

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Licensing Standards for Day Care Homes
- 2) Code Citation: 89 III. Adm. Code 406
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
406.2	Amendment
406.12	Amendment
406.15	Amendment
- 4) Statutory Authority: Child Care Act of 1969 [225 ILCS 10]
- 5) A Complete Description of the Subjects and Issues Involved: These revisions contain standards to enact P.A. 100-105 (effective date January 1st, 2018) that requires: limitations on expulsion of children from preschool settings for behavioral reasons, licensees to establish intervention and transition policies, notification to parents regarding these policies, documentation of interventions attempted and reporting of data on children transitioned out of preschool programs. The proposed amendments include:

Adding the following definitions:

"Challenging Behaviors" means any behavior, or perception of behavior, that interferes with optimal learning or engagement with peers and adults;

"Intervention Plan" means a written, planned schedule of action agreed upon by the program staff, parents/primary caregivers, and qualified professional resources to assist a child, family, and caregivers when a repeated pattern of challenging behavior is identified;

"Qualified Professional" is an individual with a publicly recognized certification, licensure, or degree in a particular field such as, but not limited to a child's health provider, Early Childhood Mental Health Consultant, Licensed Clinical Social Worker, Speech Pathologist, or Behavioral Therapist;

"Repeated Pattern of Challenging Behavior" means behaviors that do not respond to developmentally appropriate practice interventions that results in a disrupted learning environment for other children enrolled in the program such as but not limited to extreme tantrums, physical and verbal aggression, property destruction or self-injury;

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"Serious Safety Threat" is a behavior that jeopardizes the physical safety of the child and/or his/her classmates and staff; and

"Transition Plan" means an individualized, written document developed by the departing and receiving early childhood programs, parents/primary caregivers, and qualified professional resources detailing tasks, and individual responsibilities required to prepare for and then execute the move of the child from the current child care arrangement to a more appropriate arrangement with as little negative impact and disruption as possible.

Requiring the licensee to develop intervention and transition policies that include the facility document observations of on-going and challenging behavior, communication with parents and utilization of community resources;

Requiring that the facility develop a transition plan for all children transitioned out of the program to a different program better able to meet the needs of the child;

Requiring licensees to collect and report data annually to the Illinois State Board of Education on children transitioning out of the program; and

Prohibiting expulsion due to a child's repeated pattern of challenging behavior. Specifies that transition plans are not considered an expulsion.

- 6) Published studies and reports, and sources of underlying data used to compose this rulemaking: U.S. Department of Education Office for Civil Rights, Civil Rights Data Collection, Data Snapshot: School Discipline, Issue Brief No 1 (March 2014)
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand the State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

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- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice. Comments should be submitted to:

Jeff Osowski
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Department of Children and Family Services
406 E. Monroe, Station #65
Springfield IL 62701-1498

217/524-1983
TDD: 217/524-3715
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email: CFPolicy@idcfs.state.il.us

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities, and not-for-profit corporations affected: Day Care Homes licensed by DCFS.
 - B) Reporting, bookkeeping or other procedures required for compliance: Licensees will be required to develop intervention and transition policies, share their policy with parents, document behaviors identified as repeated pattern of challenging behavior and serious safety threats, communicate with parents when a repeated pattern of challenging behavior is identified, utilize community resources in agreement with the parent(s), assist in transition planning for children not able to benefit from the type of care provided and report data to Illinois State Board of Education on an annual basis for all transitions of preschool children out of their program.
 - C) Types of professional skills necessary for compliance: Day Care Home licensees will be required to write their policy, document their observations, communicate with parents, utilize community resources, collect and report information regarding children transitioned out of their program.

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- 14) Small Business Impact Analysis:
- A) Types of businesses subject to the propose rulemaking:
- 81 Other Services
- B) Categories that the Agency reasonably believes the rulemaking will impact, including:
- ii. regulatory requirements
- viii. record keeping
- 15) Regulatory Agenda on which this rulemaking was summarized: The rulemaking was not included on either of the 2 most recent regulatory agendas because the need for the rulemaking was not anticipated.

The full text of the Proposed Amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER e: REQUIREMENTS FOR LICENSURE

PART 406

LICENSING STANDARDS FOR DAY CARE HOMES

Section

406.1	Purpose
406.2	Definitions
406.3	Effective Date of Standards (Repealed)
406.4	Application for License
406.5	Application for Renewal of License
406.6	Provisions Pertaining to the License
406.7	Provisions Pertaining to Permits
406.8	General Requirements for Day Care Homes
406.9	Characteristics and Qualifications of the Day Care Family
406.10	Qualifications for Assistants
406.11	Substitutes
406.12	Admission and Discharge Procedures
406.13	Number and Ages of Children Served
406.14	Health, Medical Care and Safety
406.15	Discipline of Children
406.16	Activity Requirements
406.17	Nutrition and Meals
406.18	Transportation of Children By Day Care Home
406.19	Swimming
406.20	Children with Special Needs
406.21	School Age Children
406.22	Children Under 30 Months of Age
406.23	Night Care
406.24	Records and Reports
406.25	Confidentiality of Records and Information
406.26	Cooperation with the Department
406.27	Severability of This Part
406.APPENDIX A	Meal Pattern Chart for Children 0 to 12 Months of Age
406.APPENDIX B	Meal Pattern Chart for Children Over One Year of Age
406.APPENDIX C	Background of Abuse, Neglect, or Criminal History Which May Prevent

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- 406.APPENDIX D Licensure or Employment in a Day Care Home
Pre-Service and In-Service Training
- 406.APPENDIX E List of Items for Fire Safety Inspection

AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10], the Children's Product Safety Act [430 ILCS 125], Section 3 of the Abused and Neglected Child Reporting Act [325 ILCS], Sections 1 and 2 of the Facilities Requiring Smoke Detectors Act [425 ILCS 10], and Section 5 of the Missing Children Records Act [325 ILCS 50].

SOURCE: Adopted and codified at 7 Ill. Reg. 7855, effective July 1, 1983; amended at 8 Ill. Reg. 24951, effective January 1, 1985; amended at 9 Ill. Reg. 2454, effective March 1, 1985; emergency amendment at 15 Ill. Reg. 15088, effective October 8, 1991, for a maximum of 150 days; modified at 16 Ill. Reg. 2269; amended at 16 Ill. Reg. 7602, effective April 30, 1992; amended at 18 Ill. Reg. 5531, effective April 1, 1994; amended at 19 Ill. Reg. 2765, effective February 23, 1995; amended at 21 Ill. Reg. 4524, effective April 1, 1997; emergency amendment at 24 Ill. Reg. 4207, effective March 1, 2000, for a maximum of 150 days; emergency expired July 28, 2000; amended at 24 Ill. Reg. 17047, effective November 1, 2000; amended at 25 Ill. Reg. 5714, effective April 1, 2001; emergency amendment at 26 Ill. Reg. 13694, effective August 30, 2002, for a maximum of 150 days; emergency expired on January 26, 2003; amended at 27 Ill. Reg. 19180, effective December 15, 2003; amended at 30 Ill. Reg. 18280, effective November 13, 2006; amended at 32 Ill. Reg. 9137, effective June 20, 2008; amended at 34 Ill. Reg. 18358, effective December 15, 2010; amended at 36 Ill. Reg. 4103, effective March 5, 2012; amended at 36 Ill. Reg. 13057, effective August 15, 2012; amended at 36 Ill. Reg. 13388, effective August 15, 2012; amended at 37 Ill. Reg. 19127, effective November 30, 2013; amended at 40 Ill. Reg. 10769, effective July 29, 2016; emergency amendment at 42 Ill. Reg. 8519, effective May 9, 2018, for a maximum of 150 days; emergency expired October 5, 2018; amended at 43 Ill. Reg. 187, effective January 1, 2019; amended at 43 Ill. Reg. _____, effective _____.

Section 406.2 Definitions

"Access to children" means an employee's job duties require that the employee be present in a licensed child care facility during the hours that children are present in the facility. In addition, any person who is permitted to be alone outside the visual or auditory supervision of facility staff with children receiving care in a licensed child care facility is subject to the background check requirements of this Part.

"Adult" means any person who is 18 years of age or older.

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"Applicant" means a person living in the residence to be licensed who will be the primary caregiver in the day care home.

"Approved smoke detector" or "detector" means a smoke detector of the ionization or photoelectric type which complies with all the requirements of the rules and regulations of the Illinois State Fire Marshal. (Section 2 of the Facilities Requiring Smoke Detectors Act [425 ILCS 10/2])

"Assistant" or "child care assistant" means a person (whether a volunteer or an employee) who assists a licensed home caregiver in the operation of the day care home.

"Attendance" means the total number of children under the age of 12 present at any one time.

"Authorized representative of the Department" means the licensing representative or any person acting on behalf of the Director of the Department.

"Background check" means:

a criminal history check via fingerprints of persons age 18 and over that are submitted to the Illinois State Police and the Federal Bureau of Investigation (FBI) for comparison to their criminal history records, as appropriate; and

a check of the Statewide Automated Child Welfare Information System (SACWIS) and other state child protection systems, as appropriate, to determine whether an individual is currently alleged or has been indicated as a perpetrator of child abuse or neglect; and

a check of the Statewide Child Sex Offender Registry.

"Basement" means the story below the street floor where occupants must traverse a full set of stairs, 8 or more risers, to access the street floor.

"CANTS" means the Child Abuse and Neglect Tracking System operated and maintained by the Department. This system is being replaced by the Statewide Automated Child Welfare Information System (SACWIS).

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"Caregiver" means the individual directly responsible for child care.

"Challenging behavior" means any behavior, or perception of behavior, that interferes with optimal learning or engagement with peers and adults.

"Children with special needs" means children who exhibit one or more of the following characteristics, confirmed by clinical evaluation:

Visual impairment: the child's visual impairment is such that development to full potential without special services cannot be achieved.

Hearing impairment: the child's residual hearing is not sufficient to enable him or her to understand the spoken word and to develop language, thus causing extreme deprivation in learning and communication, or a hearing loss is exhibited that prevents full awareness of environmental sounds and spoken language, limiting normal language acquisition and learning.

Physical or health impairment: the child exhibits a physical or health impairment that requires adaptation of the physical plant.

Speech and/or language impairment: the child exhibits deviations of speech and/or language processes that are outside the range of acceptable variation within a given environment and prevent full social development.

Learning disability: the child exhibits one or more deficits in the essential processes of perception, conceptualization, language, memory, attention, impulse control or motor function.

Behavioral disability: the child exhibits an effective disability and/or maladaptive behavior that significantly interferes with learning and/or social functioning.

Mental impairment: the child's intellectual development, mental capacity, and/or adaptive behavior are markedly delayed. Such mental impairment may be mild, moderate, severe or profound.

"Consultants" means those individuals providing technical assistance or advice regarding any aspect of the operation of the day care home.

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"Conviction" means a judgment of conviction or sentence entered upon a plea of guilty or upon a verdict or finding of guilty of an offense, rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury. (Section 2-5 of the Criminal Code of 1961 [720 ILCS 5/2-5])

"Corporal punishment" means hitting, spanking, swatting, beating, shaking, pinching, excessive exercise, exposure to extreme temperatures, and other measures that produce physical pain.

"Cot" means a comfortable, safe and child-sized alternative bed made of resilient, fire retardant, sanitizable fabric that is on legs or otherwise above the floor and can be stored to allow for air flow.

"Day care homes" means family homes which receive more than 3 up to a maximum of 12 children for less than 24 hours per day. The maximum of 12 children includes the family's natural, foster, or adopted children and all other persons under the age of 12. The term does not include facilities which receive only children from a single household. (Section 2.18 of the Child Care Act of 1969 [225 ILCS 10/2.18])

"Department" means the Illinois Department of Children and Family Services. (Section 2.02 of the Child Care Act of 1969)

"Department of Public Health" or "DPH" means the Illinois Department of Public Health.

"Discipline" means the process of helping children to develop inner controls so that they can manage their own behavior in socially acceptable ways.

"Disinfect" means to eliminate virtually all germs from inanimate surfaces through the use of chemicals or physical agents (e.g., heat). In the child care environment, a solution of ¼ cup household liquid chlorine bleach added to one gallon of water (or one tablespoon bleach to one quart water) and prepared fresh daily is an effective disinfectant for environmental surfaces and other objects. A weaker solution of 1 tablespoon bleach to 1 gallon of cool water is effective for use on toys, eating utensils, etc. Commercial products may also be used.

"Family home" or "family residence" means the location or portion of a location

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where the applicant and his or her family reside, and may include basements and attics. It does not include other structures that are separate from the home but are considered part of the overall premises, such as adjacent apartments, unattached basements in multi-unit buildings, unattached garages, and other unattached buildings.

"Firearm" means any device, by whatever name known, which is designed to expel a projectile or projectiles by the action of an explosion, expansion of gas or escape of gas; excluding, however:

any pneumatic gun, spring gun, paint ball gun, or BB gun that expels a single globular projectile not exceeding .18 inch in diameter or that has a maximum muzzle velocity of less than 700 feet per second;

any pneumatic gun, spring gun, paint ball gun, or BB gun that expels breakable paint balls containing washable marking colors;

any device used exclusively for signalling or safety and required or recommended by the United States Coast Guard or the Interstate Commerce Commission;

any device used exclusively for the firing of stud cartridges, explosive rivets or similar industrial ammunition; and

an antique firearm (other than a machine gun) that, although designed as a weapon, the Department of State Police finds by reason of the date of its manufacture, value, design, and other characteristics is primarily a collector's item and is not likely to be used as a weapon. [430 ILCS 65/1.1]

"Gateways to Opportunity Registry" means a program administered by the Department of Human Services to track and maintain education and training credentials of primary caregivers and assistants that allows them to establish a profile in the registry of their educational and training development.

"Ground level" means that a child can step directly from the exit onto the ground, a sidewalk, a patio, or any surface that is not above or below the ground.

"Guardian" means the guardian of the person of a minor. (Section 2.03 of the

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Child Care Act of 1969 ~~{225 ILCS 10/2.03}~~)

"Infant" means a child through 12 months of age.

"Initial background check" means fingerprints have been obtained for a criminal history check, and the individual has cleared a check of the Statewide Automated Child Welfare Information System (SACWIS) and the Illinois Sex Offender Registry.

"Intervention plan" means a written, planned schedule of action agreed upon by the program staff, parents/primary caregivers, and qualified professional resources to assist a child, family, and caregivers when a repeated pattern of challenging behavior is identified.

"License" means a document issued by the Department that authorizes child care facilities to operate in accordance with applicable standards and the provisions of the Child Care Act of 1969.

"License applicant", for purposes of background checks, means the operator or persons with direct responsibility for daily operation of the facility to be licensed. (Section 4.4 of the Child Care Act of 1969 ~~{225 ILCS 10/4.4}~~)

"License study" means the review of an application for license, on-site visits, interviews, and the collection and review of supporting documents to determine compliance with the Child Care Act of 1969 and the standards prescribed by this Part.

"Licensed capacity" means the number of children the Department has determined the day care home can care for at any one time in addition to any children living in the home who are under the age of 12 years. Children age 12 and over on the premises are not considered in determining licensed capacity.

"Licensing representative" means a person authorized by the Department under Section 5 of the Child Care Act of 1969 to examine facilities for licensure.

"Licensing year" often called the anniversary year, means the period of time from the date a day care home license is issued until the same date of the following year.

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"Member of the household" means a person who resides in a family home as evidenced by factors including, but not limited to, maintaining clothing and personal effects at the household address, or receiving mail at the household address, or using identification with the household address.

"Minor traffic violation" means a traffic violation under the laws of the State of Illinois or any municipal authority in Illinois or another state or municipal authority that is punishable solely as a petty offense. (See Section 6-601 of the Illinois Driver Licensing Law [625 ILCS 5/~~Ch. 66-601~~].)

"Mitigation" means those activities or processes undertaken to reduce the level of lead in water below 2.01 ppb (parts per billion).

"Mitigation plan" means a written document prepared by a license applicant or licensee that identifies drinking water sources that have tested at or above 2.01 ppb for lead and the strategies and interim measures the applicant/licensee will take to reduce the lead level to below 2.01 ppb.

"Parent" or "Parents", as used in this Part, means those persons assuming legal responsibility for care and protection of the child on a 24-hour basis; includes guardian or legal custodian.

"Permit" means a one-time only document issued by the Department ~~of Children and Family Services~~ for a 2-month period to allow the individuals to become eligible for a license.

"Person" means any individual, group of persons, agency, association, or organization.

"Persons subject to background checks" means:

the operators of the child care facility;

all current and conditional employees of the child care facility;

any person who is used to replace or supplement staff; and

any person who has access to children, as defined in this Section.

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If the child care facility operates in a family home, the license applicants and all members of the household age 13 and over are subject to background checks, as appropriate, even if these members of the household are not usually present in the home during the hours the child care facility is in operation.

"Physician" means a person licensed to practice medicine in the State of Illinois or a contiguous state.

"Premises" means the location of the day care home wherein the family resides and includes the attached yard, garage, basement and any other outbuildings.

"Preschool age" means children under 5 years of age and children 5 years old who do not attend full day kindergarten.

"Program" means all activities provided for the children during their hours of attendance in the day care home.

"Protected exit from a basement" means an exit that is separated from the remainder of the day care home by barriers (such as walls, floors, or solid doors) providing one-hour fire resistance. The separation must be designed to limit the spread of fire and restrict the movement of smoke.

"Qualified professional" is an individual who possesses a current State-issued or State-recognized certification, licensure, or degree in a particular field such as, but not limited to, a child's health provider, Early Childhood Mental Health Consultant, Licensed Clinical Social Worker, Speech Pathologist, or Behavioral Therapist. Certifications and degrees from nationally and regionally accredited colleges and universities are considered State-recognized.

"Related" means any of the following relationships by blood, marriage, civil union, or adoption: parent, grandparent, sibling, great-grandparent, great-uncle, great-aunt, brother, sister, stepparent, stepbrother, stepsister, uncle, aunt, nephew, niece, or first cousin. (Section 2.04 of the Child Care Act of 1969 [225 ILCS 10/2.04])

"Repeated pattern of challenging behavior" means behaviors that do not respond to developmentally appropriate practice interventions that result in a disrupted learning environment for other children enrolled in the program, such as, but not

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limited to, extreme tantrums, physical and verbal aggression, property destruction, or self-injury.

"SACWIS" means the Statewide Automated Child Welfare Information System operated by the Illinois Department of Children and Family Services that is replacing the Child Abuse and Neglect Tracking System (CANTS).

"School age" means children from 6 to 12 years of age and 5 year olds who are in full-day kindergarten.

"Serious safety threat" is a behavior that jeopardizes the physical safety of the child and/or his/her classmates or staff.

"Special use areas" means areas of the home that may not be included in the measurements of the area used for child care. Special use areas include, but are not limited to, laundry rooms, furnace rooms, bathrooms, hazardous areas, and areas off-limits to children.

"Story" means that level of a building included between the upper surface of a floor and the upper surface of the floor or roof next above.

"Street floor" means a story or floor level accessible from the street or from outside a building at ground level, with the floor level at the main entrance located not more than 4 risers above or below the ground level and arranged and utilized to qualify as the main floor.

"Substantiated violation" means that the licensing representative has determined, during a licensing complaint investigation or a monitoring or renewal visit, that the licensee has violated a licensing standard of this Part or the Child Care Act.

"Supervising agency", as used in this Part, means a licensed child welfare agency, a licensed day care agency, or the Department.

"Swimming pool" means any natural or artificial basin of water intended for public swimming or recreational bathing that exceeds 2'6" in depth as specified in the Illinois Swimming Pool and Bathing Beach Code (77 Ill. Adm. Code 820). The term includes bathing beaches and pools at private clubs, health clubs, or private residences when used for children enrolled in a child care facility.

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"Transition plan" means an individualized, written document, developed by the departing and receiving early childhood programs, parents/primary caregivers, and qualified professional resources, detailing tasks and individual responsibilities required to prepare for and execute the move of the child from the current child care arrangement to a more appropriate arrangement with as little negative impact and disruption as possible.

"Wading pool" means any natural or artificial basin of water less than 2'6" in depth that is intended for recreational bathing, water play or similar activity. The term includes recessed areas less than 2'6" in depth in swimming pools that are designated primarily for children.

"Water profile" means a building's water heater, source of water, and water supply lines.

"Water source" means any faucet used to obtain water for drinking or food preparation for day care operations. Water sources include, but are not limited to, sinks, bathtubs, hoses, drinking fountains, bubblers, and refrigerator or freezer water or ice dispensers.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 406.12 Admission and Discharge Procedures

- a) No child served in a day care home shall remain on the premises for more than 12 hours in any 24-hour period, unless the parent's employment schedule requires more than 12 hours of day care. Regardless of the parent's work or training schedule, at no time shall children cared for in a day care facility remain on the premises for more than 18 consecutive hours.
- b) Prior to acceptance of a child for care:
 - 1) The caregiver shall require that the parent ~~or guardian~~ accompany the child to the home to become acquainted with the caregiver and with the service to be provided.
 - 2) No child under 6 years of age may be admitted to the day care home unless the health examination, complete with lead risk assessment, if the child resides in an area defined as low risk by the ~~Illinois~~ Department of

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Public Health, or a screening for lead poisoning, if the child resides in an area defined as high risk by ~~DPH~~~~the Illinois Department of Public Health~~ (see 77 Ill. Adm. Code 845 (Lead Poisoning Prevention Code)), has been completed as required by ~~DPH~~~~Department of Public Health~~ rules at 77 Ill. Adm. Code 665 (Child Health Examination Code).

- 3) The caregiver shall require that the parent ~~or guardian~~ provide a certified copy of the child's birth certificate. The caregiver:
- A) Shall provide a written notice to the parent ~~or guardian~~ of a child to be *enrolled for the first time that within 30 days* after enrollment the parent ~~or guardian~~ shall *provide a certified copy of the child's birth certificate or other reliable proof of identity and age of the child.*
- i) The caregiver shall promptly make a copy of the certified copy and return the original certified copy to the parent ~~or guardian~~.
- ii) If a certified copy of the birth certificate is not available, the parent ~~or guardian~~ must submit *a passport, visa or other governmental documentation as proof of the child's identity and age and an affidavit or notarized letter explaining the inability to produce a certified copy of the birth certificate [325 ILCS 50/5].*
- iii) The notice to parent ~~or guardian~~ shall also indicate that the caregiver is required by law to notify the Illinois State Police or local law enforcement agency if the parent ~~or guardian~~ fails to submit proof of the child's identity within the 30 day time frame;
- B) Shall notify the Illinois State Police or local law enforcement agency of the parent's or guardian's failure to submit a certified copy of the child's birth certificate or other reliable proof of identity. The caregiver shall also *notify the parent or guardian in writing that the Illinois State Police or local law enforcement has been notified as required by law and that the parent or guardian has*

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10 additional days to comply by submitting the required documentation; [325 ILCS 50/5]

- C) *Shall report to the Illinois State Police or local law enforcement agency any affidavit received which appears inaccurate or suspicious in form or content;* [325 ILCS 50/5]
- D) *Shall flag the record of a child enrolled at the day care who is reported by the Illinois State Police as a missing person, and shall immediately report to the Illinois State Police any request concerning flagged records or knowledge as to the whereabouts of any missing child.* [325 ILCS 50/5]
- c) The parents ~~or guardian~~ shall be permitted to visit the home, without prior notice, during the hours their children are in care.
- d) A child shall be discharged from the facility only to the child's parents ~~or guardian~~ or to a person designated in writing by the parents ~~or guardian~~ to receive the child.
- e) The caregiver shall refuse to release a child to any person, whether related or unrelated to the child, who has not been authorized, in writing, by the parents ~~or guardian~~ to receive the child. Persons not known to the caregiver shall be required to provide a driver's license (with photo) or photo identification card issued by the Illinois Secretary of State to establish their identity prior to a child's release to them.
- f) The facility shall maintain a list of persons designated, in writing, by the parents, or guardian to whom the facility can be expected to discharge the child at least once per week. These persons, in addition to the parents ~~or guardian~~, shall constitute the primary list of persons to whom the child may be released. In addition, the facility shall maintain a contingency list of persons, designated, in writing, by the parents, ~~or guardian~~ to whom the child may be released less frequently than once per week. When the child is released to a person on the contingency list, the facility shall maintain a record of the person to whom the child was released, the date and time that the child was released, and the manner that the child left the facility (whether on foot, by passenger car, by taxicab, ~~or by~~ other means of transportation).
- g) Other discharge provisions of this Section notwithstanding, a child leaving the

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day care home to attend school shall be released in accordance with the written authorization of the parents ~~or guardian~~. The authorization shall include the time that the child is to be released and the means of transportation the child is to use.

- h) All day care homes shall have a written policy that explains the actions the provider will take if a parent ~~or guardian~~ does not retrieve, or arrange to have someone retrieve, his or her child at the designated, agreed upon time. The policy shall consist of the provider's expectations, clearly presented to the parent ~~or guardian~~, in the form of a written agreement that shall be signed by the parent ~~or guardian~~, and shall include at least the following elements:
- 1) The consequences of not picking up the child on time, including:
 - A) Amount of late fee, if any, and when those fees begin to accrue;
 - B) The degree of diligence the provider will use to reach emergency contacts, e.g., number of attempted phone calls to parents and emergency contacts, requests for police assistance in finding emergency contacts; and
 - C) Length of time the facility will keep the child beyond the pick-up time before contacting outside authorities, such as the child abuse hotline or police.
 - 2) Emphasis on the importance of having up-to-date emergency contact numbers on file.
 - 3) Acknowledgement of the provider's responsibility for the child's protection and well-being until the parent or outside authorities arrive.
 - 4) A reminder to the day care provider that the child is not responsible for the situation. All discussions regarding these situations shall be with the parent ~~or guardian~~, never the child.
- i) The daily list of children in care shall be readily accessible in case of emergency evacuations and fire drills.
- j) All day care homes shall maintain, and notify parents of, written intervention and transition policies that address at least the following:

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- 1) Initial and on-going observation of challenging behaviors;
 - 2) Communication with the parents; and
 - 3) Utilization of a range of community resources, if available and deemed necessary, including, but not limited to, developmental screenings, referrals to programs and services administered by a local educational agency or early intervention agency under parts B and C of the federal Individuals with Disabilities Education Act (20 USC 1411 through 1444), and consultation with infant and early childhood mental health consultants and the child's health care provider. (Section 2-3.71(a)(7) of the School Code [105 ILCS 5])
- k) Providers shall document, on forms prescribed by the Department:
- 1) Steps taken to ensure that the child can participate safely in the program, in accordance with the intervention plan and transition policy, including observations of initial and on-going challenging behaviors;
 - 2) Strategies for remediation; and
 - 3) Communication with parents, including when parental consent is attempted and whether it is obtained, and attempts to utilize qualified professional resources.
- l) Any child who, after documented attempts have been made to meet the child's individual needs, demonstrates inability to benefit from the type of care offered by the day care home, or whose presence is detrimental to the group, shall be transitioned to a different program.
- m) In all instances, when a licensee decides that it is in the best interest of the child to transition to a different program, the child's and parents' needs shall be considered by:
- 1) Planning with the parents to identify the new program; and
 - 2) Working with the parents and pending program on a transition plan designed to ensure continuity of services to meet the child's needs.

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- n) Providers shall collect, and report annually to the Illinois State Board of Education, information on children from birth to age 5 transitioning out of the day care home, including:
- 1) The number of children served and the number of children who have left over the course of the program year;
 - 2) The number of planned transitions to another program due to a child's behavior over the course of the program year, by the children's race, gender, disability, language, class or group size, teacher-child ratio, and length of program day;
 - 3) The number of temporary removals of a child from attendance in group settings due to a serious safety threat over the course of the program year, by the children's race, gender, disability, language, class or group size, teacher-child ratio, and length of program day; and
 - 4) The number of hours of infant and early childhood mental health consultant hours over the course of the program year.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 406.15 Discipline of Children

- a) The caregiver shall use disciplinary measures designed and carried out in such a way as to help individual children develop self-control and assume responsibility for their own acts.
- 1) The caregiver shall establish simple, understandable rules so that expectations and limitations are clear to the child.
 - 2) Discipline shall not be out of proportion to the particular inappropriate behavior.
 - 3) Discipline shall be related to the child's act and shall be handled immediately by the adult involved so the child is aware of the relationship between acts and consequences.

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- 4) Removal from the group to help a child gain control shall not exceed one minute per year of age. Removal from the group shall not be used for children less than 24 months of age.
- b) No child shall be subjected to extreme punishment.
- 1) No child shall be subjected to physical punishment, nor can shaming, frightening, or humiliating methods be used.
 - 2) There shall be no verbal abuse, threats, or derogatory remarks about the child or the child's family.
 - 3) Depriving a child of meals or any part of meals shall never be used as punishment.
 - 4) No child shall be punished for toilet accidents.
- c) Expulsion due to a child's repeated pattern of challenging behavior is prohibited. Planned transitions to settings better able to meet the child's needs are not considered expulsions.

(Source: Amended at 43 Ill. Reg. _____, effective _____)