

Chapter DCF 202

CHILD CARE CERTIFICATION

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Note: Sections HFS 55.55 to 55.62 were renumbered to ss. DWD 55.01 to 55.09, Register, July, 1999, No. 523, eff. 8–1–99. Chapter DWD 55 was renumbered to chapter DCF 202 under s. 13.92 (4) (b) 1., Stats., Register November 2008 No. 635.

DCF 202.01 Authority, purpose and applicability.

(1) AUTHORITY AND PURPOSE. This chapter is promulgated pursuant to s. 49.155 (1d), Stats., and implements s. 48.651, Stats. This chapter establishes standards for the certification of persons who provide child care for 1 to 3 children or who are not otherwise required to be licensed as a child care center under s. 48.65, Stats., and whose services are purchased with state or federal child care funds. The standards are intended to protect and promote the health, safety and welfare of children in the care of these providers.

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

History: Cr. Register, August, 1985, No. 356, eff. 9–1–85; emerg. r. and recr. eff. 7–1–96; emerg. r. and recr., eff. 7–1–96; r. and recr. Register, February, 1997, No. 494, eff. 3–1–97; renum. from HFS 55.55, Register, July, 1999, No. 523, eff. 8–1–99; CR 07–071: am. (1) and (2) Register May 2008 No. 629, eff. 6–1–08; 2015 Wis. Act 132: am. (2) Register February 2016 No. 722, eff. 3–1–16.

DCF 202.02 Definitions. In this chapter:

(1m) “Caregiver background check” means the retrieval of information about an individual’s past criminal conduct pursuant to s. 48.685, Stats., and ch. DHS 12 that may bear on the suitability of that individual to provide child care or have regular contact with children in care.

(1s) “Certification agency” means the department in a county having a population of 750,000 or more; a county department of social services established under s. 46.22, Stats.; a county department of human services established under s. 46.23, Stats.; a tribal agency; or any agency that contracts with any of those entities to certify child care operators under s. 48.651, Stats.

(2) “Certified child care home” or “home” means the residence in which the certified child care operator provides care of children and which meets the standards under s. DCF 202.08 for reimbursement of care by certification agencies.

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

(3b) “Certified family child care operator” means a certified child care operator who provides care in a private residential property.

(3e) “Certified in-home child care operator” means a certified child care operator who provides care in the child’s home.

(3f) “Certified school-age child care program” means a program providing care and supervision in other than an operator’s home for fewer than 24 hours a day for 7 or more school-age chil-

dren and which is exempt from being licensed as a child care center under s. 48.65 (1), Stats.

(3h) “Child care certification worker” means a person employed by an agency whose duties include determination of eligibility for child care certification.

(3k) “Child care provider” or “provider” means a certified child care operator or an employee or volunteer of the child care operator who provides care and supervision for infant, preschool, or school-age children on behalf of the operator.

(3m) “Complaint” means an alleged violation of s. DCF 202.08 or 202.09.

(5) “Department” means the Wisconsin department of children and families.

(5g) “Emergency” means unforeseen circumstances that call for immediate action, such as fire; tornado; flood; extreme outdoor heat or cold; loss of building service, including no heat, water, electricity or telephone; threats to the building or its occupants; lost or missing children; or a provider family situation, such as a medical emergency or illness.

(5r) “Employee” means any individual who works for a certified child care operator to provide care and supervision of children in care, including a substitute, helper, or assistant.

(6) “Family child care center” means a child care center licensed under s. 48.65, Stats., and ch. DCF 250.

(8) “Group child care center” means a child care center licensed under s. 48.65, Stats., and ch. DCF 251.

(8m) “Hazard” means a source of danger that could jeopardize the health, safety or well-being of children in care.

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

(9c) “Impacted baby” means an infant or young child who suffers death or great bodily harm as a result of being thrown against a surface, hard or soft.

(9g) “In care” means a child care provider is responsible for supervision of a child or children.

(9r) “Inclement weather” means stormy or severe weather, including any of the following:

(a) Heavy rain.

(b) Temperatures above 90 degrees Fahrenheit.

(c) Wind chills of 0 degrees Fahrenheit or below for children age 2 and above.

(d) Wind chills of 20 degrees Fahrenheit or below for children under age 2.

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

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

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

(12m) “Operator’s own children” means a certified family child care operator’s natural, adopted, step, and foster children, and any children who reside in the operator’s home.

(13) “Parent” has the meaning given in s. 49.155 (1) (c), Stats. **Note:** Section 49.155 (1) (c), Stats., provides: “Notwithstanding s. 49.141 (1) (j), ‘parent’ means a custodial parent, foster parent, treatment foster parent, legal custodian or person acting in place of a parent.”

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

(15) “Premises” means the tract of land on which the home used for child care is located, including all buildings and structures on that land.

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

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

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

(20c) “Shaken baby syndrome” means a severe form of brain injury that occurs when an infant or young child is shaken forcibly enough to cause the brain to rebound against his or her skull.

(20g) “Substitute” means a provider who replaces the certified child care operator or staff in a school age program on a pre–arranged or planned basis.

(20n) “Sudden infant death syndrome” means the sudden death of an infant under one year of age that remains unexplained after a thorough case investigation, including performance of a complete autopsy, examination of the death scene, and a review of the clinical history.

(20r) “Supervision” means guidance of the behavior and activities of children for their health, safety, and well–being by a provider who is within sight or sound of the children, except as specified in s. DCF 202.08 (5) (j).

(20w) “Suspension” means a temporary interruption in the regulatory approval during which the certified child care operator may not be paid by the child care subsidy program.

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

(22) “Volunteer” means a person who agrees to give time, with or without compensation, to transport or to work with children in care.

History: Cr. Register, August, 1985, No. 356, eff. 9–1–85; r. and recr. Register, December, 1991, No. 432, eff. 1–1–92; emerg. r. and recr. eff. 7–1–96; r. and recr., Register, February, 1997, No. 494, eff. 3–1–97; renum. from HFS 55.56; r. and recr. (1) and am. (4) and (22), Register, July, 1999, No. 523, eff. 8–1–99; correction in (6) and (13) made under s. 13.93 (2m) (b) 7., Stats., Register, July, 1999, No. 523; CR 02–007: am. (1) and (4), cr. (3m) and (4m) Register May 2002 No. 557, eff. 6–1–02; CR 07–071: cr. (1m), (3b), (3e), (3k), (5g), (5r), (8m), (9c), (9g), (9r), (12m), (20c) to (20w), r. and recr. (2), (15) and (22), am. (3), (6) and (8), renum. (4m) and (20) to be (3h) and (3f) and am., r. (7) and (17) Register May 2008 No. 629, eff. 6–1–08; corrections in (1m), (2), (3m), (5), (6), (8), (9) and (20r) made under s. 13.92 (4) (b) 6. and 7., Stats., Register November 2008 No. 635; 2015 Wis. Act 132: r. (1), cr. (1s), am. (2), (3h), r. (4), am. 14 Register February 2016 No. 722, eff. 3–1–16.

DCF 202.04 Certification. (1) BASIS FOR CERTIFICATION. In order to be certified, a child care operator shall be exempt from the licensure requirement in s. 48.65, Stats., and shall comply with the appropriate standards for the type of certified operator that are specified in this chapter.

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

(a) *Certified family child care operators and in–home operators.* Certified family child care and in–home operators are required to meet the standards under s. DCF 202.08 and may care for infant, preschool, or school–age children consistent with Table 202.08 (6).

(b) *Certified school–age child care programs.* Certified school–age child care programs are required to meet the standards under s. DCF 202.09.

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

(c) *Criminal background.* The applicant shall comply with the background information requirements of s. 48.685, Stats.

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

1. If the application is for certification under sub. (2) (a), the certification agency shall review the application for compliance with standards under s. DCF 202.08 prior to issuing a certificate.

2. If the application is for certification under sub. (2) (b), the certification agency shall refer the application to a licensing representative in the department regional office. The licensing representative shall determine whether the applicant is in compliance with all standards under s. DCF 202.09 and report back to the certification agency. The certification agency may issue a certificate based on the licensing representative’s report.

(e) *Approval.* Within 60 days after receiving a completed application for certification or recertification and satisfactory investigation and determination that the applicant is fit, the certification agency shall either approve the application and issue a certificate or deny the application. “Fit” means the applicant displays the capacity to successfully nurture and care for children and includes consideration of any of the following:

1. Abuse of alcohol or drugs.

2. A history of a civil or criminal conviction or administrative rule violation that substantially relates to caring for children as described in ch. DHS 12.

3. Exercise of unsound judgment.

4. A history of civil or criminal offenses or any other actions that demonstrate an inability to manage the activities of a child care program.

(f) The certification agency may backdate a certificate of approval to the date that the certification agency received the applicant’s completed application for certification.

(4) CERTIFICATION FEE. (a) A certification agency may charge a fee for family child care certification not to exceed 150 percent of the licensing fee for a family child care center that provides care and supervision for 4 to 8 children, under s. 48.65 (3) (a), Stats., plus the costs of criminal record checks required under s. 48.685, Stats.

(b) The certification agency may charge a fee for school–age child care certification not to exceed the licensing fee for a group child care center that provides care and supervision for 9 or more children under s. 48.65 (3) (a), Stats., plus the costs of criminal record checks required under s. 48.685, Stats.

(5) CATEGORIES OF FAMILY CERTIFICATION. Certification of an operator by a certification agency shall be Level I (regular) or Level II (provisional) as follows:

(a) *Level I (regular) certification.* Level I (regular) certification may be issued only after the child care operator has demonstrated compliance with all certification standards including training. Level I (regular) certification shall be for a period of 2 years and shall be renewed upon application if the operator continues to comply with the certification standards under s. DCF 202.08.

(b) *Level II (provisional) certification.* Level II (provisional) certification may be issued only after the child care operator has demonstrated compliance with all certification standards under s. DCF 202.08, except standards for training under s. DCF 202.08 (1) (b). Level II (provisional) certification shall be for a period of 2 years and shall be renewed upon application if the operator con-

tinues to comply with the certification standards, except standards for training under s. DCF 202.08 (1) (b).

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

(b) Certification issued to an operator by a certification agency shall be accepted as valid by all other agencies authorized to certify providers.

(c) The certification agency shall ensure that each new day care certification worker completes the department–approved certification training during the first 6 months of employment.

(7) COMPLIANCE. (a) *Qualifications of certified child care operators.* Certification agencies shall maintain records demonstrating child care operator compliance with s. DCF 202.08 (1).

(b) *Compliance with other standards.* 1. ‘General.’ Certification agencies shall help assure operator compliance with s. DCF 202.08 (2) to (12) in accordance with this section.

2. ‘Required procedures.’ A certification agency shall:

a. Require receipt of a signed application from the operator agreeing to follow child care certification standards.

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

bm. Require the applicant and any employees, volunteers, and non–client residents 10 years of age or older to submit a background information disclosure form prior to initial certification and every following 2 years.

c. Provide information on child care and the certification system to applicants prior to initial certification. The information shall include materials on sudden infant death syndrome, shaken baby syndrome and impacted babies, child development, positive discipline, health and safety, and nutrition.

Note: Contact Wisconsin Child Care Information Center at 1–800–362–7353 for information on available materials.

d. Conduct an on–site inspection of the premises where child care will be provided, including areas that will not be used for child care, before initial certification, recertification, or within 30 days following a child care operator’s move to a new location. The inspection of the premises shall include an inspection of each vehicle that is required to have a child safety alarm under s. DCF 202.08 (9) (f) 1. or 202.09 (12) (h) 1. to determine whether the child safety alarm is in good working order.

e. Check the criminal record history of applicants for certification, employees and prospective employees, volunteers, and non–client residents as specified in s. 48.685 (2) (am), Stats.

f. Check files on child abuse and neglect findings or pending investigations related to applicants, employees and prospective employees, volunteers, and individuals living in the applicant’s home.

g. Limit certification to one child care operator for each family residence.

h. Request a statement from the appropriate regulating agency indicating that the regulating agency approves a child care business in the applicant’s home if the applicant has a separate license or certification to care for children or adults, including foster care or adult care. The request shall include a request for permission for the licensed or certified caregiver to release information necessary for a criminal history record search for residents and clients in the applicant’s home.

3. ‘Optional procedures.’ A certification agency may:

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

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

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

d. Require the child care operator to submit references at initial certification and at certification renewal.

e. Require an evaluation and written statement by a physician or licensed mental health professional of any person associated with the care of children or any household resident if the certification agency has reason to believe that the person’s physical or mental health may endanger children in care. The certification agency shall document what reason it has to believe that the person’s physical or mental health may endanger children in care.

(8) EXCEPTIONS TO PARTICULAR CERTIFICATION REQUIREMENTS. A certification agency may grant an exception to any standard in s. DCF 202.08 or 202.09 if the certification agency determines that an alternative means meets the intent of the requirement, except for rules related to criminal background investigation required under s. 48.685, Stats.

(9) CERTIFICATION DECISION AFTER BACKGROUND REVIEW. The certification agency shall conduct background reviews in accordance with s. 48.685, Stats. For guidance in resolving issues that arise in particular cases, the certification agency shall follow ch. DHS 12, and the crimes table incorporated into ch. DHS 12, and shall apply the standards that apply to licensed child care facilities.

History: Cr. Register, August, 1985, No. 356, eff. 9–1–85; am. (4) (b), Register, November, 1987, No. 383, eff. 12–1–87; renum. (5) to be (6), cr. (5), Register, December, 1991, No. 432, eff. 1–1–92; emerg. r. and recr. eff. 7–1–96; r. and recr. Register, February, 1997, No. 494, eff. 3–1–97; renum. from HFS 55.58, am. (2) (a) and (b), (3) (c), (d) 1. and 2., (5) (a) and (b), (7) (a) and (b) 1., and (8) and cr. (9), Register, July, 1999, No. 523, eff. 8–1–99; CR 02–007: am. (3) (b), (5) (a), (b), (7) (b) 2. c., d., and (9), r. (3) (f), cr. (6) (c), (7) (b) 2. h., and 3. d. Register May 2002 No. 557, eff. 6–1–02; CR 07–071: am. (1), (2), (5) (title), (a), (b), (7) (a), (b) 1., 2. a. to f., 3. a. to d. and (9), r. (3) (b) and (7) (b) 4., r. and recr. (3) (e) and (7) (b) 2. g., cr. (3) (f), (4) (b), (7) (b) 2. bm. and 3. e., renum. (4) to be (4) (a) and am. Register May 2008 No. 629, eff. 6–1–08; corrections in (2), (3) (d), (e) 2., (5), (7) (a), (b) 1., (8) and (9) made under s. 13.92 (4) (b) 6. and 7., Stats., Register November 2008 No. 635; 2015 Wis. Act 132: am. (3) (a), (d), (e) (intro.), (f), (4) (a), (b), (5) (intro.), (6) (a), (b), (c), (7) (a), (b) 1., 2. (intro.), 3. (intro.), e., (8), (9) Register February 2016 No. 722, eff. 3–1–16; CR 14–028: am. (7) (b) 2. d. Register July 2016 No. 727, eff. 8–1–16.

DCF 202.05 Criminal history and child abuse record search.

(1) The certification agency shall follow the requirements for criminal history and child abuse record search that are contained in s. 48.685, Stats., and ch. DHS 12, and the crimes table incorporated into ch. DHS 12, and shall apply the standards that apply to licensed child care facilities, except the certification agency shall require any prospective or current employee, contractor under the control of the certified child care operator, volunteer, or non–client resident to submit the completed background information form to the certification agency prior to initial certification and recertification. In applying the provisions relating to rehabilitation decisions, all decisions and review procedures shall be made and conducted by the certification agency.

Note: Detailed information on ch. DHS 12, Wis. Adm. Code, may be obtained by calling the DCF Bureau of Early Childhood Education at (608) 261–6317 (option 2) or by sending a written request to the DCF Bureau of Early Childhood Education at P.O. Box 8916, Madison WI 53708–8916. In addition, the DHS requirements are posted by the Department of Health Services at the following web site address: <http://dhs.wisconsin.gov/caregiver/index.htm>

(2) Each certification agency shall maintain its records concerning each person whose certificate is denied, revoked, or not renewed for a reason specified in s. 48.685 (4m) (a) 1. to 5., Stats. The certification agency shall report this information to the department’s bureau of early childhood education. The certification agency shall immediately report the receipt of an application for rehabilitation review and the results of each rehabilitation review to the office of legal counsel of the department of health services.

History: Cr. Register, August, 1985, No. 356, eff. 9–1–85; emerg. r. and recr. eff. 7–1–96; r. and recr. Register, February, 1997, No. 494, eff. 3–1–97; renum. from HFS 55.59 and r. and recr., Register, July, 1999, No. 523, eff. 8–1–99; cr. (4) and (5), Register, November, 1999, No. 527, eff. 12–1–99; CR 02–007: am. (1) and (2), r. and recr. (3), r. (4) and renum. (5) to be DWD 55.06 (1) Register May 2002 No. 557, eff. 6–1–02; CR 07–071: am. (1) and (2), r. (3) Register May 2008 No. 629, eff. 6–1–08;

corrections made under s. 13.92 (4) (b) 6. and 7., Stats., Register November 2008 No. 635; 2015 Wis. Act 132: am. (1), (2) Register February 2016 No. 722, eff. 3–1–16.

DCF 202.06 Certification denial. (1) The certification agency may deny, suspend, revoke, or refuse to renew certification if any of the following apply:

(a) The child care operator is not in compliance with certification standards under s. DCF 202.08 or 202.09, as appropriate.

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

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

(d) The child care operator submits false attendance records to the child care subsidy administrative agency.

(e) The child care operator fails to cooperate with the certification agency.

(f) The applicant's license or certificate to care for children or adults has been denied or revoked.

(g) The child care operator misrepresents or withholds information.

(h) The child care operator or an employee or volunteer denies the day care certification worker access to the premises to monitor compliance with the certification standards.

(i) The child care operator, an employee, a volunteer, or any other person having regular contact with the children in care is or has been any of the following:

1. The subject of a pending criminal charge for an action that substantially relates to the care of children or activities of the program.

2. Convicted of a felony, misdemeanor, or other offense that substantially relates to the care of children or activities of the program.

(j) The evaluation under s. DCF 202.04 (7) (b) 3. e. gives the certification agency reasonable concern that the person's physical or mental health may endanger children in care.

(2) The certification agency shall require a child care operator to submit a new application for certification if the operator's previous certification was denied, revoked, or not renewed for a reason in s. DCF 202.05 or 202.06 (1). The certification agency may refuse to accept a new application for 2 years after the date of the denial, revocation, or refusal to renew the certification.

(3) A child care operator whose certification has been revoked twice for noncompliance with the certification standards in s. DCF 202.08 or 202.09 shall be permanently barred from certification.

(4) If a certification agency denies, suspends, revokes, or refuses to renew a certification, the certification agency shall notify the child care operator in writing and give reasons for the action. The action of a county department of social services established under s. 46.22, Stats., or a county department of human services established under s. 46.23, Stats., may be appealed under ch. 68, Stats., which provides for administrative review of the decisions of local agencies. Tribal agencies shall use an appeal process equivalent to the process in ch. 68, Stats. In a county with a population of 750,000 or more, a certification agency's action may be appealed under ch. 227, Stats., which provides for administrative review of the decisions of state agencies.

History: Cr. Register, August, 1985, No. 356, eff. 9–1–85; emerg. r. and recr. eff. 7–1–96; r. and recr. Register, February, 1997, No. 494, eff. 3–1–97; renum. from HFS 55.60, Register, July, 1999, No. 523, eff. 8–1–99; CR 02–007: renum. and am. DWD 55.06 to be (4), cr. (1) (d), (e), (g), (h), (2) and (3) Register May 2002 No. 557, eff. 6–1–02; CR 07–071: am. (1) (intro.), (a), (b), (d), (e), (g), (h) and (2) to (4), cr. (1) (i) and (j) Register May 2008 No. 629, eff. 6–1–08; corrections in (1) (a), (j), (2) and (3) made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635; 2015 Wis. Act 132: am. (1) (intro.), (c), (e), (j), (2), (4) Register February 2016 No. 722, eff. 3–1–16.

DCF 202.065 Sanctions. If a certified child care operator violates the provisions of this chapter, s. 48.685, Stats., or ch. DHS

12, the certification agency shall require the operator to submit a plan of correction for violation in writing and may impose any or all of the following sanctions:

(1) Forbid the operator to enroll any new children until all violations have been corrected.

(2) Issue a warning of revocation in writing.

(3) Suspend the operator's certification for not more than 60 days. The certification agency shall either reinstate or revoke the certification by the date that the suspension expires.

History: CR 07–071: cr. Register May 2008 No. 629, eff. 6–1–08; correction in (intro.) made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635; 2015 Wis. Act 132: am. (intro.), (3) Register February 2016 No. 722, eff. 3–1–16.

DCF 202.07 Complaints. Within 10 working days after a certification agency receives a complaint about a certified child care operator, the certification agency shall investigate that complaint.

History: Cr. Register, December, 1991, No. 432, eff. 1–1–92; emerg. r. and recr. eff. 7–1–96; r. and recr. Register, February, 1997, No. 494, eff. 3–1–97; renum. from HFS 55.605, Register, July, 1999, No. 523, eff. 8–1–99; CR 07–071: am. Register May 2008 No. 629, eff. 6–1–08; 2015 Wis. Act 132: am. Register February 2016 No. 722, eff. 3–1–16.

DCF 202.08 Standards for family child care and in-home child care. (1) QUALIFICATIONS OF PROVIDERS. (a) Ability, age and health. 1. A provider shall be physically and emotionally able to provide responsible child care and shall be at least 18 years of age.

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

3. Each family and in-home child care operator shall demonstrate that he or she is free from tuberculosis prior to initial certification. Each family and in-home child care provider shall demonstrate that he or she is free from tuberculosis prior to the date the provider begins working with children. For a child care operator, including a child care provider who is also a child care operator, the certification agency may accept results of a test administered up to 12 months before the application date. For a child care provider who is not also a child care operator, the certification agency may accept the results of a test administered up to 12 months before the date the provider began working with children.

(b) Training. 1. 'Level I (regular) and Level II (provisional),' Each certified family and in-home child care operator and all employees and volunteers of a certified family or in-home child care operator who provide care and supervision for children under one year of age shall receive training in the most current medically accepted methods of preventing sudden infant death syndrome before the date on which the child care operator is certified or the employment or volunteer work commences. Except for a volunteer who does no sole supervision of a child, each certified family child care operator, certified in-home child care operator, employee, and volunteer who provides care and supervision for children under 5 years of age shall receive department-approved training on shaken baby syndrome and impacted babies and appropriate ways to manage crying or fussing children. The training shall be completed by one of the following methods:

a. Complete the department-approved, in-person training on shaken baby syndrome prevention and impacted babies before the date on which the child care operator is certified or the employment or volunteer work commences.

b. View a department-approved video on shaken baby syndrome prevention and impacted babies before the date on which the child care operator is certified or the employment or volunteer work commences and complete a department-approved, in-person training within 6 months of certification approval or start of employment or volunteer work.

Note: Contact Child Care Resource and Referral at 1/888–713–5437 for further information on these classes.

2. ‘Level I (regular).’ The following apply to Level I (regular) certified family and in–home child care operators:

a. A Level I (regular) certified family and in–home child care operator under s. DCF 202.04 (5) (a) shall have completed at least 2 credits of early childhood training or non–credit department–approved training prior to Level I (regular) certification.

Note: Contact Child Care Resource and Referral at 1–888–713–5437 for further information on classes.

The T.E.A.C.H. Early Childhood® WISCONSIN Scholarship Program offers scholarship opportunities to teachers, family child care providers, center directors and administrators for credit–based training. For further information, contact Wisconsin Early Childhood Association, 744 Williamson Street, Suite 200, Madison, WI 53703. Phone: 608–240–9880 or 1–800–783–9322. Fax: 608–240–9890. Website: <http://www.wecanaeyc.org>.

b. A certification agency may require up to 5 hours of annual continuing education by a Level I (regular) certified operator each year following Level I (regular) certification.

c. Prior to issuing a Level I (regular) certification, the certification agency may require that an applicant has graduated from high school, has obtained a high school equivalency diploma under s. 115.29 (4), Stats., or has obtained a certificate of general education development under s. PI 5.04.

d. A substitute who has worked more than 240 hours for a certified family or in–home child care operator with a Level I (regular) certification shall comply with the training requirements in subd. 2. a. and b.

(c) *Reporting changes.* A certified family child care operator shall report to the certification agency as soon as possible, but no later than the certification agency’s next working day, any changes that affect the certified family child care operator’s eligibility for certification under this chapter, including the following:

1. Death of a child in care or accident that results in an injury to a child in care that requires professional medical treatment.

2. Any damage to the premises that may affect compliance with this chapter.

3. Any construction or remodeling of the premises that might have an effect on health and safety of children in care.

4. Convictions, pending charges, or other offenses of the child care operator, household member, or other persons subject to a caregiver background check that could potentially relate to the care of children.

5. Any incident involving law enforcement, including outstanding warrant or child protective services contact.

6. Any inappropriate discipline of a child by a provider, volunteer, or household member, including any incident that results in a child being forcefully shaken or thrown against a hard or soft surface during the child’s hours of attendance.

7. Individuals moving in or out of the household.

8. Changes in hours of operation, phone number, or physical address.

9. Upon the hiring of a new employee or volunteer and before the employment or volunteer work commences.

(d) *Substitutes, employees, and volunteers.* A substitute, employee, or volunteer for a Level I or II child care operator shall be approved by the certification agency before employment or volunteer work commences. The certification agency shall approve the substitute, employee, or volunteer if the agency has verification that the substitute, employee, or volunteer has met the standards under s. DCF 202.05, regarding the criminal history and child abuse record search, and has completed the training on sudden infant death syndrome and shaken baby syndrome and impacted babies required under par. (b) 1.

(e) *Administration.* A certified family child care operator shall do all of the following:

1. Comply with all local and state laws governing the certified child care program and its operation and ensure that all employees and volunteers comply with these laws.

2. Comply with all requirements in this section.

3. Ensure that all information provided to the certification agency is current and accurate.

4. Permit a child care certification worker to conduct home inspections to monitor compliance with certification standards in this chapter.

(2) **THE HOME FOR PROVIDING FAMILY CHILD CARE.** A certified child care home and outside play areas shall meet the following requirements:

(a) Exits to the home shall comply with the following:

1. All exits shall be clear of obstruction.

2. Each floor or level used for child care shall have at least 2 exits.

3. The primary exit shall be a door or a stairway providing unobstructed travel to the outside of the building at street or ground level.

4. If the care is not provided in a basement, the secondary exit shall be one of the following:

a. A door or stairway that provides unobstructed travel to the outside of the building at street or ground level.

b. A door or stairway leading to a platform or roof with railings which has an area of at least 25 square feet, is at least 4 feet long, and is not more than 15 feet above the ground level.

c. A window not more than 46 inches above the floor that is capable of being opened from the inside without the use of tool or removal of a sash and which has a window opening size of at least 20 inches in width and 24 inches in height.

5. If the care is provided in a basement, the secondary exit shall be one of the following:

a. A door or stairway that provides unobstructed travel to the outside of the building at street or ground level.

b. A window not more than 46 inches above the floor that is capable of being opened from the inside without the use of tool or removal of a sash and which has a window opening size of at least 20 inches in width and 24 inches in height. The window shall open directly to the ground or to a window well with an area of at least 6 square feet that is not more than 46 inches below the ground.

(am) The home shall have a working carbon monoxide detector and each floor level shall have a working smoke detector.

(b) All areas used for child care shall have adequate and safe heat, light and ventilation, including all of the following:

1. The inside temperature of the home may not be less than 67 degrees Fahrenheit.

2. If the inside temperature exceeds 80 degrees Fahrenheit, a child care provider shall provide for air circulation with safe fans or other means.

(c) The home shall be free of hazards, including any recalled products. Items that shall be kept inaccessible to the children include, but are not limited to, the following:

1. Medications and drugs.

2. Cleaning supplies, poisons, and insecticides.

3. Guns, ammunition, knives, scissors, and sharp objects.

4. Matches, cigarette lighters and flammable liquids.

5. Plastic bags.

6. Litter and rubbish.

Note: Lists of recalled products are available on the Department of Agriculture, Trade and Consumer Protection website at <https://datcp.wi.gov/Pages/Publications/KeepYourKidsSafeNewsletter.aspx> or by contacting the United States Consumer Safety Commission at 1–800–638–2772.

(cm) Fire arms and ammunition materials shall be stored in separate, locked areas that are inaccessible to children.

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

(e) Outdoor play areas shall be free of hazards and shall be fenced or the certified child care operator shall take special measures to ensure the safety of the children, including the following:

1. Concrete and asphalt shall be prohibited under climbing equipment, swings, and slides.

2. In-ground pools, on-ground pools, hot tubs, and large outdoor trampolines may not be used during hours of care and shall be inaccessible to children by use of a permanent barrier or other preventive measure.

3. Wading pools may be used if the water is changed daily and the pool is disinfected daily. In this subdivision, "wading pool" means a shallow pool, capable of being dumped to change water, and used primarily for small children.

(f) Pets that are kept in the home shall be tolerant of children and vaccinated against rabies. The rabies vaccination shall be documented with a current certificate from a veterinarian. Pets that may pose any risk to the children shall be restricted from indoor and outdoor areas used for child care.

(g) The home shall have at least one telephone in working order with a list of emergency numbers posted by each telephone, including numbers for the rescue squad, police, fire station, emergency medical care, child protective services agency, and poison control center. The certification agency may prohibit the use of a cellular phone as a primary phone. If a cellular phone is used as a primary phone, it shall be operational during the hours of child care.

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

(j) Bathrooms, including toilets, sinks and potty chairs, shall be clean and in good working condition. Items listed in par. (c) may not be stored in a bathroom that is used by children in care.

(k) When a public water supply is not available, the water shall be tested and found to be bacteriologically safe and to have safe nitrate levels by a laboratory certified under 42 CFR 493 (CLIA) prior to initial certification and at least every following 2 years.

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

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

(n) Smoking shall be prohibited in any indoor or outdoor area in which children are present.

(o) If the child care is provided in a rental property, the operator shall obtain permission from the landlord to operate a child care business.

(p) The premises may not have any chipping, peeling, or deteriorating paint on exterior or interior surfaces in areas accessible to children.

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

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

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

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

(b) The physical examination report shall be made on an electronic printout from a licensed physician, physician assistant, or health check provider or on a form provided by the department that is signed and dated by a licensed physician, physician assistant, or health check provider.

Note: The department's form, Child Health Report – Child Care Centers, or an electronic printout from a medical professional may be used to document a health examination. Information on how to obtain the department's form is available on the department's website, <http://dcf.wisconsin.gov>, or from the certification agency.

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

(d) The requirement under par. (a) does not apply to school-age children. Notwithstanding s. DCF 202.02 (19), in this paragraph, "school-age children" means children 5 years of age or older who are enrolled in kindergarten or a higher grade in a public or private school.

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

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

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

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

(i) A child care provider shall change a child's diaper on an easily cleanable surface that is cleaned with soap and water and a disinfectant solution after each use.

(j) A child care provider shall clean a child's superficial wound with soap and water only and protect it with a band-aid or bandage.

(k) If a child care operator or a child care provider is aware that a child attending certified child care or a child care operator's own child has a reportable communicable disease under ch. DHS 145 that is transmitted through normal contact, such as chicken pox, German measles, infectious hepatitis, measles, mumps, scarlet fever, or meningitis, the operator or provider shall comply with all of the following requirements:

1. The child care operator or child care provider shall notify the local public health officer and parents of all the enrolled children.

2. A child who has or had a reportable communicable disease under ch. DHS 145 may not be admitted to certified child care unless the child's parents provide a statement from a physician that the child's condition is no longer contagious or the child has been absent for a period of time equal to the longest usual incubation period for the disease as specified by the department of health services.

Note: The Division of Public Health within the Department of Health Services has developed materials that identify those communicable diseases that are required to be reported to a local public health officer. These materials also provide information on the symptoms of each disease and guidance on how long an infected child must be excluded from child care. The materials include a communicable disease chart and exclusion guidelines for child care programs. Copies of the communicable disease chart or the exclusion guidelines for child care are available from the Child Care Information Center at 1-800-362-7353.

(5) SUPERVISION. (a) A child care provider may not be engaged in any other activity or occupation during the hours of

operation which interferes with the adequate care and supervision of children.

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

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

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

(e) The certified child care operation [operator] shall ensure that no person under 18 years of age is left in sole charge of the children.

Note: The correct word is shown in brackets. Corrections will be made in future rulemaking.

(em) The certified child care operator has a designated adult who can provide assistance in the event an unexpected emergency. The emergency back–up child care provider is at least 18 years of age and can provide an acceptable level of child care.

(f) The certified child care operator and any other adult working with children may not consume or be under the influence of alcoholic beverages or any non–prescribed controlled substance specified in ch. 961, Stats., during the hours of operation.

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

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

(i) The certified child care operator shall keep a current written record of the daily hours of attendance of each child in care, including the actual arrival and departure times for each child. Attendance records shall be kept for at least 3 years.

(j) When the children are playing outside, a child care provider shall be outside with the children and shall provide both sight and sound supervision at all times.

(6) MAXIMUM NUMBER OF CHILDREN. (a) No certified family child care operator may have more than 3 children under 7 years of age who are not related to the child care operator in care at any given time.

(b) No certified family operator may have more than 6 children in care, including children related to the operator, except that:

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

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

(c) A child care operator’s natural, adopted, step, or foster children 7 years of age or older or any child 7 years and older residing in the operator’s home are not counted in determining the maximum number of children allowed under par. (b).

(d) The maximum number of children that may be in care is shown in Table 202.08 (6).

(e) When a certified in–home child care operator cares for children in the children’s own home, the following apply:

1. The operator is not required to comply with pars. (a) and (b).

2. The operator may not care for any children who do not reside in the home.

Table 202.08 (6)

MAXIMUM NUMBER OF CHILDREN IN CERTIFIED CHILD CARE

Related or Operator’s Own Children Under 7 years of Age	Non–related Children Under 7 years of age	Additional Children Ages 7 and older	Maximum Number of Children*
0	3		6
1	3		6
2	3	Additional children ages 7 through 12 (if special needs up to 19) may be cared for as long as the maximum total number of children is not exceeded	6
3	3		6
4	2		6
5	1		6
6	0		6

WHEN CHILDREN UNDER THE AGE OF 2 YEARS ARE PRESENT

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

*The maximum number does not include the certified child care operator’s natural, adopted, step or foster children 7 years of age and older or any children 7 and older who live in the residence.

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

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

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

(b) May not hit, spank, pinch, shake, slap, throw, or inflict any other form of corporal punishment on the child, or use any discipline that is frightening to the child, including binding or trying to restrict the child’s movement or enclosing the child in a confined space such as a closet, basement, locked room, box, or similar cubicle.

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

(d) Shall provide positive guidance and redirection for the children and set clear limits for the children.

(e) Shall help each child develop self–control, self–esteem, and respect for the rights of others.

(f) May not use time–out periods that exceed 5 minutes. For purposes of this paragraph, a “time–out” is an interruption of unacceptable behavior by the removal of the child from the situation.

(g) May not punish a child for lapses in toilet training.

(h) Shall respond promptly to a crying infant or toddler’s needs.

(i) Shall provide physical contact and attention to each infant and toddler throughout the day, including holding, rocking, talking to, singing to, and taking on walks inside and outside the home.

(j) Shall periodically change the position and location in the room of a non–walking child who is awake.

(8) ACTIVITIES AND EQUIPMENT. (a) A child care provider shall plan activities so that each child may be or do all the following:

1. Be successful and feel good about himself or herself.
2. Use and develop language.
3. Use large and small muscles.
4. Learn new ideas and skills.
5. Participate in imaginative play.

(b) A child care provider shall offer daily activities according to the age and developmental level of the children in care and shall include a flexible balance of all the following:

1. Daily indoor and outdoor activities, except that outdoor activities are not required during inclement weather or when not advisable for health reasons.
2. Active and quiet play.
3. Protection from excess fatigue and overstimulation.
4. Individual and group activities.
5. At least 15 minutes reading to the children daily.
6. Opportunities for a non-walking child who can creep or crawl to move freely in a safe, clean, open, warm, and uncluttered area each day.

(c) A child care provider may use television only to supplement daily activities for children. No child may be required to watch television.

Note: For further information, see the Wisconsin Model Early Learning Standards. These voluntary standards are designed to help child care providers develop programs and curriculum to help ensure that children are exposed to activities and opportunities that will prepare them for success in school and into the future. The standards are primarily intended as guidance on developmentally appropriate expectations and are not intended to be used as a checklist to gauge a child's progress. The standards are based on scientific research. Copies of the Wisconsin Model Early Learning Standards are available on the Wisconsin Early Childhood Collaborating Partners website at <http://www.collaboratingpartners.com/> or through the Child Care Information Center at 1-800-362-7353.

(8m) EQUIPMENT. (a) Safe indoor and outdoor play equipment shall be provided as follows:

1. Equipment shall be scaled to the size and developmental level of the children in care.
2. Equipment shall be constructed in a sturdy manner and be in good operating condition with no sharp, rough, loose, or pointed edges.
3. Large, inflatable jumping toys may not be used during hours of child care.

(b) Various types of play equipment shall be provided to allow for large and small muscle activity, dramatic play, and intellectual stimulation.

(c) Indoor play equipment shall be provided to allow each child a choice of at least 3 activities involving equipment when all children are using equipment.

(d) Outdoor play equipment shall be provided to allow each child at least one activity when all children are using equipment at the same time.

(9) TRANSPORTATION. When transporting children the certified child care operator shall ensure that:

(a) The driver of the vehicle holds a valid driver's license. The certified child care operator shall have a copy of the driver's license on file.

Note: Information on an individual's driving record is available by calling the Division of Motor Vehicles at (608) 261-2566 or through the website <http://www.dot.wisconsin.gov/drivers/drivers/points/abstract.htm>.

(b) The vehicle is registered in Wisconsin.

(c) Each child is seated and properly restrained in an individual seat belt or, for a child under 8 years of age, a child safety restraint system, in compliance with s. 347.48 (2m) and (4), Stats., as follows:

1. If the child is less than one year old or weighs less than 20 pounds, the child shall be properly restrained in a rear-facing individual child care safety seat.
2. Subject to subd. 1., if the child is at least 1 year old and weighs at least 20 pounds but less than 4 years old or weighs less

than 40 pounds, the child shall be properly restrained in a forward-facing individual child car safety seat.

3. If the child is at least 4 years old but less than 8 years old, weighs at least 40 pounds but not more than 80 pounds, and is not more than 57 inches in height, the child shall be properly restrained in a shoulder-positioning child booster seat.

4. Children under age 13 years may not ride in the front seat of a vehicle.

(d) A written transportation permission slip signed by a parent or guardian is on file.

(e) Children are not left unattended in a vehicle.

(f) 1. A vehicle is equipped with a child safety alarm that prompts the driver to inspect the vehicle for children before exiting if all of the following conditions apply:

a. The vehicle is owned or leased by a child care operator or a contractor of a child care operator.

b. The vehicle has a seating capacity of 6 or more passengers plus the driver. The seating capacity of the vehicle shall be determined by the manufacturer.

c. The vehicle is used to transport children in care.

2. No person may shut off a child safety alarm unless the driver first inspects the vehicle to ensure that no child is left unattended in the vehicle.

3. The child safety alarm is in good working order each time the vehicle is used for transporting children to or from a child care home.

Note: Information on the required vehicle safety alarm is available on the department's website at <http://dcf.wisconsin.gov>.

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

(a) Each child shall be served one meal or snack at least once every 3 hours.

(b) Each child in attendance for 4 or more hours shall be served a noon or evening meal which consists of a protein food, fruit and vegetable, a cereal or bread product and pasteurized grade A vitamin D milk.

(c) Each infant who is unable to hold his or her own bottle shall be held for bottle feeding. Bottles may not be propped.

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

(a) Each child shall be allowed to have undisturbed rest or a nap, when needed, in a place that is clean, safe and comfortable.

(b) Each child shall have a personal clean sheet or blanket or both and pillowcase if a pillow is used.

(c) To reduce the risk of sudden infant death syndrome, each infant shall be placed to sleep on his or her back, unless otherwise directed by the child's physician. All sleeping arrangements for children under one year of age shall use firm mattresses and may not use soft bedding materials, such as comforters, pillows, fluffy blankets, or stuffed toys.

(d) A safe crib or playpen shall be available for each child under one year of age to use for napping.

(12) PROVIDER AND PARENT COMMUNICATION. The certified child care operator shall be in ongoing communication with a child's parent or ensure that a substitute child care provider is in ongoing communication with a child's parent by doing all of the following:

(a) Allowing parents to visit and observe the program of child care during any hours that care is being provided.

(b) Talking to each child's parent at least once a week about his or her child's development, activities, likes and dislikes.

(c) Developing a written contract that specifies the charge for child care and the expected frequency of payment for the service.

A contract for each enrolled child shall be signed by the certified child care operator and a parent or guardian.

(d) Making a copy of the applicable certification standards available to each parent.

(e) Displaying a copy of the certificate in an area easily seen by parents and visitors.

(f) Using an enrollment form that includes:

1. The parents' home and work phone numbers.
2. The parents' signed consent for emergency medical care.
3. A name and number to call if the child requires emergency medical care.

(g) Using information obtained on the department–provided “child care intake for child under 2 years” form, which collects essential information for infants and toddlers, to individualize the program of care for each child under 2 years of age.

(h) Informing a child's parent of any disciplinary action taken or any injury to the child that occurred during child care hours.

(i) Informing the parent in writing whether the premises are covered by a child care liability insurance policy.

(j) Notifying a parent if his or her child has been exposed to a diagnosed or suspected communicable disease reportable under ch. DHS 145 and transmitted through normal contact if the child care operator or child care provider is aware of the exposure.

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

(14) MANDATORY CHILD ABUSE REPORTING. A provider who has reasonable cause to suspect that a child in his or her day care has been abused or neglected or that the child has been threatened with abuse or neglect and that abuse or neglect will occur shall immediately inform the county social or human services department, local law enforcement, or other organization designated in s. 48.981, Stats.

History: Cr. Register, August, 1985, No. 356, eff. 9–1–85; emerg. r. (1) (d), eff. 11–5–85; r. (1) (d), Register, April, 1986, No. 364, eff. 5–1–86; r. and recr. (1) (a), (b), (2) (L), (4), (5) and (8), r. (1) (c), Register, December, 1991, No. 432, eff. 1–1–92; emerg. r. and recr. eff. 7–1–96; r. and recr. Register, February, 1997, No. 494, eff. 3–1–97; reprinted to insert dropped copy in (4) and (5), corrections made in (1) (a) made under s. 13.93 (2m) (b) 7., Stats., Register, July, 1997, No. 499; renum. from HFS 55.61, cr. (2) (n) and (5) (i) and am. (3) and (6) (d), Register, July, 1999, No. 523, eff. 8–1–99; correction in (2) (k) and (5) (f) made under s. 13.93 (2m) (b) 7., Stats., Register, July, 1999, No. 523; CR 02–007: am. (1) (a) 3., (2) (c) (intro.), 2., 3., (d), (e) (intro.), (f), (g), (k), (5) (i), (6), (7) (b), (8) (a) 2., 3., and (12) (c) and (f) (intro.), renum. and am. (1) (b) 1. to be (1) (b) 2. a. and (8) (a) 4. to be (8) (a) 5., cr. (1) (b) 1., 2. (intro.), (2) (cm), (e) 1., 2., 3., (o), (4) (i), (j), (7) (d) to (j), (8) (a) 4., 8., (9) (d), (e), (11) (c), (d), (12) (g), (h), (i), (14), and (15), renum. (1) (b) 2. to be (1) (b) 2. b., (8) (a) 5. and 6. to be (8) (a) 6. and 7., and r. (2) (h) Register May 2002 No. 557, eff. 6–1–02; CR 07–071: am. (title), (1) (a) 3., (b) 1., 2. (intro.), a., (2) (intro.), (c) (intro.), (e) (intro.), 2., (f), (j) to (L), (3), (4) (a) (intro.), 2., (c), (e) to (j), (5) (a), (b), (d) to (i), (6) (c), (d), Table 55.08 (6), (7) (intro.), (b), (9) (intro.), (a), (d), (10) (intro.), (11) (intro.), (12) (intro.), (c), (g) to (i) and (13), cr. (1) (b) 1. a., b., 2. c., d., (d), (e), (2) (am), (b) 1., 2., (p), (4) (k), (5) (em), (j), (6) (e), (8m), (9) (c) 1 to 4., and (12) (j), r. and recr. (1) (c), (2) (a), (6) (a), (b) (intro.) and (8), renum. (2) (b) and (9) (c) to be (2) (b) (intro.) and (9) (c) (intro.) and am., r. (15) Register May 2008 No. 629, eff. 6–1–08; corrections in (1) (a) 2., (b) 2. a., (d), (4) (d), (e), (k), (6) (d), (e) and (12) (j) made under s. 13.92 (4) (b) 6. and 7., Stats., Register November 2008 No. 635; 2015 Wis. Act 132: am. (1) (a) 3., (b) 2. b., c., (c) (intro.), (d), (e) 3., r. (2) (a) 2m., am. (2) (g), (o), (4) (b), (c) Register February 2016 No. 722, eff. 3–1–16; **CR 14–028: cr. (9) (f) Register July 2016 N0. 727, eff. 8–1–16.**

DCF 202.09 Standards for school–age programs.

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

(1m) ADMINISTRATION. The certified child care operator of a school–age program shall do all of the following:

(a) Comply with all laws governing the facility and its operation.

(b) Comply with all requirements in this section.

(c) Ensure that all information provided to the certification agency is current and accurate.

(d) Permit a child care certification worker to conduct inspections to monitor compliance with the certification standards.

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

1. Be at least 21 years of age.

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

3. Have graduated from high school, obtained a high school equivalency diploma under s. 115.29 (4), Stats., or obtained a certificate of general education development under s. PI 5.04.

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

1. Be at least 18 years old.

2. Have completed high school or its equivalency.

3. Have had 80 working days experience working with school–age children.

4. Have completed 10 classroom hours of training in at least one of the following areas: child development, early childhood education, elementary education, child guidance, physical education, recreation or other department–approved area.

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

1. Work under the supervision of a program leader.

2. Be at least 18 years old.

3. Have completed or be enrolled in 10 classroom hours of training in at least one of the following areas: child development, early childhood education, elementary education, child guidance, physical education, recreation or other department–approved area.

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

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

(e) *Staff records.* The school–age child care program shall maintain a record for each employee that shall be available to the certification agency. The record shall include all of the following:

1. The name, address, date of birth, education, position, names and addresses of employers in previous work experience in child care, the name, address and telephone number of a person to be notified in an emergency.

2. Evidence that the employee is free from tuberculosis.

3. Documentation of educational qualifications for the position.

(f) *Health and safety.* No staff member, volunteer, visitor or parent with symptoms of communicable disease or physical illness, or whose behavior gives a reason to be concerned for the safety of the children, may be allowed on the premises of the program.

(g) *Ability.* The staff members shall be physically and emotionally able to provide responsible child care.

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

(a) Review of health, nutrition and discipline policies.

(b) Review of plans for evacuation and other emergencies.

(c) Training in emergency procedures and first–aid procedures.

- (d) Review of all applicable parts of this subchapter.
- (e) Review of the school-age program's activity schedules.
- (f) Training in the recognition of signs of child abuse and neglect and explanation of responsibilities for reporting suspected cases of child abuse or neglect.

- (g) Explanation of job responsibilities and job descriptions.
- (h) Training in the recognition of childhood illnesses.

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

2. There shall be a report of inspection filed with the certification agency that indicates approval of the building by the state department of safety and professional services or by a certified agent of that department. The building shall comply with applicable state and local building codes.

3. The premises shall have no flaking or deteriorating paint on exterior or interior surfaces in areas accessible for children.

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

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

4. The inside temperature may not be less than 67 degrees Fahrenheit.

5. If the inside temperature exceeds 80 degrees Fahrenheit, fans must be provided to improve air circulation.

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

1. Comply with the requirements of chs. SPS 390 and ATCP 76, relating to swimming pool safety.

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

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

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

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

(d) Pets that are kept on the premises shall be tolerant of children and vaccinated against rabies. Rabies vaccinations shall be documented with a current certificate from a veterinarian.

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

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

(g) Smoking shall be prohibited in any indoor or outdoor area in which children are present.

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

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

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

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

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

(f) The certified child care operator shall keep a current, written record of the daily hours of attendance of each child in care, including the actual arrival and departure times for each child. Attendance records shall be kept for at least 3 years.

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

(am) A working cellular phone shall be taken on field trips.

(b) A school age child care program shall have on file an enrollment form that includes:

1. The parents' home and work phone numbers.
2. The parents' signed consent for emergency care.
3. A name and number to call if a child requires emergency medical care.

(c) Staff shall wash superficial wounds with soap and water only and protect the wound with a band-aid or bandage.

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

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

(c) When a public water supply is not available, the water shall be tested and found to be bacteriologically safe by the state laboratory of hygiene or a laboratory certified under 42 CFR 493 (CLIA) prior to initial certification and at least every following 2 years.

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

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

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

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

(b) May not hit, spank, pinch, shake or inflict any other form of corporal punishment on a child, or use any discipline which is frightening to the child, including binding or trying to restrict the child's movement or enclosing the child in a confined space such as a closet, basement, locked room, box, or similar cubicle.

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

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

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

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

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

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

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

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

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

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

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

(b) A driver for the program shall hold a valid Wisconsin driver's license required under s. 343.05, Stats. The program shall have a copy of the driving license for all persons transporting children on file.

Note: Information on an individual's driving record is available by calling the Division of Motor Vehicles at (608) 261–2566 or through the website <http://www.dot.wisconsin.gov/drivers/drivers/points/abstract.htm>.

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

(d) Any vehicle used by the program to transport children shall be in safe operating condition and at 12-month intervals the school-age child care program shall provide evidence of the vehicle's safe operating condition to the certification agency.

(e) Each child and adult being transported in a vehicle with a seating capacity of 15 or fewer shall be seated and properly restrained in an individual seat belt or, for a child under 8 years of age, a child safety restraint system in compliance with s. 347.48 (2m) and (4), Stats., as follows:

1. If a child is at least 4 years old but less than 8 years old, weighs at least 40 pounds but not more than 80 pounds, and is not more than 57 inches in height, the child shall be properly restrained in a shoulder-positioning child booster seat.

2. A child under 13 years of age may not ride in the front seat of a vehicle.

(f) A written transportation permission slip signed by a parent or guardian is on file.

(g) No child may be left unattended in a vehicle.

(h) 1. A vehicle shall be equipped with a child safety alarm that prompts the driver to inspect the vehicle for children before exiting if all of the following conditions apply:

a. The vehicle is owned or leased by a child care operator or a contractor of a child care operator.

b. The vehicle has a seating capacity of 6 or more passengers plus the driver. The seating capacity of the vehicle shall be determined by the manufacturer.

c. The vehicle is used to transport children in care.

2. No person may shut off a child safety alarm unless the driver first inspects the vehicle to ensure that no child is left unattended in the vehicle.

3. The child safety alarm shall be in good working order each time the vehicle is used for transporting children to or from a certified school-age child care program.

Note: Information on the required vehicle safety alarm is available on the department's website at <http://dcf.wisconsin.gov>.

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

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

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

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

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

History: Cr. Register, August, 1985, No. 356, eff. 9–1–85; emerg. r. and recr. eff. 7–1–96; r. and recr. Register, February, 1997, No. 494, eff. 3–1–97; renum. from HFS 55.62 and am. (2) (e) 1. and cr. (5) (g) and (6) (f), Register, July, 1999, No. 523, eff. 8–1–99; correction in (4) (c) and (8) made under s. 13.93 (2m) (b) 7., Stats., Register, July, 1999, No. 523; CR 07–071: am. (1), (2) (a) (intro.), 2., (e) (intro.), (3) (c), (4) (a) 2., (5) (d), (6) (f), (7) (b) (intro.), (c), (8) (c), (9) (b), (12) (b) and (d), cr. (1m), (2) (a) 3., (f), (g), (4) (a) 3., (b) 4., 5., (7) (am), (12) (f) and (g), r. and recr. (12) (e), Register May 2008 No. 629, eff. 6–1–08; correction in (4) (c) 1. made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635; corrections in (4) (a) 2. and (c) 1. made under s. 13.92 (4) (b) 6., 7., Stats., Register January 2012 No. 673; 2015 Wis. Act 132: am. (1m) (c), (2) (e) (intro.), (4) (a) 2., (12) (d), (14) (intro.) Register February 2016 No. 722, eff. 3–1–16; CR 14–028: cr. (12) (h) Register July 2016 No. 727, eff. 8–1–16; correction in (4) (c) 1. made under s. 13.92 (4) (b) 7., Stats., Register July 2016 No. 727.