearing shall be deemed sufficient if same is hand-delivered to any owner, director, or employee of the child care arrangement at the address at which the Notice of Violation was issued.

Sec. 7-19. Hearing procedures.

All hearings held under this chapter shall comply with the requirements of this section.

(a) Each party has the following rights at a hearing:

(1) To be represented by counsel;

(2) To call and examine witnesses;

(3) To introduce exhibits;

(4) To examine opposing witnesses on any relevant matter, even though the matter was not covered under direct examination; and

(5) To impeach any witness regardless of which party first called the witness to testify.

(b) Except as otherwise provided in this chapter, all hearings shall be conducted, insofar as is practicable, in accordance with the Florida Rules of Civil Procedure and the Florida Evidence Code.

(c) Irrelevant, immaterial, or unduly repetitious evidence may be excluded in the discretion of the hearing officer. All testimony shall be under oath. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but shall not be sufficient, in and of itself, to support a finding by the hearing officer in favor of any party unless the hearsay evidence would be admissible over objection in a civil action.

(d) Any interested party or person may make application and, upon good cause shown, may be allowed by the hearing officer in their discretion to intervene and appear in the proceeding.

(e) The hearing officer shall have the power to issue subpoenas for production of documents and/or attendance of witnesses at a hearing or for deposition upon the written request of any party.

(1) Subpoenas may be served by any person authorized by law to serve process or by any person of majority age who is not a party. Service shall be made by delivering a copy thereof to the person named in the subpoena. Proof of such service shall be made by affidavit of the person making service if not served by an officer authorized by law to do so.

(2) A party may seek enforcement of a subpoena issued under the authority of this section by filing a petition for enforcement in the applicable court in the Seventeenth Judicial Circuit of Florida.

(f) Child care arrangements that are licensed or registered in the name of an individual may be represented by that individual. Child care arrangements that are licensed or registered in the name of a business entity may be represented by an officer, director, manager, or partner, or by an employee designated by an officer, director, manager, or partner of the business entity, as applicable, notwithstanding applicable law that would otherwise require a business entity to be represented by an attorney.

Sec. 7-20. Hearing Officer recommendations and orders.

All hearing officer recommendations and orders issued pursuant to this chapter shall comply with this section. For cases involving only notices of violation and/or administrative fines, Section 7-20(a) applies. For cases that involve any other matter under this chapter, Section 7-20(b) applies to the entire case, including any portion of that case involving notice(s) of violation or administrative fines.

- (a) *Notices of Violations and imposition of administrative fines.*
- (1) After any hearing regarding a Notice of Violation or imposition of an administrative fine, the hearing officer shall issue a document entitled “Hearing Officer’s Findings and Order” (“Findings and Order”). The Findings and Order shall be based on the evidence presented at the hearing and shall include findings of fact and conclusions of law.
- (2) If, at the conclusion of a hearing, the hearing officer finds that violation(s) of this chapter occurred, the Findings and Order shall include a determination regarding the imposition of an administrative and/or such other action the hearing officer deems appropriate.
- (3) If, at the conclusion of a hearing, the hearing officer finds that no violation occurred, the Findings and Order shall state that no violation occurred and include a determination that the Notice of Violation and/or the administrative complaint are dismissed.
- (4) The local licensing agency or an applicant, licensee, or registrant of the child care arrangement shall have the right to appeal a decision of the hearing officer to a representative of DCF pursuant to Section 402.310(4), Florida Statutes. Notwithstanding any appellate rights that an applicant, licensee, or registrant may have under Section 402.310(4), Florida Statutes, the hearing officer’s Findings and Order may be appealed by filing a petition for writ of certiorari in the Circuit Court of the Seventeenth Judicial Circuit in and for Broward County, Florida, within the time period prescribed by law.

(b) *Hearings regarding license status; removal of licensure exemption.*

(1) After a hearing pertaining to the local licensing agency's denial, revocation, or change in status of a license or registration of a child care arrangement (including, but not limited to, the removal of a substantial compliance facility's exemption from licensure), or any other matter within the hearing officer's jurisdiction other than a hearing solely relating to a Notice of Violation or administrative fine, the hearing officer shall issue a document entitled "Hearing Officer's Findings and Recommendations" ("Findings and Recommendations"). The Findings and Recommendations shall be based on the evidence presented at the hearing and shall include findings of fact and conclusions of law. The Findings and Recommendations shall include the hearing officer's recommendation regarding whether the local licensing agency's decision(s) should be upheld, modified, or rejected.

(2) The Findings and Recommendations shall include a statement providing that each party (i) has a right to file and serve "Exceptions" to the findings of fact and conclusions of law within 15 business days after the date the hearing officer sends the Findings and Recommendations to the parties, and (ii) may file and serve a "Response" to the other party's Exceptions within ten business days after the date the Exceptions were served on that party. For purposes of this section, service of the Exceptions and Responses shall be by certified mail, return receipt requested, hand delivery, or e-mail. All Exceptions and Responses must be served on the hearing officer and on all other parties within the required time frames. The

921 local licensing agency shall provide the Findings and Recommendations
922 and all timely filed and served Exceptions and Responses to the County
923 Administrator, and the County Administrator or designee shall review same
924 and issue the local licensing agency's final agency action ("Final Agency
925 Action"). The Final Agency Action shall be issued within 90 days after the
926 date of the Findings and Recommendations. The applicant, licensee, or
927 registrant of the child care arrangement has the right to appeal the Final
928 Agency Action to a representative of DCF as provided in
929 Section 402.310(4), Florida Statutes.

930 (3) Notwithstanding any appellate rights that an applicant, licensee, or
931 registrant of a child care arrangement may have under Section 402.310(4),
932 Florida Statutes, the local licensing agency's Final Agency Action may be
933 appealed by filing a petition for writ of certiorari in the Circuit Court of the
934 Seventeenth Judicial Circuit in and for Broward County, Florida, within the
935 time period prescribed by general law.

936 (c) The hearing officer may direct the licensee or registrant to pay reasonable
937 administrative costs, as defined in Section 7-2, if the hearing officer upholds the Notice of
938 Violation or administrative fine, or directs any other action requested by the local licensing
939 agency, such as the issuance of a probationary license, suspension or revocation of a
940 license, or removal of a substantial compliance facility's exemption from licensure.

941 **Sec. 7-21. Suspension or revocation of license or registration.**

942 (a) Notwithstanding anything to the contrary contained in this chapter, the local
943 licensing agency may suspend a child care arrangement's license or registration for a
944

945 period of time necessary to correct violations that, in the opinion of the local licensing
946 agency, pose an imminent danger to the health, safety, or welfare of one or more children
947 at the child care arrangement or pose a substantial probability of resulting in death or
948 serious physical or emotional harm to one or more children. Any such temporary
949 suspensions of a license or registration shall be in effect until such time as the violation(s)
950 are corrected to the satisfaction of the local licensing agency. A licensee or registrant
951 who receives a Notice of Violation that includes a notice of temporary suspension may
952 make a written request to the local licensing agency for a hearing to contest the temporary
953 suspension. Upon receipt of the timely written request for a hearing, the local licensing
954 agency shall schedule a hearing pursuant to Section 7-18(b).

955 (b) Notwithstanding anything to the contrary contained in this chapter, the local
956 licensing agency may seek revocation of a child care arrangement's license or registration
957 for a violation that results in death or serious injury to a child. A licensee or registrant who
958 receives a Notice of Violation indicating that the local licensing agency seeks revocation
959 of the license or registration may make a written request to the local licensing agency for
960 a hearing to contest the revocation. Upon receipt of the written request for a hearing, the
961 local licensing agency shall schedule a hearing pursuant to Section 7-18(b). If the Notice
962 of Violation includes both a temporary suspension as well as indicates an intent to seek
963 revocation of a license or registration, or the removal of a registrant's exemption from the
964 requirement to obtain a license, the local licensing agency may consolidate such
965 proceeding with a licensee's or registrant's request for a hearing to contest the temporary
966 suspension.

(c) When the local licensing agency has reasonable cause to believe that grounds exist for temporary suspension or revocation of a child care arrangement's license or registration pursuant to this section, the local licensing agency shall issue a Notice of Violation to the operator, owner, or director of the child care arrangement, identifying the grounds upon which the license or registration is being temporarily suspended and informing the licensee or registrant that the child care arrangement must temporarily cease operation as of the close of that business day.

(d) Any hearing requested pursuant to this section shall be held pursuant to Section 7-20(b) within 30 days after a timely written request for hearing.

Sec. 7-22. Insurance.

Each child care facility, substantial compliance facility, and family child care home must maintain at all times a comprehensive general liability policy with a combined single limit for bodily injury and property damage as follows: at least \$500,000 for child care facilities and substantial compliance facilities; and at least \$100,000 for family child care homes. The child care arrangement must provide the local licensing agency with a certificate of insurance evidencing the required coverage at the time of licensure or registration, as applicable, upon renewal, and upon request of the local licensing agency. The child care arrangement or insurer must provide the local licensing agency at least 30 days' notice before the expiration or cancellation of the policy.

ARTICLE II. CHILD CARE FACILITIES

Sec. 7-28. Additional requirements for child care facilities.

The requirements of this Article II are in addition to the applicable State Requirements for child care facilities.

Sec. 7-29. Additional child care personnel requirements.

(a) If any child care facility is owned by a business entity, all persons identified as an officer, member, partner, or manager of the business entity in the then-current organizational documents of the business entity and (i) who reside locally, (ii) are involved in the operation of the child care facility, or (iii) have the authority to be at the facility during any hours of operation when children are present, must comply with all screening requirements. For purposes of this chapter, persons who reside in Broward, Miami-Dade, Palm Beach, Collier, or Hendry counties are deemed to reside locally.

(b) The licensee must ensure that all child care personnel on site at any time have a government-issued photo identification available for review by the local licensing agency.

(c) The licensee must ensure that any child care personnel taking a leave of absence (as defined in the State Requirements) in excess of 180 days comply with all initial screening requirements prior to returning to work at the child care facility. The licensee shall maintain written verification of all child care personnel leaves of absence in that individual's personnel file at the child care facility. Written verification shall include the individual's name, signature, and specific dates of the leave of absence.

(d) At all times the child care facility is open for operation, there shall be at least one child care staff member on site who is able to communicate in English.

Sec. 7-30. Additional personnel training requirements.

(a) *Infant care training.* All child care personnel permanently assigned to care for infants (i.e., children under one year of age) must have completed or complete within 90 days after such assignment:

(1) Four hours of annual in-service training specifically geared to infant care; and

(2) The Infant and Toddler Appropriate Practices module from Part II of the DCF child care training.

(b) *Employee education.* All staff members of child care facilities must have a high school diploma or the equivalent.

Sec. 7-31. Child care licensing seminar.

Before the initial licensing of a child care facility, every prospective and current owner or director shall attend a child care licensing seminar provided by the local licensing agency.

Sec. 7-32. Additional health requirements for child care personnel.

Before the first day of employment at a child care facility, all child care personnel, excluding temporary substitutes, must have on file at the child care facility a signed statement from a licensed physician or authorized agent of the Florida Department of Health attesting that the person is in good health in order to care for children in a child care facility setting. The health assessment statement shall be documented on a form prescribed by the local licensing agency and updated at least every two years.

Sec. 7-33. Ratios of staff to children and supervision – additional requirements.

(a) *Staffing ratios.* Except as otherwise provided in this chapter, the County adopts the minimum standards for ratio of staff members to children provided in Section 402.305(4)(a), Florida Statutes.

(b) *Minimum staffing.* At least two staff members must be on the premises of a child care facility at all times during the facility's hours of operation when any children are present.

(c) *General provisions regarding ratios.*

(1) Volunteers under the age of 18 shall not count as staff members for purposes of a facility's compliance with staff-to-children ratio requirements.

(2) In groups where children of varying ages are combined, the staff-to-children ratio shall be based on the age of the youngest child in the group.

(3) Infants shall not be cared for in the same classroom with any child over 24 months of age.

(d) *Napping.* When children are napping, the child care direct supervision requirements set forth below shall apply in addition to the staffing ratio requirements:

(1) If any of the napping children are under 12 months of age, there must be one child care staff member for every four children.

(2) If any of the napping children are under 2 years but over 12 months of age, there must be one child care staff member for every six children.

(3) If the napping children are all at least two years of age but none are three years of age or older, there must be one child care staff member for every 22 children.

(4) If the napping children are all at least three years of age, there must be one child care staff member for every 30 children.

(5) During naptime, there must be at least 18 inches of space around each sleeping mat and/or cot.

(e) *Direct supervision.* There shall be at least one child care staff member providing direct supervision at all times when one or more children are present. At no time shall any children be left alone for any reason without direct supervision by a child care staff member. Direct supervision means watching and directing the children's activities within close proximity in the same room or within a designated outdoor play area, and responding to each child's needs. Child care personnel and volunteers at a facility must be assigned to provide care to a specific group of children and be present with that group at all times during the day, including during meals, napping, and transportation of children.

(f) *Children with disabilities.* For child care facilities caring only for children with disabilities, the staffing ratios for each applicable group of children must comply with the following:

(1) If any children are under two years of age, there must be at least one child care staff member for every four children.

(2) If any children are at least two years of age but not more than three years of age, there must be at least one child care staff member for every six children.

(3) If any children are at least three years of age but not more than four years of age, there must be at least one child care staff member for every eight children.

(4) If any children are at least four years of age but not more than five years of age, there must be at least one child care staff member for every ten children.

- (5) If all children are at least five years of age, there must be at least one child care staff member for every 14 children.

Sec. 7-34. Additional child discipline requirements.

Each child care facility must have a written discipline policy, which must include standards that prohibit children from being subjected to any method or practice of discipline or punishment that is cruel, harsh, or unusual, as described in the State Requirements. In addition:

- (a) Children shall not be directed or permitted to discipline other children.
- (b) Children shall not be confined in any form of physical restraint, equipment, device, or furniture, including, but not limited to, highchairs, swings, walkers, and spinners, as a form of discipline.
- (c) Children shall not be prohibited from participating in, or required to participate in, any physical activity as a method of punishment.

Sec. 7-35. Additional physical facilities requirements.

- (a) *Animals.* Children shall not be permitted to touch animals without adult supervision. Reptiles shall not be handled by children.
- (b) *Electric devices.* Electric fans, except ceiling fans that are out of reach of children, shall be properly screened and inaccessible to children. Unvented or open flame heaters and portable electric heaters are prohibited.
- (c) *Drinking water.*
 - (1) *Garden or other hoses.* Use of a garden or other hose to provide drinking water is prohibited due to potential health risks that could result from cross connections and backflow contamination of the water system.

(2) *Drinking fountains.* Any child care facility with a licensed capacity of 50 children or fewer shall have a minimum of two drinking fountains, including at least one inside the facility and at least one in any outdoor play area. Child care facilities with a licensed capacity of more than 50 children shall have one additional drinking fountain located either inside or outside the facility for each additional 50 children licensed capacity or any fraction thereof. Manual or electrically powered commercial water coolers may be used to meet the indoor drinking fountain requirements. Electrically powered commercial water coolers may be used to meet the outdoor drinking fountain requirements. Water coolers with a hot water feature are prohibited for use by children at child care facilities. Sharing of cups or individual water bottles between children is prohibited.

(d) *Storage space.* There shall be sufficient storage space accessible for each child to store extra clothing and other personal items, as well as separate storage space for equipment and supplies. Each closet door must be constructed to enable children to open the door from inside the closet.

(e) *Facility phone accessibility.* At all times during the facility's operating hours, a child care facility must have a person responsible for answering the telephone, including periodically checking voicemail for any messages. A staff member actively handling telephone calls shall not be included as a staff member for purposes of staff-to-children ratios.

(f) *E-mail.* All child care facilities shall have on file with the local licensing agency a permanent, valid e-mail address for the licensee that is not a staff member's

personal e-mail address (i.e., that does not change when the child care facility director or other staff members change). The e-mail address on file with the local licensing agency must be checked periodically throughout the day when children are in care.

(g) *Notification of changes.* The licensee must immediately notify the local licensing agency of any changes to the facility's phone number or e-mail address.

(h) *HVAC filters.* The licensee must change air conditioning filters per manufacturer's specifications and must maintain a log showing the dates of such changes for review by the local licensing agency.

(i) *Flashlight.* An operable flashlight must be kept in the child care facility for use in the event of a power failure.

(j) *Exits.* Exits from a child care facility shall open onto safe, protected, fenced areas, or shall have active audible alert mechanisms to alert child care staff when such doors are opened. A limited exception for the front door will apply provided a child care staff member is present in the immediate vicinity of the front door at all times when the child care facility is open and caring for one or more children.

Sec. 7-36. Additional indoor square footage/usable indoor space requirements.

(a) *Equipment and furnishings.*

(1) Toys, equipment, and furnishings must be in a usable, safe, and sanitary condition and shall not present a choking hazard for children.

(2) Shock-absorbent matting or floor covering shall be provided in indoor play space areas as follows:

a. In areas in which play equipment is used and the equipment has a climbing height of greater than 18 inches but does not exceed

1151 36 inches, there shall be a shock-absorbent floor covering approved
1152 by the local licensing agency. The shock-absorbent floor covering
1153 shall extend a minimum of two feet beyond all sides of the
1154 equipment.

1155 b. In areas in which play equipment is used and the equipment has a
1156 climbing height of greater than 36 inches, there shall be a
1157 shock-absorbent matting or floor covering approved by the local
1158 licensing agency. The placing of equipment against the wall is
1159 permissible. The shock-absorbent matting or floor covering shall
1160 extend a minimum of six feet beyond all sides of the equipment, or
1161 to the wall if fewer than six feet from that side of the equipment.

1162 (b) When not napping, children must not be confined in highchairs, sassy seats,
1163 bounce seats, or similar equipment for more than 15 minutes at a time without direct staff
1164 contact.

1165 (c) Infants shall not be in cribs or play yards except while napping.

1166 **Sec. 7-37. Additional outdoor play space/area requirements.**

1167 (a) The outdoor play space shall adjoin the building where the child care facility
1168 is located.

1169 (b) Secure and adequate locks and/or latches must be on all gates. Locks
1170 and/or latches on exit gates must be approved by the appropriate fire authority having
1171 jurisdiction. The outdoor play space and any area adjacent to any outdoor play space
1172 that a child may have access to shall be free and safe from any reasonably foreseeable
1173 condition that has the potential of endangering or does endanger the health, safety, and

welfare of children, including, but not limited to, the presence of hazardous materials and high-tension wires.

(c) The outdoor play space must provide for exposure to sunlight and also include shade (i.e., an area where exposure to direct sunlight is blocked). The shade area must, at a minimum, be large enough for all children using the outdoor play space at the same time to sit down comfortably without coming into direct physical contact with another child.

(d) The outdoor play space must have adequate drainage to prevent standing water from collecting in the area. No children shall be permitted to play in an area where standing water has collected until the area is adequately drained.

(e) Trampolines are prohibited.

(f) Outdoor play space used after dark must be adequately illuminated.

(g) *Facilities in urban areas.*

(1) A child care facility in an urban area may substitute indoor play space for outdoor play space to the extent provided in this chapter if the applicant can show there is no available location for a child care facility with outdoor play space within the urban area. "Urban" means an area with a high concentration of government buildings, high-intensity commercial uses, high-density residential uses, regional shopping centers, hospitals, major office and employment areas, higher education facilities, and professional sports and recreational complexes. Urban child care is generally a child care facility or child care arrangement provided for the convenience of parents employed in the vicinity of the facility.

- 1197 (2) To be classified as an urban child care facility, the applicant, prior to
1198 submitting an application for licensure, must:
- 1199 a. Provide the local licensing agency with documentation that the
1200 outdoor play space requirements set forth in this chapter cannot be
1201 met;
- 1202 b. Obtain documentation from the local governing body that confirms
1203 the geographical area has been declared urban within the meaning
1204 of Section 7-37(g)(1); and
- 1205 c. Consult with the local licensing agency to verify that a location with
1206 the required outdoor play space prescribed in this chapter is not
1207 reasonably available. Urban designation will not be granted if the
1208 local licensing agency determines space for an outdoor play area is
1209 available. Outdoor play space is considered available if appropriate
1210 space is adjacent to the facility and available for rent or purchase by
1211 the child care facility.
- 1212 (3) No application for an urban child care facility designation will be approved
1213 by the local licensing agency without the above criteria being met.
- 1214 (3) A facility that is approved as an urban child care facility is not required to
1215 comply with the provisions of this section relating to outdoor play space, but
1216 must provide a minimum of 45 square feet of usable indoor space per child
1217 for one-half of the licensed indoor capacity, in addition to the indoor play
1218 space required by the DCF Child Care Facility Handbook. The urban child

1219 care facility shall provide this additional usable indoor space with equipment
1220 that permits gross-motor activities appropriate for the age of the children.

1221 **Sec. 7-38. Additional napping, sleeping space, and safe sleep environment**
1222 **requirements.**

1223 (a) The child care facility must obtain written approval from the local licensing
1224 agency to care for infants prior to caring for infants.

1225 (b) *Infant safe sleep environment.*

1226 (1) All infants who are observed sleeping on their stomachs shall be
1227 repositioned onto their backs unless they have demonstrated that they are
1228 capable of independently rolling from their back to their stomach and from
1229 stomach to back.

1230 (2) Mobiles hanging above cribs or play yards are prohibited when infants are
1231 napping or sleeping in the crib or play yard; and no items shall be contained
1232 inside, attached to, or hung on any crib or play yard, including, but not
1233 limited to, pillows, toys, stuffed animals, bumper pads, bibs, blankets, quilts,
1234 or comforters. Infants may use pacifiers while napping or sleeping, provided
1235 such pacifiers are not tied or fastened to the infants' clothing or to the crib
1236 or play yard.

1237 (3) Infants shall not be placed for napping or sleeping wearing any bibs,
1238 necklaces, or garments with tie strings or hoods. Infants shall be observed
1239 to ensure they are comfortably clothed in accordance with the room
1240 temperature and demonstrate no visible signs of being cold, overheated, or
1241 perspiring.

- (4) Infants shall not be placed for napping or sleeping in any car safety seat, bean bag chair, bouncy seat, infant seat, swing, jumping chair, highchair, chair, futon, sofa, or any other type of furniture or equipment that does not meet the State Requirements for cribs and play yards.
- (5) Infants who arrive at the facility asleep in a car safety seat must be immediately removed from the seat by the parent or the child care personnel and placed on their backs in a safe sleep environment.
- (6) Only one infant at a time shall be in any crib or play yard for napping or sleeping.
- (7) All licensees must implement, maintain, and comply with a written policy on providing an infant safe sleep environment that complies with this chapter.
- (8) The licensee shall ensure that upon enrollment of their children, parents of infants are provided a copy of the facility's written policy on providing an infant safe sleep environment. A signed statement from the parent acknowledging receipt of the policy must be included in the infant's enrollment file maintained at the facility.

Sec. 7-39. Additional requirements for toilet and bath facilities.

(a) The minimum requirements for toilet and bath fixtures for child care facilities are as follows:

<i>Facility Capacity</i>	<i>Toilets</i>	<i>Sinks</i>	<i>Bathtubs, Showers, or Deep Sinks</i>
<i>No. of Children</i>			
5-10	1	1	1
11-15	1	2	1

1265	16-30	2	3	1
1266	31-50	3	4	1
1267	Above 50	3 plus 1 for every	4 plus 1 for every	1
1268		additional 30	additional 30	
1269		children	children	

1270 (b) At least one permanent bathtub, shower, or deep sink shall be available for
1271 bathing children at all times.

1272 (c) Urinals are permitted but do not count towards the required number of
1273 toilets.

1274 (d) Child care facilities licensed to care only for school-age children shall be
1275 permitted to use portable or permanent bath tubs, showers, or deep sinks.

1276 (e) Potty chairs or seats must be available in child care facilities serving
1277 children under the age of three years unless there are sufficient toilets in the child care
1278 facility specifically designed for use by children of that age.

1279 **Sec. 7-40. Additional nighttime child care requirements.**

1280 (a) The child care facility must obtain written approval from the local licensing
1281 agency to provide nighttime child care prior to instituting the provision of nighttime child
1282 care.

1283 (b) The minimum requirements for toilet and bath fixtures for facilities providing
1284 nighttime child care are as follows:

1285	<i>Facility Capacity</i>	<i>Toilets</i>	<i>Sinks</i>	<i>Bathtubs or</i>
1286	<i>No. of Children</i>			<i>Showers</i>
1287	Up to 18	1	1	1

Coding: Words ~~stricken~~ are deletions from existing text. Words underlined are additions to existing text.

1288	19-30	2	2	2
1289	31-50	3	3	3
1290	Above 50	4 plus 1 for every	4 plus 1 for every	4
1291		additional 30	additional 30	
1292		children	children	

1293 (c) Meals must be served to children in nighttime child care who are in the child
1294 care facility at ordinary meal times and who either were not served an evening meal
1295 before arrival or who remain through the time when breakfast is served. The evening meal
1296 must be included in the facility's menu.

1297 **Sec. 7-41. Additional requirements regarding first-aid treatment and emergency**
1298 **procedures.**

1299 The child care facility must maintain written instructions from each child's parent
1300 for child care personnel to follow if immediate or emergency medical treatment of the child
1301 is necessary. The instructions must include, at a minimum:

- 1302 (1) Authorization for the child care facility to seek medical treatment;
- 1303 (2) Authorization for the health facility or physician selected by the parent to
1304 provide medical treatment as necessary; and
- 1305 (3) Information regarding responsibility for payment for the provision of
1306 emergency services.

1307 **Sec. 7-42. Additional food and nutrition requirements.**

1308 (a) Meals or snacks furnished by a child's parent for sharing with other children
1309 must be limited to commercially prepared foods and may not include any foods cooked
1310 or prepared in the home.

(b) Child care facilities shall ensure that each child is provided with a nutritious mid-morning and mid-afternoon snack, in addition to meals, to meet the child's nutritional needs. Mid-morning snacks may be omitted if the time span between breakfast and lunch does not exceed three hours. Snacks shall be served at least two hours before regularly scheduled meals.

(c) Disposable gloves must be worn by child care staff when food items for the children in care are touched or served.

(d) If a child is not provided breakfast or lunch by their parent and the child care facility accepts the child for care that day, the facility must provide the child with a nutritious meal.

(e) Formula provided by the facility must be commercially prepared, ready-to-feed formula. The formula shall be iron fortified unless otherwise recommended by the child's parent or a licensed medical professional.

(f) Staff members shall not hold a child in their arms while removing items from the microwave, bottle warmer, or other heating devices. Children must be kept at a safe distance from the microwave oven.

(g) All knives and sharp instruments must be stored in a locked area when not in use.

Sec. 7-43. Additional child health record requirements.

(a) *Immunization records.* Within 15 days after enrollment, the child care facility must obtain, from a parent for each child in care, a current, complete, and properly executed Florida Certification of Immunization form Part A-1, B, or C, DH 680, which is incorporated by reference in Rule 65C-22.001(7)(o), Florida Administrative Code, or the

Religious Exemption from Immunization form, DH 681, which is incorporated by reference in Rule 65C-22.001(7)(p), Florida Administrative Code. DH Form 680 and DH Form 681 may be obtained from the Florida Department of Health. Specific immunization requirements for children in child care facilities are included and detailed in the "Immunization Guidelines-Florida Schools, Child Care Facilities and Family Day Care Homes," promulgated by the Florida Department of Health.

(b) *Health examination records.* Within 15 days after enrollment, the child care facility must obtain for each child in care a current, complete, and properly executed Student Health Examination form DH 3040, which is incorporated by reference in Rule 65C-22.001(7)(q), Florida Administrative Code, and which may be obtained from the Florida Department of Health or from the parent, or a signed statement by authorized professionals indicating the results of the components of the Student Health Examination form are included in the health examination.

Sec. 7-44. Additional requirements for releasing a child from child care facility.

(a) In order to be accountable for the children in care, to facilitate the release process, and to ensure the safety of the children in its care, the child care facility must have, implement, and follow written procedures for the release of children.

(b) A child care facility shall not release a child to any person(s) other than the person(s) authorized by the parent and listed on the Child Care Enrollment Information Card or its equivalent. Any person(s) authorized to take a child from the child care facility, if unknown to the child care personnel releasing the child, must present a government-issued photo identification to the child care personnel before the child is

released. A password or number identifier known only to the parent and the facility shall be recorded on the Child Care Enrollment Information Card or its equivalent.

(c) If no person authorized by Section 7-44(b) is available to remove a child from care and the child must be released, the child's parent must first contact the child care facility and give the correct password or number identifier assigned to the child, and then authorize another individual to remove the child from the facility. The person authorized by the parent to remove the child must present a government-issued photo identification prior to the child being released to that person.

(d) If a child care facility releases a child in violation of this section, such action shall constitute commission of a Class I Violation.

(e) If a child is not picked up by an authorized person within one hour after the scheduled closing time of the child care facility, unless other arrangements have been made in advance or the facility elects to remain open for a late pick-up, the facility shall immediately notify local law enforcement so that the child can be picked up and the incident documented.

(f) The child's arrival and departure must be recorded by child care personnel at the time the child enters and departs the child care facility. The attendance sheet/class roster must accompany the child care personnel and the group of children throughout the day should they leave the classroom. In order to account for children's whereabouts, children who are reassigned to different classrooms throughout the day should be signed in and/or out of the rosters for those respective classrooms each time.

Sec. 7-45. Additional transportation requirements.

(a) Any person who drives a vehicle transporting children for a child care facility must be at least 21 years of age. If the driver is an employee of an entity under contract with the child care facility or a vehicle leasing company, the driver must be under the direct and constant supervision of the child care facility's personnel when children are being transported.

(b) *Vehicle requirements.* For purposes of this section, "vehicles" refers to vehicles owned, operated, or regularly used by the child care facility as well as vehicles that provide transportation through a contract or other arrangement with an outside entity. Parents' personal vehicles used for transporting their own children during field trips are excluded from meeting the requirements of this section.

(1) Vehicles must state the name of the child care facility on each side panel in six- to eight-inch letters. The back panel must have the wording "Caution Transporting Children" in a minimum of four-inch letters. The facility's license number also must be printed on the side and back panels of the vehicle.

(2) All trash, debris, and dirt must be removed from the vehicles daily. All seats, safety restraint devices, and fixtures must be maintained free of rips and tears and in good repair at all times. Vehicles must be cleaned and sanitized routinely.

(3) The required vehicle child safety alarm device shall not be intentionally disengaged when children are present or being transported.

(4) When transporting children, staff-to-children ratios must be maintained at all times. The driver may be included in the staff-to-children ratio if they meet screening and training requirements.

(5) A child care staff member, in addition to the driver, must be present in the vehicle when transporting children under five years of age. The nondriver child care staff member shall be seated in the vehicle in the back seat or in a position that allows:

- a. Each child to be seen with a quick glance;
- b. Each child to be heard at all times;
- c. Each child's activities to be observed; and
- d. Child care staff to respond immediately should there be an emergency.

(6) A child care staff member must be in the vehicle whenever a child is in the vehicle.

(7) A child care staff member or the driver (if an employee of an entity under contract with the child care facility or a vehicle leasing company) must be seated behind the steering wheel if the motor is running and children are being loaded, unloaded, and/or are on board.

Sec. 7-46. Drop-in child care.

(a) This section applies to child care arrangements that meet the definition of drop-in child care in Section 7-2.

(b) Drop-in child care arrangements shall be licensed as and meet all requirements for child care facilities under this Article II, except as modified in this section.

Child care provided in health clubs/spas/gyms, bowling alleys, hotels/resorts, athletic training/instructional facilities, and similar establishments is not a child care arrangement and therefore is not required to be licensed or registered under this chapter if care is provided only while a parent is on site. A determination as to whether an arrangement is considered to be a drop-in child care facility will be made by the local licensing agency on a case-by-case basis.

(c) While drop-in child care facilities must be licensed with the local licensing agency, because of the nature of care and the limited duration of time children spend in drop-in child care facilities, the following provisions of Article II relating to the operation of child care facilities do not apply to child care arrangements that only provide drop-in child care:

(1) Section 7-37, relating to the requirement to provide outdoor play space; however, if such outdoor play space is provided by the drop-in child care facility, the requirements of Section 7-37 apply; and

(2) Section 7-43, relating to health examinations and health maintenance; however, a parent of a child in drop-in child care shall be required to attest to the child's health condition and the type and current status of the child's immunizations.

(d) Except as provided in this section, all other provisions of Article II of this chapter apply to drop-in child care. In addition, the following additional requirements apply to child care arrangements providing only drop-in child care:

(1) The licensee must have an ability to immediately communicate with the parent of each child in the drop-in-child care; and

- (2) The licensee must maintain a daily sign-in and sign-out sheet for all children enrolled to ensure compliance with the four-hour maximum period of time a child may remain in a drop-in child care facility.

Sec. 7-47. School-age child care programs.

This section establishes the minimum standards for licensure of school-age child care programs.

(a) Except as provided in this section, school-age child care programs are exempt from licensure as a child care facility under this chapter if an exemption from licensure is provided under Chapter 402, Florida Statutes, or Rule 65C-22.008, Florida Administrative Code. Notwithstanding such exemption, any school-age program that operates on a public or nonpublic school site before and/or after normal school hours pursuant to an agreement with the school must be licensed as a child care facility under this chapter.

(b) Any person or entity that provides only school-age child care programs, and that is subject to licensure as a child care facility under this chapter, must ensure compliance with the minimum standards for licensure established under Articles I and II of this chapter and this Section 7-47, except as provided in Section 7-47(c) below. In addition to the minimum standards for licensure established under Articles I and II of this chapter, child care personnel at a school-age child care program must immediately notify the child's parent or other authorized contact person listed on the enrollment information if the child is unexpectedly absent from the program.

(c) School-age child care programs subject to licensure under this chapter are not required to comply with the following provisions:

- (1) Section 7-37(a), requiring that the outdoor play area adjoin the facility; and
- (2) Section 7-43, relating to health examinations and health maintenance.

Sec. 7-48. Indoor recreational facilities.

(a) Except as provided in this section, indoor recreational facilities intended for use by children are required to be licensed with the local licensing agency as a child care facility. All indoor recreational facilities required to be licensed as a child care facility must meet all the requirements of Articles I and II of this section and the following additional requirements:

- (1) The child's arrival and departure must be recorded by child care personnel at the time a child enters and departs the indoor recreational facility; and
- (2) The facility's child care personnel must immediately notify a parent or other authorized contact person responsible for the child's welfare if the child is unexpectedly absent from the indoor recreational facility.

(b) An indoor recreational facility that cares for children enrolled in five-year-old kindergarten in accordance with the admission criteria of Section 1003.21, Florida Statutes, and/or first grade or above, and does not permit any child to remain at the facility for more than four hours in any one day, is not required to comply with the following provisions of this chapter:

- (1) Section 7-33(d), relating to ratios of staff-to-children;
- (2) Section 7-37, relating to outdoor play space;
- (3) Section 7-38, relating to napping; and
- (4) Section 7-43, relating to health examinations and health maintenance.

1491 **ARTICLE III. “SUBSTANTIAL COMPLIANCE” FACILITIES**

1492 **Sec. 7-54. Substantial compliance facilities – in general.**

1493 (a) *Legislative findings.* The Board finds and declares that, although certain
1494 types of child care arrangements and facilities are not generally subject to licensure under
1495 Article I of this chapter, it is reasonable and necessary to adopt requirements for
1496 “substantial compliance” in order to protect children attending these facilities. The term
1497 “substantial compliance” as used in this chapter means compliance with the minimum
1498 standards set forth for background screening of child care personnel, and health, safety,
1499 and sanitation requirements provided in this Article III.

1500 (b) This article is applicable to religious-affiliated child care facilities (as
1501 described in Section 7-54(b)(1)) operating pursuant to Section 402.316, Florida Statutes,
1502 and to nonpublic schools and their integral child care programs, except for those child
1503 care arrangements requiring licensure as provided in Section 7-54(b)(2) below and
1504 Section 402.3025, Florida Statutes. Any religious-affiliated child care facility or nonpublic
1505 school program subject to the provisions of Section 7-4 of this chapter is required to
1506 register with the local licensing agency as provided for in this chapter prior to commencing
1507 operations and must meet the requirements for substantial compliance.

1508 (1) *Religious-affiliated child care facilities.* A religious-affiliated child care facility
1509 is not required to be licensed under this chapter if the facility is an integral
1510 part of a place of worship or religious school conducting regularly scheduled
1511 classes, courses of study, or educational programs and is accredited by, or
1512 by a member of, an organization that publishes and requires compliance
1513 with standards for health, safety, and sanitation. However, the facility is

required to meet the standards stated or incorporated in this Article III. Any religious-affiliated child care facility exempt from licensure but desiring to be licensed as a child care facility in accordance with this chapter may submit a written request to the local licensing agency seeking licensure and follow all required procedures for licensure. Once licensed, a religious-affiliated child care facility permanently loses its ability to be exempt from licensure and to operate as a substantial compliance facility.

(2) *Nonpublic schools.* Programs in nonpublic schools that would otherwise be classified as a child care arrangement but for the exemption specified in Section 7-4 of this chapter must meet the minimum standards for substantial compliance. A nonpublic school may designate certain programs as child care, in which case these programs must be licensed and comply with all applicable requirements of Article II.

(c) *General rule.* Substantial compliance facilities must comply with the requirements of this chapter, including all incorporated applicable State Requirements, except to the extent expressly exempted as set forth in this Article III.

(d) *Exemptions.* Substantial compliance facilities are exempt from complying with the following provisions of this chapter, including any corresponding State Requirements:

(1) Section 7-30(b), regarding the educational attainment of staff members.

(2) Section 7-37(a), regarding the adjacency of outdoor play space, provided that the substantial compliance facility must have an outdoor play space on the same campus and that such space may be safely accessed by children

1537 in care. The local licensing agency shall have authority to determine
1538 whether a substantial compliance facility's outdoor play space is safely
1539 accessible to children in care.

1540 (3) Section 7-12(d), regarding the number of inspections per year. Instead,
1541 substantial compliance facilities shall be inspected at least twice per year.

1542 (4) Section 4.2.1(B) of the DCF Facility Handbook, pertaining to Part II
1543 introductory child care training. However, if the substantial compliance
1544 facility serves infants, all staff members assigned to care for the infants must
1545 complete the five-hour Infant and Toddler Appropriate Practices course.

1546 (5) Section 4.2.2 of the DCF Facility Handbook, pertaining to Early Literacy
1547 Training.

1548 (6) Section 4.2.7 of the DCF Facility Handbook, pertaining to annual in-service
1549 training hours.

1550 (7) Section 4.6 of the DCF Facility Handbook, pertaining to staff credentials.

1551 (8) Section 4.7 of the DCF Facility Handbook, pertaining to director credentials.

1552 (9) Sections 7-3(C)1, 4, and 5 of the DCF Facility Handbook, pertaining to the
1553 "Know Your Child Care Facility" brochure, influenza brochure, and
1554 "distracted adults" brochure, respectively.

1555 (e) *Noncompliance with standards for substantial compliance.* Failure of a
1556 substantial compliance facility to comply with the applicable requirements of this Article III
1557 may, in addition to any other sanction provided for in this chapter, result in the loss of the
1558 facility's exemption from licensure. Failure to register as required by this chapter may, in

addition to any other applicable sanctions, result in the imposition of a civil penalty against the owner or person in charge of the of the facility pursuant to Section 8½-16 of this Code.

(f) Except for express exemptions provided for in this Article III, all references to “child care facilities,” “facility,” or “facilities” in Articles I and II of this chapter include reference to religious-affiliated child care facilities and nonpublic school programs that are exempt from licensure under this chapter.

Sec. 7-55. Registration procedures.

(a) No one shall operate a substantial compliance facility within Broward County, Florida, without first registering with the local licensing agency and complying with all applicable standards of this Article III. The registration shall be applicable only to that portion of the building/facility initially designated for use unless the local licensing agency approves, in writing, any additional space for operation of the facility.

(b) Procedures for registration of a substantial compliance facility shall be the same as those for licensure of a child care facility under this chapter, except where expressly provided in this Article III.

Sec. 7-56. Enforcement of requirements for substantial compliance.

Substantial compliance facilities are subject to the same enforcement procedures and sanctions as child care facilities under this chapter, except where expressly provided in this Article III.

ARTICLE IV. FAMILY CHILD CARE HOMES

Sec. 7-62. Family child care homes – general provisions.

(a) The requirements of this Article IV for family child care homes within Broward County are in addition to all State Requirements for family child care homes,

1583 including without limitation provided by Florida Statutes, the Florida Administrative Code,
1584 and the DCF Family Day Care Home and Large Family Child Care Home Handbook.

1585 (b) No one shall operate a family child care home within Broward County,
1586 Florida, without first being licensed as such by the local licensing agency.

1587 (c) A family child care home is not required to be licensed as a child care facility
1588 provided that it complies with all obligations stated or incorporated in this Article IV and
1589 provides care for no more than one of the following groups of children at any time,
1590 inclusive of children under 13 years of age who are related to the operator or provider:

1591 (1) Up to four children not more than 12 months of age;

1592 (2) Up to three children not more than 12 months of age, and other children
1593 over 12 months of age, for a maximum total of six children;

1594 (3) Up to six preschool-age children who are all older than 12 months of age;
1595 or

1596 (4) Up to ten children if no more than five are preschool-age and of the
1597 preschool-age children, not more than two are under 12 months of age.

1598 If an operator serves more children than permitted in this section, the family child
1599 care home must be licensed as a child care facility.

1600 (d) If any family child care home is owned by a business entity, all persons
1601 identified as an officer, member, partner, or manager of the business entity in the then-
1602 current organizational documents of the business entity and who (i) reside locally, (ii) are
1603 involved in the operation of the child care facility, or (iii) have the authority to be at the
1604 facility during any hours of operation when children are present, must comply with all

screening requirements. For purposes of this chapter, persons who reside in Broward, Miami-Dade, Palm Beach, Collier, or Hendry counties are deemed to reside locally.

(e) The licensee must ensure that all child care personnel on site have a government-issued photo identification available for review by the local licensing agency.

(f) The licensee must ensure that any child care staff member taking a leave of absence (as defined in the State Requirements) in excess of 180 days complies with all initial screening requirements prior to returning to work at the family child care home. The licensee shall maintain written verification of all leaves of absence in that staff member's personnel file at the family child care home. Written verification shall include the individual's name, signature, and specific dates of the leave of absence.

(g) *Additional staff training requirements.*

(1) If a family child care home accepts infants, then all family child care home personnel must have completed the Infant and Toddler Appropriate Practices module from the DCF child care training before starting work. All family child care home personnel who provide care to infants at the family child care home must, prior to caring for such infants, also successfully complete the most current training course approved by the local licensing agency relating to providing an infant safe sleep environment, as identified on the local licensing agency's website.

(2) The operator of a family child care home must ensure that all family child care home personnel comply with the training requirements of Section 7-62(g)(1), and that the safe sleep training is renewed at least every two years in the same manner as required for the initial training. Successful

completion of the required training must be evidenced by a certificate or any equivalent documentation, issued by the applicable training organization in the name of the individual who completed the course and indicating the date the course was completed. Documentation evidencing compliance with the training requirements of this section shall be included in the individual's personnel file maintained at the family child care home.

- (3) As part of the ten hours of annual in-service training required by State Requirements, family child care home personnel assigned to regularly care for infants must take at least four hours of training specifically geared to infant care.

(h) *Minimum age requirements for staff.*

- (1) *Operator.* The operator of a family child care home must be at least 21 years of age. Whenever the operator of the home is absent from the family child care home and children in care are present, there must be an employee or substitute 21 years of age or older in charge of the home and on the premises.

- (2) *Other personnel employed at the home.* Any individual 18 to 20 years of age may be employed in a family child care home; however, such individuals must be under direct supervision of family child care home personnel aged 21 or older.

(i) *Health requirements.*

(1) Family child care home personnel shall comply with the following:

a. Prior to licensing of, or employment in, a family child care home, a statement shall be on file, from a licensed physician or authorized agent of the Florida Department of Health, attesting that all family child care home personnel are physically qualified to care for children.

b. Family child care home personnel must undergo physical examinations at least every two years.

(2) Reports of required staff health examinations shall be maintained on file at the family child care home and furnished to the local licensing agency upon request. All reports and records required by this section shall be reported and maintained in such a manner and upon such forms as promulgated by the local licensing agency.

(j) *Child discipline.* The family child care home shall have a written discipline policy, which shall also include standards that prohibit children from being subjected to any method or practice of discipline or punishment that is cruel, harsh, or unusual, including, but not limited to, the following:

(1) Children shall not be directed or permitted to discipline other children.

(2) Children shall not be confined in any form of physical restraint, equipment, device, or furniture, including, but not limited to, swings, walkers, and spinners.

- (3) Children shall not be prohibited from participating in, or required to participate in, any physical activity as a method of punishment.

Sec. 7-63. Additional requirements – physical facilities.

(a) *Additional general requirements.* In addition to all requirements of other applicable law, all local building, zoning, fire, health, and licensing requirements must be met and maintained. All family child care homes must be inspected and approved by the appropriate building, zoning, and fire departments.

(b) All areas and surfaces within a family child care home that are accessible to children must be free of toxic substances and hazardous materials. Lead-based paints are prohibited. Medicines, prescription and nonprescription drugs, cleaning supplies, flammables, and other potentially poisonous or dangerous supplies must be stored in a locked cabinet out of children's reach and in such a manner as to ensure the safety of the children.

(c) All animals (including pets of the owner of the family child care home), other than a service animal as defined in Section 413.08, Florida Statutes, must be kept separate from the children during the hours of operation of the home. Children shall not be permitted to touch animals without adult supervision. Children shall not be permitted to touch reptiles.

(d) All areas of the family child care home must be kept clean, safe, sanitary, in a good state of repair, properly ventilated, and free of rodents.

(e) Drinking water may be served from a drinking fountain, single-use disposable cups (which must be disposed of after each use), or nonbreakable and

shatterproof cups or bottles for use only by a specific child, provided by the child's parent or the family child care home, and labeled with the child's name.

(f) There must be a working landline telephone in the family child care home at all times. Telephone numbers for the local licensing agency and the Florida Department of Health, and the address of the family child care home with directions to the home, must be posted near the telephone.

(g) Electric fans, except ceiling fans that are out of reach of children, shall be properly screened and inaccessible to children.

(h) Accumulated trash and garbage shall not be stored in the outdoor or indoor play area and shall not be in any other place accessible to children, and must instead be stored in a properly secured container or receptacle.

(i) *Rooms occupied by children.*

(1) All rooms in the home occupied by children must have adequate lighting.

(2) The home must have proper ventilation, and the temperature must be maintained between sixty-five degrees (65°) and eighty-two degrees (82°) Fahrenheit.

(j) *Outdoor play space.*

(1) The operator shall arrange for supervised outdoor play each day that weather permits.

(2) There shall be adequate (as determined by the local licensing agency) and enclosed outdoor play space on the premises with adequate sun exposure along with provision for shade in warm weather.

- 1714 (3) All water hazards at a family child care home, such as wading pools,
1715 ditches, fish ponds, etc., must be fenced and locked to keep them
1716 inaccessible to children.
- 1717 (4) Except during such times when the only children being cared for at a family
1718 child care home are related to the operator, sandboxes must be covered
1719 between sundown and sunrise each day to prevent animals and vermin
1720 from gaining access to the sand and/or sawdust.
- 1721 (5) The operator must obtain written permission from the parent before that child
1722 is permitted to participate in any swimming activities.
- 1723 (k) *Indoor play space.*
- 1724 (1) A family child care home must have at least 35 square feet of usable indoor
1725 floor space per child, which does not include bedrooms unless these
1726 bedrooms are demonstrably used as multipurpose activity rooms. This
1727 square footage requirement does not apply to family child care homes that
1728 held a license prior to April 1, 2024.
- 1729 (2) Indoor play space at a family child care home must be in a part of the home
1730 specifically designated for this purpose and set apart from kitchens,
1731 bathrooms, pantries, utility rooms, garages, and passageways leading to
1732 outdoor exits.
- 1733 (l) *Toilet and bath facilities.*
- 1734 (1) The family child care home must have at least one toilet, one bathing facility,
1735 and one sink for hand washing. For infants and children in diapers, there
1736 must also be at least one portable infant seat or potty chair and one portable

1737 bathing facility, each of which must be cleaned and sanitized and
1738 disinfected after each use.

1739 (3) Children must be continuously supervised while bathing.

1740 (4) Except as provided herein, no toilet facility shall open directly into an area
1741 where food is prepared. When the indoor play space also serves as the
1742 dining area and the children are closely supervised while using the toilet
1743 and bath facilities, a toilet facility may open directly into areas where food is
1744 served.

1745 (m) Unvented fuel fire heater equipment is prohibited.

1746 (n) At least one operable flashlight must be maintained in a location readily
1747 accessible to the operator for use in the event of a power failure.

1748 (o) *Health and sanitation.* All family child care homes shall conform to state and
1749 local water and sewage disposal standards.

1750 (p) *Diaper changing requirements.*

1751 (1) Child care personnel must wear disposable gloves and change them after
1752 each individual diaper change. Used disposable gloves must be disposed
1753 of promptly.

1754 (2) If a temporary diaper changing surface covering is used, the covering must
1755 be removed after each use and discarded, and the underlying impermeable
1756 surface must be cleaned and sanitized after each use. If a mat with an
1757 impermeable surface is used, surfaces around and under the mat must be
1758 regularly cleaned and sanitized.

- 1759 (3) Any children in care with wet or soiled diapers, clothing, and/or linen must
1760 be changed immediately by child care staff.
- 1761 (4) Soiled cloth or reusable diapers and clothing must not be rinsed or washed
1762 at the family child care home. Rather, such items must be emptied of feces
1763 in the toilet, placed in a plastic bag labeled with the child's name and closed
1764 tight, kept out of the reach of children, and given to the parent at the end of
1765 the day to take home for laundering.
- 1766 (q) *Activities and equipment.*
- 1767 (1) Toys or other materials small enough to be swallowed must be kept out of
1768 the reach of infants and toddlers.
- 1769 (2) A written and followed plan of scheduled activities must be posted in a
1770 conspicuous location, accessible to each parent, at the family child care
1771 home. The written plan shall include a variety of activities that range from
1772 structured to unstructured activities that encourage a child's developmental
1773 growth. The written plan must meet the needs of the children being served
1774 and include scheduled activities that:
- 1775 a. Are suitable to the age levels and abilities of the children in care;
1776 b. Are supported by an adequate supply of materials/equipment so that
1777 each child can participate;
1778 c. Promote emotional, social, intellectual, and physical growth;
1779 d. Include quiet and active play, both indoors and outdoors;

- 1780 e. Include meals, snacks, and nap times, to the extent appropriate
1781 based upon the children's ages and the times the children are in
1782 care;
- 1783 f. Do not include the use of electronic media for children under two
1784 years of age. Electronic media may only be used for educational
1785 purposes or physical activity for children two years of age and older
1786 and for no more than two hours per day;
- 1787 g. Implement program practices that promote consistency and
1788 continuity of care for infants and toddlers. Early care and education
1789 programs should provide opportunities for each child to build
1790 emotionally secure relationships with a limited number of child care
1791 staff members. Efforts to promote consistency and continuity of care
1792 are shown through following daily routines and communicating
1793 consistently with parents; and
- 1794 h. Provide adequate time and space for infants in care to engage in
1795 activities that promote development of movement skills (tummy time,
1796 crawling, turning over, sitting, etc.). Infant seats (swings, bouncers,
1797 etc.) must be used for any infant only for short periods of time (no
1798 longer than 30 minutes' duration per use) and no more than two
1799 times per day. Infants in care shall be provided opportunities for
1800 outdoor time each day that weather permits.

(3) The program must make reasonable accommodations as required by the Americans with Disabilities Act to the environment, planned activities, and schedule so that children with special needs may participate.

(4) Play materials shall be arranged in an orderly manner so that children may select, remove, and replace play materials with a minimum of assistance during appropriate times throughout the day.

Sec. 7-64. Additional napping and safe sleep requirements.

(a) All operators of family child care homes must obtain written approval from the local licensing agency prior to caring for infants.

(1) All cribs and play yards must contain mattresses or mats that fit the dimensions of such cribs or play yards without any gaps and that are in compliance with the manufacturer's specifications for use in such cribs and play yards.

(2) Cribs and play yards shall not be positioned near any potential safety hazard including, but not limited to, window blinds, draperies, or electrical cords.

(3) In addition to the requirements of Section 6 of the DCF Family Child Care Home Licensing Handbook relating to supervision of children, children from birth to 24 months of age who are napping or sleeping must be observed by family child care home staff by sight and sound. Use of electronic audio and video monitoring equipment is permissible, except in large family child care homes as defined in Section 402.302(11), Florida Statutes, where direct supervision of such children is required at all times.

- 1824 (4) All family child care homes must satisfy all minimum standards contained in
1825 the State Requirements or this section for providing an infant in care a safe
1826 sleep environment. All infants who are observed sleeping on their stomachs
1827 shall be repositioned onto their backs unless they have demonstrated that
1828 they are capable of independently rolling from their back to their stomach
1829 and from stomach to back.
- 1830 (5) Mobiles hanging above cribs or play yards are prohibited at all times when
1831 infants are sleeping or napping in the crib or play yard, and no items shall
1832 be contained inside, attached to, or hung on any crib or play yard, including,
1833 but not limited to, pillows, toys, stuffed animals, bumper pads, bibs,
1834 blankets, quilts, or comforters. Infants may use pacifiers while napping or
1835 sleeping, as long as such pacifiers are not tied or fastened to the infants'
1836 clothing or to the crib or play yard.
- 1837 (6) Infants shall not be placed for napping or sleeping wearing any bibs,
1838 necklaces, or garments with tie strings or hoods. Infants shall be observed
1839 to ensure they are comfortably clothed in accordance with the room
1840 temperature and demonstrate no visible signs of being cold, overheated, or
1841 perspiring.
- 1842 (7) Infants shall not be placed for napping or sleeping in any car safety seat,
1843 bean bag chair, bouncy seat, infant seat, swing, jumping chair, highchair,
1844 chair, futon, sofa, or any other type of furniture or equipment that does not
1845 meet minimum State Requirements for cribs and play yards.

(8) Infants who arrive at the family child care home asleep in a car safety seat must be immediately removed from the seat by the parent or the family child care home personnel and placed on their back in a safe sleep environment.

(9) Only one infant at a time shall be in any crib or play yard for napping or sleeping.

(b) All operators of family child care homes shall implement, maintain, and comply with a written policy on providing an infant safe sleep environment, which policy, at minimum, shall include the requirements of this section.

(c) The operator of a family child care home shall ensure that upon enrollment, parents of infants are provided a copy of the family child care home's written policy on providing an infant safe sleep environment. A copy of the signed statement from the parent acknowledging receipt of the policy must be included in the infant's enrollment file maintained at the family child care home.

Sec. 7-65. Additional requirements – nighttime child care.

All family child care homes that provide, or intend to provide, nighttime child care after 8:00 p.m. shall, in addition to all other requirements stated or incorporated in this chapter, comply with the following standards:

(a) A family child care home must obtain written approval to provide nighttime child care from the local licensing agency prior to providing nighttime child care on a regular basis.

(b) The operator shall provide the parents with a written statement describing the supervision being provided at night, a copy of which must be countersigned by the parent and maintained on site. The operator must also prepare a written plan outlining

the sleeping arrangements of the children in care and provide same to the local licensing agency upon request.

(c) Meals must be served to children in care at the family child care home at ordinary meal times if the children have not been served an evening meal before arrival or remain through the time when breakfast is served.

(d) A family child care home must have an adequate amount of designated floor space per child during nighttime child care with a minimum distance of 18 inches between each bed or crib. Sleeping rooms for children of three years of age or older must be separated by sex.

(e) *E-mail.* All child care homes shall have on file with the local licensing agency a permanent, valid e-mail address. The e-mail address on file with the local licensing agency must be checked periodically throughout the day when children are in care. The local licensing agency shall be notified within 24 hours after any change is made to the home's e-mail address.

Sec. 7-66. Additional first-aid treatment and emergency procedures.

(a) The family child care home shall have written instructions from a parent for each child in care for staff to follow in arranging for immediate treatment in emergencies. The instructions must be updated upon any change of medical condition and at least annually. These instructions must include:

- (1) Authorization for the family child care home staff to seek medical treatment, including emergency transportation by authorized medical staff;
- (2) Authorization for the health facility or physician selected by the licensee to provide medical treatment as necessary; and

- 1892 (3) Responsibility for payment for the rendition of emergency services.
- 1893 (b) *Fire safety/emergency procedures.*
- 1894 (1) After a fire at a family child care home, or the end of a declared local
- 1895 emergency in Broward County, the operator must notify the local licensing
- 1896 agency within 24 hours as to the family child care home's operational status
- 1897 in order for the licensing agency to ensure health standards are met for
- 1898 continued operation as a family child care home.
- 1899 (2) A copy of the current annual fire inspection report must be conspicuously
- 1900 posted in the family child care home.
- 1901 (3) The operator shall prepare and post in the family child care home an
- 1902 emergency evacuation plan, including a diagram of safe routes by which
- 1903 the child care personnel and children may exit each area of the home in the
- 1904 event of fire or other emergency requiring evacuation.
- 1905 **Sec. 7-67. Additional admission and record keeping requirements.**
- 1906 (a) *Record storage.* All required records must be kept on site at the family child
- 1907 care home during normal hours of operation.
- 1908 (b) *Children's health records and maintenance.*
- 1909 (1) *Immunization records.* Within 15 days after enrollment, the family child care
- 1910 home must obtain for each child in care a current, complete, and properly
- 1911 executed Florida Certification of Immunization form Part A-1, B, or C,
- 1912 DH 680, which is incorporated by reference in Rule 65C-22.001(7)(o),
- 1913 Florida Administrative Code, or the Religious Exemption from Immunization
- 1914 form, DH 681, which is incorporated by reference in Rule 65C-22.001(7)(p),

1915 Florida Administrative Code, from the parent. DH Form 680 and
1916 DH Form 681 may be obtained from the local county health department.
1917 Specific immunization requirements are included and detailed in the most
1918 current edition of the “Immunization Guidelines-Florida Schools, Child Care
1919 Facilities and Family Day Care Homes,” promulgated by the Florida
1920 Department of Health.

1921 (2) *Health examination records.* Within 15 days after enrollment, the family child
1922 care home must obtain for each child in care a current, complete, and
1923 properly executed Student Health Examination form DH 3040, which is
1924 incorporated by reference in Rule 65C-22.001(7)(q), Florida Administrative
1925 Code, and may be obtained from the local county health department or from
1926 the parent, or a signed statement by authorized professionals indicating the
1927 results of the components of the Student Health Examination form are
1928 included in the health examination.

1929 (c) *Enrollment information.* The family child care home must maintain in each
1930 child’s records statements signed by a parent that the family child care home has provided
1931 written notification of the family child care home’s scheduled hours of operation.

1932 (d) *Personal data.* The family child care home must maintain enrollment
1933 information for each child that includes, at a minimum, the name, address, and telephone
1934 number of a physician or health resource.

1935 (e) *Personnel records.* The following information shall be kept on file at the
1936 family child care home for all family child care home personnel:

1937 (1) Name, address, and telephone numbers;

- 1938 (2) Reports of the required health examination, which must be updated every
1939 two years;
- 1940 (3) Person to contact in an emergency;
- 1941 (4) Positions and dates of employment;
- 1942 (5) Proof of date of birth;
- 1943 (6) Appropriate documentation that the person has been screened in
1944 accordance with Section 402.3055, Florida Statutes;
- 1945 (7) Documentation of completion of required training; and
- 1946 (8) Copy of a government-issued photo identification.

1947 **Sec. 7-68. Additional requirements for release of child.**

1948 (a) In order to be accountable for the children in care, to facilitate the release
1949 process, and to ensure the safety of the children in its care, the family child care home
1950 must have, implement, and follow written procedures for the release of children.

1951 (b) A family child care home shall not release a child to any person(s) other
1952 than the person(s) authorized by the parent and listed on the Child Care Enrollment
1953 Information Card or its equivalent. Any person(s) authorized to take a child from the family
1954 child care home, if unknown to the personnel of the family child care home releasing the
1955 child, must present a government-issued photo identification to the home personnel
1956 before the child is released. A password or number identifier known only to the parent
1957 and the family child care home shall be recorded on the Child Care Enrollment Information
1958 Card or its equivalent.

1959 (c) If no person authorized by Section 7-68(b) is available to remove a child
1960 from care and the child must be released, the child's parent must first contact the family
1961

child care home and give the correct password or number identifier assigned to the child, and then authorize another individual to remove the child from the family child care home. The person authorized by the parent to remove the child must present government-issued photo identification prior to the child being released to that person.

(d) If a family child care home releases a child in violation of this section, such action shall constitute commission of a Class I Violation.

(e) If a child is not picked up by an authorized person within one hour after the scheduled closing time of the family child care home, unless other arrangements have been made in advance or the family child care home elects to remain open for a late pick-up, the family child care home shall immediately notify local law enforcement so that the child can be picked up and the incident documented.

(f) Each child's arrival and departure must be recorded by child care personnel at the time that child enters and departs the family child care home. The attendance sheet/class roster must accompany the child care personnel and the group of children throughout the day should they leave the classroom. In order to account for children's whereabouts, children who are reassigned to different classrooms throughout the day should be signed in and/or out of the rosters for those respective classrooms each time.

Sec. 7-69. Additional transportation requirements.

(a) An operator/provider of a family child care home or a large family child care home who transports children must ensure that the home complies with all applicable state and local laws and regulations regarding the transportation of children including, but not limited to, Chapter 316, Florida Statutes, "State Uniform Traffic Control," Chapter 322, Florida Statutes, "Driver's Licenses," and the rules set forth in the DCF

1985 Family Day Care Home and Large Family Child Care Home Handbook relating to the
1986 transportation of children enrolled in family child care homes and large family child care
1987 homes.

1988 (b) Any person who drives a vehicle transporting children for a family child care
1989 home must be at least 21 years of age. If the driver is an employee of an entity under
1990 contract with a family child care home or a vehicle leasing company, the driver must be
1991 under the direct and constant supervision of family child care home personnel when
1992 children are being transported.

1993 (c) *Child safety alarm devices.*

1994 (1) Any vehicle used to transport children must have a child safety alarm device
1995 installed. The alarm device must be periodically tested and properly
1996 maintained in working order at all times.

1997 (2) The alarm device must be designed to automatically activate when the
1998 vehicle's ignition is turned on. Alarm devices that are activated manually
1999 are prohibited.

2000 (3) The alarm device must be designed so that the vehicle horn, siren, or other
2001 type of audible alarm will sound within one minute if the driver, or a family
2002 child care home staff member, does not go to the rear or back seat of the
2003 vehicle, or, in the case of a passenger van, does not open the side entry
2004 door of the vehicle, to manually shut off the alarm prior to leaving the
2005 vehicle. The alarm must be audible from a distance of 500 feet from the
2006 vehicle.

- 2007 (4) The alarm device must be installed so that the driver, or a family child care
2008 home staff member, is able to observe the rearmost seats of the vehicle
2009 and reach the switch that turns off the alarm prior to leaving the vehicle.
2010 The driver, or a family child care home staff member, must physically
2011 inspect each seat before turning off the alarm and leaving the vehicle.
- 2012 (5) The alarm device must be installed by a certified technician or mechanic
2013 employed by an electronics or automotive business in accordance with the
2014 device manufacturer's recommendations.
- 2015 (d) Documentation demonstrating proof of compliance with the requirements
2016 of this section must be maintained on file at the family child care home or large family
2017 child care home for inspection by the licensing agency.
- 2018 (e) All trash, debris, and dirt must be removed from the vehicles daily. All seats,
2019 safety restraint devices, and fixtures must be maintained free of rips and tears and in
2020 good repair at all times. Vehicles must be cleaned and sanitized routinely.
- 2021 (1) A child care staff member, in addition to the driver, is required in the vehicle
2022 when transporting children under five years of age. The nondriver child care
2023 staff member shall be seated in the vehicle in the back seat or in a position
2024 that allows:
- 2025 a. Each child to be seen with a quick glance;
2026 b. Each child to be heard at all times;
2027 c. Each child's activities to be observed; and
2028 d. Child care staff to respond immediately should there be an
2029 emergency.

- (2) An adult staff member must be in the vehicle whenever a child is in the vehicle.
- (3) An adult staff member must be seated behind the steering wheel if the motor is running and children are being loaded, unloaded, and/or are on board.
- (f) *Records of unusual incidents and accidents.* A written record of unusual incidents or accidental injuries to children/personnel occurring at the home must be kept on file on an Accident or Incident Form approved by the local licensing agency.

Section 3. Section 8½-16 of the Broward County Code of Ordinances is hereby amended to read as follows:

Sec. 8½-16. Schedule of civil penalties.

. . .

(h) *Violations of (i) Family Child Care Home and Child Care Facility Licensure Regulations, and (ii) Substantial Compliance Facility Registration Regulations:*

		<i>Fine</i>	
		<i>First</i>	<i>Repeat</i>
		<i>Violation</i>	<i>Violation</i>
(1)	Operating a family child care home without a Broward County license (sec. 20-299 (i) <u>7-3(a)</u>)	\$250.00	\$500.00
(2)	Operating a child care facility without a Broward County license (sec. 7-11.01(a) <u>7-3(b)</u>)	250.00	500.00
(3)	<u>Operating a substantial compliance facility</u>	<u>250.00</u>	<u>500.00</u>

Coding: Words ~~stricken~~ are deletions from existing text. Words underlined are additions to existing text.

without a registration (sec. 7-4)

The hearing officers established pursuant to ~~section 20-306 and s~~Section 7-11.14
7-17 are authorized and empowered to impose the civil penalties as provided for in
~~s~~Section 8½-12.

Section 4. Severability.

If any portion of this Ordinance is determined by any court to be invalid, the invalid
portion will be stricken, and such striking will not affect the validity of the remainder of this
Ordinance. If any court determines that this Ordinance, in whole or in part, cannot be
legally applied to any individual, group, entity, property, or circumstance, such
determination will not affect the applicability of this Ordinance to any other individual,
group, entity, property, or circumstance.

Section 5. Inclusion in the Broward County Code of Ordinances.

It is the intention of the Board of County Commissioners that the provisions of this
Ordinance become part of the Broward County Code of Ordinances as of the effective
date. The sections of this Ordinance may be renumbered or relettered and the word
“ordinance” may be changed to “section,” “article,” or such other appropriate word or
phrase to the extent necessary to accomplish such intention.

2070 | Section 6. Effective Date.

2071	This Ordinance is effective as of April 1, 2024.
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ENACTED December 12, 2023

FILED WITH THE DEPARTMENT OF STATE December 13, 2023

EFFECTIVE December 13, 2023

Approved as to form and legal sufficiency:

Andrew J. Meyers, County Attorney

By: /s/ Scott Andron 10/19/2023

Scott Andron (date)

Assistant County Attorney

By: /s/ Nathaniel A. Klitsberg 10/19/2023

Nathaniel A. Klitsberg (date)

Senior Assistant County Attorney

2072	SA/cv
2073	CCLE Ordinance
2074	12/12/2023
2075	#1054649v12

Coding: Words ~~stricken~~ are deletions from existing text. Words underlined are additions to existing text.