

Virginia Department of Social Services
Commonwealth of Virginia

Standards for Licensed Child Day Centers

22VAC40-185

(Formerly 22VAC15-30)

Amended By The State Board of Social Services
August 16, 2012
Effective: November 1, 2012

TECHNICAL ASSISTANCE

Updated 11/2012

- All new or revised technical assistance questions and answers (Q/A) are now highlighted in **BOLD** within the body of this document.
- Each PART that includes new or revised technical assistance Q/A has been identified in the Table of Contents below with an asterisk (*).
- The numbers and dates noted in the parentheses at the end of each Q/A are the Division of Licensing Programs' (DOLP) internal reference number and include the answer's latest revision date.

TABLE OF CONTENTS

PART I. INTRODUCTION.....	4
22 VAC 40-185-10 Definitions*	4
PART II. ADMINISTRATION.....	6
22 VAC 40-185-40. Operational responsibilities.....	6
22 VAC 40-185-50. General recordkeeping; reports.....	7
22 VAC 40-185-60. Children’s records*	8
22 VAC 40-185-70. Staff records.....	9
22 VAC 40-185-80. Attendance records; reports*	9
22 VAC 40-185-90. Parental agreements.....	10
22 VAC 40-185-100. Enrollment procedures of therapeutic child day programs and special needs child day programs.....	10
22 VAC 40-185-130. Immunizations for children*	10
22 VAC 40-185-150. Form and content of immunizations and physical examination reports for children.....	11
22 VAC 40-185-160. Tuberculosis screening for staff and independent contractors.....	11
PART III. STAFF QUALIFICATIONS AND TRAINING	12
22 VAC 40-185-180. General qualifications.....	12
22 VAC 40-185-190. Program director qualifications*	13
22 VAC 40-185-200. Program directors and back-up for program directors.....	16
22 VAC 40-185-210. Program leader qualifications.....	17
22 VAC 40-185-230. Independent contractors; volunteers.....	18
22 VAC 40-185-240. Staff training and development*	18
PART IV. PHYSICAL PLANT.....	21
22 VAC 40-185-270. Building maintenance*	21
22 VAC 40-185-280. Hazardous substances and other harmful agents*	22
22 VAC 40-185-290. General physical plant requirements for centers serving children of preschool age or younger.....	25
22 VAC 40-185-310. Areas.....	25
22 VAC 40-185-320. Restroom areas and furnishings*	27
22 VAC 40-185-330. Play areas*	27

PART V. STAFFING AND SUPERVISION.....	32
22 VAC 40-185-340. Supervision of children *	32
22 VAC 40-185-350. Staff-to-children ratio requirements *	35
PART VI. PROGRAMS.....	38
22 VAC 40-185-370. Daily activities for infants.	38
22 VAC 40-185-380. Daily activities for toddlers and preschoolers.	39
22 VAC 40-185-410. Forbidden actions *	39
22 VAC 40-185-420. Parental involvement	40
22 VAC 40-185-430. Equipment and materials	41
22 VAC 40-185-440. Cribs, cots, rest mats, and beds *	45
22 VAC 40-185-450. Linens.....	47
22 VAC 40-185-470. Pools and Equipment.....	48
PART VII. SPECIAL CARE PROVISIONS AND EMERGENCIES.....	48
22 VAC 40-185-490. Preventing the spread of disease *	48
22 VAC 40-185-500. Hand washing and toileting procedures *	49
22 VAC 40-185-510. Medication *	51
22 VAC 40-185-520. Over-the-counter skin products *	53
22 VAC 40-185-530. First aid training, cardiopulmonary resuscitation (CPR) and rescue breathing *	56
22 VAC 40-185-540. First aid and emergency supplies.	57
22 VAC 40-185-550. Procedures for emergencies *	57
PART VIII. SPECIAL SERVICES.....	59
22 VAC 40-185-560. Nutrition and food services *	59
22 VAC 40-185-570. Special feeding needs.....	63
22 VAC 40-185-580. Transportation and field trips.....	63
22 VAC 40-185-610. Evening and overnight care.	63
GENERAL QUESTIONS *	64
CODE OF VIRGINIA.....	65
Chapter 18.....	65
Appendix A.....	66

PART I. INTRODUCTION

22 VAC 40-185-10 Definition: Balanced Mixed-Age Groups
TA 0002 deleted 11/12**22 VAC 40-185-10 Definition: Balanced Mixed-Age Groups**

Question: If a three-year-old leaves a balanced mixed-age group during the middle of the year, can this child be replaced with a five-year-old?

Answer: Each situation must be evaluated individually. No group can have exactly 1/3 of each of the ages since children will turn different ages throughout the year. While the term “planned” was used to allow flexibility, there needs to be a commitment from the center to have 1/3 in each of the age groups. At times there will not be exactly 1/3 in each age group since children will have birthdays or a child may leave unexpectedly. (0001-08/08)

Question: Will licensing staff look through each child’s record for every child in a balanced mixed-age group to determine that the group is balanced?

Answer: While licensing staff may need to check each child’s record, it is suggested that centers use a class roster that shows each child’s date of birth. This will help operators maintain a balanced group as well as simplify the process for licensing staff to verify that there is a balanced mixed-age group. (0003-08/08)

Question: Can children from another room be included in a balanced mixed-age group when some of the children in the balanced group are not in attendance, such as at the beginning or end of the day?

Answer: No. This would not be allowed unless regular ratios are used. The definition means that a set group of children are together for a set period of time. (0004-08/08)

Question: Can a two-year-old child who will be three years old by October 1 be enrolled in a balanced mixed-age group?

Answer: The definition of a balanced mixed-age group states that the program needs to be for three-through five-year-old children. Public schools have allowed a 30 day leeway so four-year-old children who will be five by September 30 can attend kindergarten during September. Based on this precedent, a two-year-old child who will be three by September 30 is allowed to attend a balanced mixed-age group during the month of September. (0005-08/08)

22 VAC 40-185-10 Definition: Child Day Program

Question: If a licensed child day center infrequently offers child care outside its normal hours of operations, (i.e., Parent’s Night Out, New Years Eve, summer sleep over, etc.), does Licensing have jurisdiction/responsibility over these activities?

Answer: The definition of a child day program is “a regularly operating service arrangement for children where, during the absence of a parent or guardian, a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child under the age of 13 for less than a 24-hour period.” If the child care that is offered outside the center’s normal hours of operation is offered monthly or more frequently and requires the parent to pay a fee, it is subject to the requirements of the Standards for Licensed Child Day Centers. (0006-08/08)

22 VAC 40-185-10 Definition: Programmatic Experience

Question: May unpaid experience working with children or experience in an unregulated child care environment count as programmatic experience?

Answer: Unpaid programmatic experience, and experience in an unregulated child care environment may be counted when determining staff qualifications. (0007-rev 02/11)

22 VAC 40-185-10 Definition: Resilient Surfacing (Indoor)

Question: Describe indoor resilient surfacing.

Answer: The rubber mats/tiles shown in the chart on pages 6-7 of the National Program for Playground Safety's "Selecting Playground Surface Materials: Selecting the Best Surface Material for your Playground" would be an example of resilient surfacing that could be used indoors. Otherwise, there is no distinction in the standards between indoor and outdoor resilient surfacing. (0008-08/08)

22 VAC 40-185-10 Definition: Sanitize

Question: Our program has been prohibited from using bleach to sanitize toys, tables, etc. What else can we use?

Answer: The CDC definition of sanitize is "treated in such a way to remove bacteria and viruses from inanimate surfaces through using a disinfectant solution (i.e., bleach solution or commercial chemical disinfectant) or physical agent (e.g., heat). The surface of the item is sprayed or dipped into the disinfectant solution and allowed to air dry after use of the disinfectant solution" If a bleach solution is not used, a commercial chemical disinfectant may be used as long as the surface is sprayed or dipped into the disinfectant and allowed to air dry. The label should indicate 'hospital grade' germicide or disinfectant, there will be an EPA registration number on the bottle, and manufacturer's instructions must be followed exactly. (0245-11/12)

Question: We have heard that the health department indicated that after sanitizing a surface with a bleach solution, you are required to air dry the surface for only 2 minutes. Can this be incorporated into the CDC interpretation of sanitize?

Answer: Yes. If a bleach solution is used to sanitize a surface, 'air dry' can be interpreted as letting the surface sit for at least 2 minutes after spraying or dipping the surface. This is reasonable because the Health Department, Smart Beginnings, and Caring for our Children 3rd edition have each indicated that letting a surface air dry for 2 minutes after spraying with a bleach solution is adequate to kill most germs in the childcare setting. If the surface is not dry after 2 minutes, the center may use a clean disposable paper towel to dry the surface. If any other solution is used to sanitize, the center must follow manufacturer's instructions on how to sanitize and any requirements to sit or air dry. 0246-11/12)

Question: Are Lysol wipes or Lysol spray permitted to sanitize?

Answer: Lysol (or any other brand) wipes are not permitted because the definition of sanitize requires 'the surface of the item is sprayed or dipped into the disinfectant solution and allowed to air dry'. Wipes cannot dip or spray, so they would not meet the requirement. If not using a bleach/water solution, the spray must be a commercial chemical disinfectant approved by the US EPA, with manufacturer's instructions followed. The label should indicate 'hospital grade' germicide or disinfectant and there will be an EPA registration number on the bottle. The manufacturer's instructions must be followed exactly. (0218-09/11)

22 VAC 40-185-10 Definition: Special needs program and therapeutic child day program (related standards 22 VAC 40-185-100, 110, 120, 190.C, and 210.B.)

Question: When does a program that has a special needs child or special needs children become a "special needs program" or "therapeutic program"?

Answer: When a program only serves children with special needs, then the program is considered a "special needs child day program" and is responsible for meeting the related standards. If a "special needs child day program" develops, works with, and/or uses children's individual service, education or treatment plans with the goal of improving the functional abilities of the children in care, it is a "therapeutic child day program" and responsible for meeting the related standards. (0009-08/08)

PART II. ADMINISTRATION

22 VAC 40-185-40.C Interviews with Children

Question: Must licensing staff have parental permission to conduct a private interview with a child when there is suspected child abuse or neglect?

Answer: The standard requires that..."no private interviews may be conducted with any child without prior notice to the parent of such child." Therefore, licensing staff are required to notify, not necessarily obtain permission of, the parent prior to conducting a private interview with a child. However, the Division of Licensing Program's policy requires licensing staff to attempt to obtain parental permission before conducting a private interview with a child. If this is not possible and the situation is of high risk, the private interview could still occur. (0010 - rev 07/10)

Question: May licensing staff accompany a child protective service (CPS) worker, when CPS is conducting a private interview with a child, without prior notice to the parent?

Answer: Yes, licensing staff may accompany a child protective service (CPS) worker without prior notice to the parent, if the CPS worker is conducting an interview of a child when there is suspected child abuse or neglect. (0211 – rev 07/10)

22 VAC 40-185-40.M 14 year old child attending

Question: What are the requirements for a 14 year old child attending a licensed child day program?

Answer: When a child 13 years and older is receiving supervision, all requirements for children must be met. (0219-09/11)

22 VAC 40-185-50.A Children's records made available to parents

Question: What records are required to be made available to parents, as required by 22 VAC 40-185-50.A?

Answer: Children's records include what is required by 22 VAC 40-185-60, Children's records and 22 VAC 40-185-120, Individual service, education or treatment plan for therapeutic child day programs. If a center chooses to keep any other information or documents about the child in the child's file that is not required by 22 VAC 40-185-60 or 22 VAC 40-185-120, that additional information becomes part of the children's record and therefore the requirement to make children's records available to parents on request (22 VAC 40-185-90.A) applies. (0242-09/11)

22 VAC 40-185-50.A Confidentiality of children's records

Question: Can a facility post a child's list of allergies in the center without violating the confidentiality of the child?

Answer: Because of the safety afforded a child when others know his/her allergies, it would be reasonable to post them in the center. Posting of child-specific allergy information in the center is permissible only after the parent has provided specific written permission for the posting of the allergy information. (0011-08/08)

22 VAC 40-185-50.B Records and reports on children required to be maintained for 2 years after termination

Question: What records and reports on children must be maintained and made accessible for two years after termination of services to a child?

Answer: The following written records or reports must be maintained and made accessible for two years after termination of services to a child:

22 VAC 40-185-60.A, Children's records

22 VAC 40-185-80.A-B, Attendance records and reports

22 VAC 40-185-110.A-B, Individual assessment for therapeutic child day programs

22 VAC 40-185-120, Individual service, education or treatment plan for therapeutic child day programs

22 VAC 40-185-350.F, Parent's permission and assessment to assign child to different age group

22 VAC 40-185-480.B, Parent's permission for child to swim and statement about swimming skills

22 VAC 40-185-510.A.2, Parent's permission for center to administer medication

22 VAC 40-185-510.L, Record of medication given to children

22 VAC 40-185-510.C.3, authorization from parent and physician for long term medication

22 VAC 40-185-550.M, Injury records

22 VAC 40-185-570.C, Formula records

22 VAC 40-185-580.L, Parent's permission for transportation and field trips (0243-09/11)

22 VAC 40-185-50.C Electronic records

Question: Are electronic files kept on computers, laptops, or external web-based servers an acceptable “central location” for storing general records?

Answer: Yes, electronic files are an acceptable method for storing general records: However, if electronic files are used, provisions must be in place to address “securing essential documents” in an emergency as required by 22 VAC 40-185-550.B.3.b (securing essential documents for evacuation emergencies) and 22 VAC 40-185-550.B.4.b (securing essential documents for shelter-in-place emergencies). (0200-04/09)

22 VAC 40-185-60 Children’s records

Question: Must a facility have printed hard copies of all required children’s records?

Answer: A facility is not required to keep printed, hard copies of all children’s records: However, provisions must be in place to address “securing essential documents” in an emergency as required by 22 VAC 40-185-550.B.3.b (securing essential documents for evacuation emergencies) and 22 VAC 40-185-550.B.4.b (securing essential documents for shelter-in-place emergencies). (0201-04/09)

22 VAC 40-185-60.A.5 Children’s records

Question: May a custodial parent request that the center limit access and information about the child to the non-custodial parent?

Answer: A center may comply with a custodial parent’s request that the center limit the non-custodial parent’s information about and access to the child only if the center is presented with appropriate legal paperwork. The Code of Virginia, §22.1-4.3, requires that unless a court order has been issued to the contrary, the non-custodial parent shall not be denied the opportunity to participate in the child’s activities. The appropriate legal paperwork is a copy of the court order awarding sole custody of the child, or the authority to approve visitation arrangements, to one parent. The parent with sole custody of the child, or authority to approve the child’s visitation arrangements may (or may not) restrict the child’s contact with the parent who does not have custody or visitation approval. (0012- rev 02/11)

22 VAC 40-185-60.A.6 Parental agreements

Question: Do school bus drivers need to be listed on the agreement as a person the child can be released to?

Answer: School bus drivers do not need to be listed on a release agreement form. If a child is to be released to a school, then an agent approved to receive children from a daycare can do this. (0013-08/08)

22 VAC 40-185-60.B Proof of identity

Question: Is the center required to obtain/document proof of identity for children who attend the school where the center is located? What about for children who take a bus from another school to this school site?

Answer: No, viewing the child's proof of identity is not necessary when the child attends a public school in Virginia and the center assumes responsibility for the child directly from the school (i.e., after school program) or the center transfers responsibility of the child directly to the school (i.e., before school program). This guidance on Proof of Identity is from the guidance document located on the VDSS website under CDC - Guidance Documents. http://www.dss.virginia.gov/files/division/licensing/cdc/intro_page/current_providers/guidance_procedures/proof_of_child_identity_and_age.pdf (0247-11/12)

22 VAC 40-185-70.A.4 Staff records

Question: What documentation is needed for a high school or college degree?

Answer: If a person attended college there is no need to view documentation of a HS diploma. The center must verify and document that its employee graduated from high school or has obtained a GED. This could be documented by obtaining a transcript, a copy of the diploma, or a staff person signing that he/she called the appropriate educational authority and verified graduation. When education was obtained in a foreign country or obtained in this country and records are not available, a sworn affidavit must be submitted, giving the name and address of the school or schools attended, dates attended, whether the person attended full-time or part-time, the courses completed and length of the courses. The affidavit should be accompanied by a letter or letters from school authorities stating that the records are not available, if applicable and possible. If a letter is unobtainable an AV should be requested by the facility. (0014-08/08)

Question: Could driver qualifications be covered under 70.A.4?

Answer: The standard requires written documentation of any certifications; this would include a valid driver's license. (0015-08/08)

22 VAC 40-185-80 Attendance records; reports

Question: How quickly must a provider or staff person report a suspected case of child abuse or neglect?

Answer: Child abuse or neglect should be reported as quickly as possible in order to reduce the possibility of further abuse or neglect. Section 63.2-1509 (A) of the Code of Virginia requires that persons "...who have reason to suspect abuse or neglect shall report the matter immediately." Immediately is defined by Merriam-Webster dictionary as "without an interval of time," and the Encarta dictionary defines immediately as "at once; without delay or without pausing beforehand." Therefore, providers must report suspected child abuse or neglect as soon as the abuse or neglect is suspected. The Code of Virginia further states that any person who is required to file a report and fails to do so within 24 hours of the first suspicion of child abuse or neglect, shall be subject to a fine or a Class 1 misdemeanor. (0016 – rev 11/12)

22 VAC 40-185-90.A.1 Authorization for emergency medical care

Question: Is it necessary for a parent or guardian objecting to emergency medical care to state this in writing?

Answer: If there is an objection to seeking emergency medical care, a written statement should be obtained from the parent or guardian that states their objection and the reason for their objection. (0017-08/08)

22 VAC 40-185-90.A.3 Authorization for emergency medical care

Question: If a center has the parent's signature that he/she will inform the center of a reportable communicable disease, but the parent does not do so, should a violation be issued?

Answer: No. As long as the parent signed a statement saying they would do so, a violation should not be issued. (0018-08/08)

22 VAC 40-185-100-120 Inclusive child care

Question: How can child care centers be better inclusive child care settings?

Answer: 1. Embrace the concept of inclusive child care. Inclusive child care settings are ones in which all children, those with and without disabilities, have an opportunity to play and learn together. It is one in which the special needs and interests of each child, including those with disabilities, are addressed. 2. Know as much as possible about the uniqueness of each child in the group. One way to accomplish this is to request a completed survey from each family upon entrance of the child into the program. 3. Become a child development expert. Expertise in child development helps staff plan appropriate experiences for children, plan for and reinforce skills in areas where children with disabilities have age-appropriate development, and know when to seek special help for children. 4. Learn about disabilities. The child's family and other professionals who work with the child are great resources for information about specific disabilities. 5. Take advantage of resources available in the community. With parent's permission, center staff should expect and request information and assistance from the local early intervention for infants and toddlers program staff and from special education staff. In addition, if a physical or occupational therapist is providing therapy at the center, staff are encouraged to ask for ideas about how to reinforce within the normal day-to-day routine what the therapist is doing with the child. (0019-08/08)

22 VAC 40-185-130.A Immunizations

Question: Is there an exemption to the requirements of immunizations for children whose parent does not have their child immunized because the parent fears that certain immunizations can lead to autism?

Answer: Virginia does not allow for "philosophical" objections to immunization requirements. An objection must be medical (with specific reason and the health care provider's signature); or, religious (with a notarized affidavit).

The Certificate of Religious Exemption is found:

http://www.doe.virginia.gov/support/health_medical/certificate_religious_exemption.pdf. A

child cannot attend the program without one of the following: a medical exemption, a religious exemption, or an immunization record. If the parent does not provide one of the three acceptable forms of documentation, the child cannot be enrolled in a CDC.

(0248-11/12)

Question: Are children currently enrolled in licensed child day centers required to be immunized for chicken pox? If so, what if their parents refuse?

Answer: The Code of Virginia, at §32.1-46 states: "All children born on or after January 1, 1997, shall be required to receive immunization against varicella zoster (chicken pox), not earlier than the age of twelve months." Documentation of immunization must be submitted prior to enrollment and signed by a physician, his designee, or an official of a local health department. For those currently in care, additional immunizations shall be obtained according to the requirements at 22 VAC 40-185-130. If a parent submits an affidavit to the provider that immunizations conflict with the parent's religious tenants or practices, the child does not have to be immunized. Further, if there is laboratory confirmation that the child is immune to chickenpox or there is a reliable medical history of the child's having had chickenpox, the child does not have to be immunized. The child does not have to be immunized if a physician or local health department official states that the immunization may be detrimental to a child's health. (0020-08/08)

22 VAC 40-185-150 Form and content of immunizations reports for children

Question: What is the most current guidance on documentation requirements for immunizations?

Answer: As of April 1, 2011 the following guidance lists the current requirements for children's immunization documentation:

1. An immunization form must be in the child's record by the date of the child's admission.
2. Immunizations must be recorded and dated on either the Health Dept form (MCH 213 F or MCH 213 G) or a physician's form, have the child's name, and be signed or stamped and dated by a licensed physician, the physician's designee, or an official of a local health department.
3. For all immunizations a child receives after 7/1/11, the form must contain a statement (typed or handwritten) that the child is adequately immunized.
4. If a physician's form is used, Health Dept form (MCH 213 F or MCH 213 G) is not required to be in the file, nor attached.
5. The requirements for updates every six months for children under the age of 2 and between the child's 4th and 6th birthday remain the same. The form used to record these updates must contain all the information above.
6. If a provider has conditionally admitted a child whose immunizations are not complete, there must be documentary proof that the child has at least one immunization shot and there is a schedule for completion of all required immunizations. At the end of the 90 day conditional enrollment period, the child's record must contain all the information outlined in this memo.

The current Form MCH is available at the following website:

<http://www.vahealth.org/childadolescenthealth/schoolhealth/forms.htm> (0021-rev 03/11)

22 VAC 40-185-160.A. Tuberculosis screening for staff and independent contractors

Question: Would TB test be required for book mobile personnel where there is a routine schedule for the book mobile to come to the center? Would they be considered independent contractors?

Answer: This type of activity should be equated to a field trip to a local library. Since the librarian (bookmobile driver) is not in control of any children then he/she would not be considered a volunteer and would not need a TB test. If the role of the librarian (bookmobile driver) changes then his/her classification might change to volunteer status and thus need a TB test. (0023-08/08)

22 VAC 40-185-160.B.1 Tuberculosis screening for staff and independent contractors

Question: Will the center's RN be allowed to complete the TB clearance statement if the physician has declared the RN as his/her designee in writing?

Answer: A "physician's designee" means a physician, licensed nurse practitioner, licensed physician assistant, licensed nurse (RN or LPN), or health assistant acting under the supervision of a physician. The authorization should include that the designee is acting under a specific physician's supervision. (0024-08/08)

22 VAC 40-185-160.C Tuberculosis screening for staff and independent contractors

Question: Does the "date of the first screening" refer to the date the test was administered or the date of the evaluation?

Answer: This refers to the date of the evaluation. (0025-08/08)

22 VAC 40-185-160.D Tuberculosis screening for staff and independent contractors

Question: What should we do if a person tests positive to the TB test but the person does not have active TB? What if the doctor states the person does not need an evaluation for four years?

Answer: Every two years the person would need to submit documentation from a physician, his designee, or an official of the local health department that there is a contraindication to the Purified Protein Derivative (PPD) and that the person has been determined to be free of communicable tuberculosis. (0026-08/08)

PART III. STAFF QUALIFICATIONS AND TRAINING

22 VAC 40-185-180.B. Language issues

Question: How fluent does an individual need to be in English to work with children in a center?

Answer: The degree of fluency in the English language is dependent on an individual's level of responsibility. The more responsibility an individual has for the care of children, the more fluent the individual must be. At a minimum, any individual working in the facility should be able to understand basic verbal directions during an emergency. In addition, an individual must be able to understand English well enough to carry out assigned job responsibilities (e.g., janitor – needs to understand warnings on cleaning products; cook – needs to know food ingredients to avoid potential allergic reactions). (0027-08/08)

22 VAC 40-185-180.B.1 Records

TA 0028 deleted 11/12

22 VAC 40-185-180.D Moving traffic violations

Question: Once traffic violations are disclosed, at what point would these moving violations affect whether or not the staff person can continue transporting the children? If a DMV check is done, does the licensee still need to ask the applicant/staff person for more information?

Answer: This standard does not stipulate what should be done with the information received. If there are several high risk traffic violations the licensing staff may want to consider citing Standard 340.A – “staff ... shall ensure ... protection” Because the DMV report will not have moving traffic violations in other countries, or possibly other states, the licensee needs to ask an applicant/staff person to disclose all moving traffic violations regardless of having obtained a DMV report. However, if they do not have a valid driver’s license then standard 70.A.4 would be violated. (0029-08/08)

Question: How must the center document the follow-up of traffic violations and how often?

Answer: If a staff person’s responsibilities include driving, it is expected that the application will ask the applicant to disclose moving traffic violations. The requirements of this standard must be communicated (e.g., in the application, staff handbook) in writing to staff who transport children. There is no requirement for ongoing reporting or documentation; however, providers should be encouraged to periodically ask that this information be updated. A DMV check would certainly ensure that any moving traffic violation information submitted by an applicant or staff person is complete and accurate. The standard will have been violated if there is no documentation that the staff who transport children have disclosed whether or not they have had any moving traffic violations during the 5 years prior to or during employment or assignment as a driver. Disclosure of moving traffic violations must be noted. (0030-08/08)

22 VAC 40-185-190 Online training to meet qualifications

Question: Is online training, such as <http://www.cceionline.edu/> permitted to meet program director qualifications?

Answer: Generally, online coursework cannot be used to meet director qualifications UNLESS all of the requirements in 22 VAC 40-185-190.A.4.b are also met. (0220-09/11)

22 VAC40-185-190.A.2 Qualifications

TA 0033 deleted 11/12

22 VAC40-185-190.A.2 Qualifications

Question: Please provide more guidance to define the term ‘child related field’.

Answer: The interpretation of “child related field” as required by 22 VAC 40-185-190 and 22 VAC 40-185-210 is an endorsement or degree that includes instruction pertaining to the growth, development, physical or mental care, or education of children, including, but not limited to: anthropology, child development, child guidance/counseling, early childhood, education, human services, nursing, physical education, psychology, recreation, social work, sociology, and special education. These endorsements or degrees in a “child related” field would meet the requirements for 22 VAC 40-185-190.A.1 and 2 and 22 VAC 40-185-210.A.2 as long as the individual also meets the programmatic experience requirement.

For an individual who wants to meet the program director qualifications under 22 VAC 40-185-190.A.3 with 48 semester hours of college credit of which 12 hours are in “child

related” subjects, the “child related” subjects would include any coursework that includes educational instruction pertaining to the growth, development, physical or mental care, or education of children ages birth through 13 years. Due to a large variation in degrees/course titles and content, it is impossible to list all endorsements/degrees/courses that may be counted toward staff qualification requirements. If there are any questions regarding whether a course or endorsement/ degree is child related, please contact your licensing inspector.

Note: If directors have qualified under prior guidance, they should not be re-evaluated. (0249-11/12)

Question: Does the elimination of “accredited” college in the standard regarding Program Director qualifications mean that any degree or endorsement is acceptable?

Answer: No. A graduate or bachelor’s degree, or endorsement in a child-related field from a college or university will be acceptable, even if the college or university is not accredited. “Degrees by mail” will only be accepted if there is documentation that the courses are taught by knowledgeable instructors and there is a formal system to assess the student’s comprehension of the subject. (0034-08/08)

22 VAC 40-185-190.A.4 and 210.A.3 Program director qualifications

Question: If a person has a community college’s 12-credit certificate (e.g., the Career Studies Certificate) does he/she meet the educational qualifications to be a Program Director?

Answer: Twenty-one community colleges in the Virginia Community College System offer certificate and/or degree programs designed to enhance the qualifications of early childhood and child care professionals. Community college certificates with a minimum of 12 credits in a child-related field are considered to exceed a 120-clock hour child development credential. Therefore, providers are allowed to accept these community college certificates as meeting the education requirement for Program Directors and Programs Leaders. This is a new certificate since the effective date of the current regulation. A person with this certificate would not have the educational requirements of standard 190.A.4.a but would exceed the educational requirements of 190.A.4.b. An individual will need to have a minimum of two years of programmatic experience with one year in a staff supervisory capacity in order to fully qualify as a Program Director. (0035-08/08)

22 VAC 40-185-190.A.4.a Program directors with a one-year early childhood certificate

Question: Another state offers a “child care technician” certificate consisting of 56 quarter hours. Does this certificate meet the education qualification in this standard of a “one-year early childhood certificate...”?

Answer: Licensing staff will evaluate these types of certificates on a case by case basis using the requirements outlined in 190.4.b.1-4. (0036-08/08)

22 VAC 40-185-190.A.4.b. Program director qualifications

Question: Can home study courses count towards the 120 hours requirement?

Answer: A home study course that meets all of the requirements of 190.A.4.b.1-4.a-d (specifically, but not limited to, the competency in a classroom setting) would be acceptable for a “child development credential”. (0037-08/08)

22 VAC 40-185-190.A.4.b.1-4. Program director qualifications

Question: Does the program director have to keep a child development credential current?

Answer: Once an individual qualifies as program director using the educational background requirements at 190.A.4.b.1-4 the person is always qualified as program director. (0216-03/11)

22 VAC 40-185-190.A.5.a Program directors with only a high school diploma

Question: What documentation is needed to verify that a home school program was approved by the state?

Answer: Documentation of this approval should be in the staff person's file. In Virginia, a parent who elects home instruction in lieu of school attendance must notify the superintendent in August of intent to do so for the coming year. Some superintendents will provide these parents with documentation of their acceptance of the home school program. If letters of acceptance are not routinely given, a superintendent should be able to provide this verification upon request. If there is difficulty obtaining this documentation, or if the home school program occurred outside Virginia and there is no documentation of approval, contact your licensing staff for further guidance.

Parents who home school in Virginia must submit by the following August 1 evidence of the child's academic achievement. Local school boards in Virginia usually do not award diplomas to students who are not enrolled in local public schools under their supervision. Therefore, students taught at home may not receive diplomas unless those students are enrolled in a correspondence program or other program that includes awarding a diploma or other exiting credential. The Department of Education may approve certain correspondence schools. If a particular correspondence school is not approved by the Department of Education, the local superintendent may still possibly approve the correspondence school. (0041-08/08)

22 VAC 40-185-190.A.6 Program director qualifications

Question: All directors hired before 6/1/05 will have four years to obtain a child care credential. Doesn't the other part of the standard also allow the director to choose to obtain three semester hours of college courses related to children until meeting a qualification option? This option could take more than four years to complete.

Answer: It is understood that the pursuit of a bachelor degree on this schedule could take longer than 4 years to complete. However, the requirements for such a degree are greater and thus more time is allowed to obtain it than a child development credential, hence the extra time to reach this higher level of education. (0043-08/08)

22 VAC 40-185-190.B. Management training

Question: Can a facility create its own management training? Is the 10 hour management training requirement applicable to programs like Head Start where the director may not have a need to know about budgeting?

Answer: A facility may construct its own management training provided it meets the criteria outlined in the standards and is documented accordingly. Reference the "Criteria for Provider Training" document (Appendix A in this document). Many Head Start programs do require their directors to do some forms of budgeting (e.g., supplies, snacks) – or directors may either subsequently acquire responsibilities or seek a position that does involve budgeting responsibilities. (0044-08/08)

Question: Who can conduct the management training?

Answer: Anyone who provides a 10 clock-hour minimum curriculum or course that satisfactorily covers the management functions of planning, budgeting, staffing and monitoring (per standards). Reference the “Criteria for Provider Training” document (Appendix A in this document). (0045-08/08)

Question: Are management experience and management training synonymous?

Answer: No. Management experience is defined as at least 6 months on-the-job training in an administrative position that requires supervising, orienting, training and scheduling staff. The training requires planning, budgeting, staffing, and monitoring. (0046-08/08)

Question: Does working as an Assistant Director count as management experience? How does this sort of experience need to be documented?

Answer: Yes. Working as an Assistant Director may count as management experience if the Assistant Director has had the same experience as a Director but just did not have ultimate authority or responsibility. It would also be assumed that the Assistant Director may not get credit for all of his or her hours of experience because the management responsibilities would have been shared with the Director and because the Assistant director often would have had additional, non-managerial duties. Each situation would need to be evaluated individually to determine what percentage of the hours should be counted. (0047-08/08)

Question: Head Start staff receive their orientation training from the central office and not from a program director. How will this affect the requirement for management training for the Program Director?

Answer: If the Program Director does not have experience in orienting staff then the PD would need to complete one college course in a business-related field, 10 clock hours of management training, or one child care management course that satisfactorily covers the management functions of (1) planning; (2) budgeting; (3) staffing; and (4) monitoring. (0049-08/08)

22 VAC 40-185-200 Program directors and back-up for program directors

Question: Does a qualified program director need to be on site 50% of the “center’s hours of operation” each day or 50% of the hours each week?

Answer: The program director is responsible of the oversight of a center’s program. This can be accomplished if the program director (PD) is present 50% of time the facility is open each week, and he/she therefore does not have to be at the center 50% of each day. This standard allows for one PD to manage the programming at two facilities. This is a difficult task logistically, but can be done. A thorough plan must be developed on how to deal with emergencies when the PD is needed, but not on site. An example might be that a PD is at one facility all day on Mondays and Thursdays, at another facility all day on Tuesdays and Fridays, and spends ½ a day at both on Wednesdays. (0050-08/08)

22 VAC 40-185-210.A.3

There is information applicable to this Standard in Section 22 VAC 40-185-190.A.4

22 VAC 40-185-210.A.4.a Program leader qualifications

Question: Program leaders with only a high school diploma need the required hours of training within the first month.

Answer: Yes. Program directors with verifiable expertise in the required subjects may facilitate the training. Reference the “Criteria for Provider Training” document (Appendix A in this document) (0051-08/08)

Question: How should the required hours of training be documented?

Answer: Documentation of training shall include: title of training or topic, instructor, place of training, date of training, and number of hours of training. The training hours should be documented in such a way that one can determine whether the training hours should be applied to the number of hours required to qualify as a Program Leader or towards the required number of annual training hours. (0052-08/08)

Question: Is Program Leader training transferable between centers?

Answer: In terms of a Program Leader who has completed his or her required hours of training at one particular center leaving to accept a Program Leader position at a separate center, the training hours may be transferred. This is true as long as the individual can provide adequate documentation of training. It is up to the next employer as to whether the new center requires any additional “in-house” training that exceeds the minimum training requirements as regulated by our standards. (0053-08/08)

Question: How do we apply 210.A.4.a to long term employees who have obtained this training/experience over a period of years?

Answer: If a person is promoted to Program Leader, then they must have the 24 hours of training required by the standard within the 6 months prior to being promoted or within 30 days after being promoted. A Program Leader will not need to redo the 24 hours of training if they transfer to another facility as long as they have documentation that they were qualified at the previous center. (0054 – rev 09/11)

22 VAC 40-185-210.C Program leader qualifications

Question: Does an individual promoted to a Program Leader in a “short term” program need to have the types and hours of training referenced in 260.A.4?

Answer: Yes. Since standard 210.C specifically references “experience” but not “training,” this standard only provides an exception to the minimum amount of experience a person in a short term program can have and still be promoted to Program Leader. These individuals must still complete the amount of training required in 210.A.4, unless the promoted person has one of the educational backgrounds listed in 210.A.1, 210.A.2, or 210.A.3. (0055-08/08)

22 VAC 40-185-230.C 13-year-old volunteers

Question: What records are needed for 13-year-old volunteers?

Answer: According to 22 VAC 40-185-40.M, if the 13-year-old volunteer is considered a child receiving supervision, the requirements for children which include children’s records would need to be met. If the 13-year-old child is considered a volunteer, no records are required. Note: child volunteers 13 through 15 years of age who work with children cannot be considered an aide or a staff member since the minimum age requirement for aides is 16 years. (0056-08/08)

22 VAC 40-185-240.C. Staff training and development

Question: Can mentoring count towards annual staff training requirements?

Answer: Yes. Several organizations offer mentoring for child day programs- such as infant toddler specialists and child care health consultants. Mentoring, which would typically be conducted one-on-one or in a small group setting, is a staff development activity that can help providers and staff learn how to implement information relevant to their job responsibilities in their specific program. Mentoring could count towards training hours, especially if it covers time spent with staff in discussion and feedback about the program. It would be up to the mentoring organization to determine if the mentoring qualifies as training and how many hours to award. The mentoring organization would need to provide documentation to the child day program stating the number of training hours to be credited to the individual receiving the mentoring. (0250-11/12)

Question: Can home study courses count towards staff development requirement?

Answer: Reference the "Criteria for Training" document of 04/13/05 for general guidelines in determining which training should be counted toward meeting the requirements as set out in the regulations. Anyone interested in a credential should contact the credentialing agency. (0057-08/08)

Question: Does "shall attend" rule out videos? What about reading a book?

Answer: A video may be used if there is discussion of the video and someone knowledgeable of the topic is present for the discussion. A video may also be used as part of a group activity, if a knowledgeable person is present for the discussion. Also, the Division of Licensing Programs-sponsored T.V. training is acceptable when the Division has determined that assignments have been satisfactorily completed. It is acceptable to read a book on a topic identified in this section as part of a structured in-service training conducted by a trainer knowledgeable of the topic. (0058-08/08)

Question: If a staff member has not attended the required amount of annual training for several years, what is he or she required to do?

Answer: If the annual training requirements are not met this would be a violation. It is possible that the Action to Be Taken on the facility Violation Notice would specify that the training be made up by an agreed upon date, but this would be on a case by case basis. There is no general requirement that staff would have to make up the training. (0059 – rev 03/11)

Question: What date should be used when calculating the number of hours for annual staff training, hire date or the date of implementation of this standard?

Answer: Every staff will need to have 10 hours of training by their anniversary date if it falls after June 1, 2005. The number of hours will increase until 2008, but the way they are calculated shall remain consistent. (0060-08/08)

Question: Standard 240.C.5.a excludes vehicle drivers from the annual training requirement. It seems as if cooks, who never work with a group of children, should fall under this standard.

Answer: If a cook does not work directly with children at the facility then he or she would not be required to meet the annual training requirement outlined in the standards. A cook may need to take some form of training required by the Health Department or in order to keep his or her food handlers card. Also, cooks may be encouraged (but not required) to attend training sessions on meeting children's nutritional needs, since this is a key element in their duties and responsibilities. (0061-08/08)

22 VAC 40-185-240.C.4 Daily health observation training

Question: May daily health observation training count toward the required hours of annual training?

Answer: No, training in daily health observation may NOT count toward the required hours of annual training. (0062-08/08)

Question: Can training in balanced, mixed-age groups and CPR count as part of the required hours of annual training?

Answer: Training that is taken to meet the requirements of 22 VAC 40-185-350.E.7.c may not also be counted as part of the required annual training hours. The abovementioned training may be used for meeting the requirements of one of the standards but not for both of the standards. If a staff member initially takes the above- mentioned training for annual training and is later required to have this training to meet job responsibilities, it would not be necessary to repeat the training, but other training would need to be taken to accumulate sufficient hours for each purpose. Standard 240.C.4. states that up to two hours of training in first aid or cardiopulmonary resuscitation may counted as staff development activities. (0063-08/08)

22 VAC 40-185-240.C.5.b Staff training and development

Question: The standard for training requirements for cooperative preschools is unclear. Parent volunteers at parent cooperatives are counted in the staff-to-children ratios. Will they be required to meet the required hours of annual training for regular staff?

Answer: There is now an exception that deals directly with cooperative preschool centers. 240.C.5.b states "Parents who participate in cooperative preschool centers shall complete four hours of orientation training per year." 240.A.1-6 details the training required by the end of a staff member's first day of assuming job responsibilities. (0064-08/08)

Question: Does standard 240.C.5.b apply to all parents who participate or only those that supervise/work with children?

Answer: This is referencing parents who participate in a cooperative preschool who are counted in the staff-to-children ratios or work with a child without sight and sound supervision of a staff member. (0065-08/08)

Question: Who do organizations contact if they want to submit a medication training policy?

Answer: Medication administration training courses that have not been approved by VDSS should be submitted to the Division of Licensing Program's Children's Programs in the Home Office, for approval. (0066-08/08)

22 VAC 40-185-240.D.2.c. Medication administration training

Question: Is a center-required to have a staff person trained in medication administration?

Answer: If a center administers medication or states in its policy that it will administer medication, then a person trained to do so must be on staff. A staff person trained to administer medication must be present: 1) whenever a child needing an emergency medication is present; or 2) at the time a non-emergency medication is required to be given. If a center has a policy stating that it will not administer medication, it may choose not to have a staff person trained in medication administration. However, this is strongly discouraged because there are certain medications that a center is required by law to administer. DSS is unable to provide guidance on which medications must be administered by law because medication needs vary from child to child. A center should seek legal guidance in making its decision about administering medications. (0197-04/09)

Question: If only doing ointments, etc., do you need to have medication administration training?

Answer: Medication training is not required to administer ointments unless it is a prescription ointment, and then it would be required. (0068-08/08)

Question: What medications are required by law to be administered?

Answer: There are none required by law. Standard 240.D.2.c refers to “medications ... required ... by law.” This reference was intended to legally protect providers who would respond to a life threatening or emergency situation by administering medications that they would not normally administer (i.e., “the good Samaritan Act”). (0069-08/08)

22 VAC 40-185-240.D.4. Emergency medications

Question: When referring to Albuterol as an emergency medication, is it always considered an emergency medication as in any Albuterol prescribed for a child or only when specifically prescribed as emergency medication?

Answer: It is possible that Albuterol may be prescribed for a child on a regular basis, e.g., twice a day, rather than for use only in an emergency. The prescription label or doctor’s order will determine whether or not it should be used only as an emergency medication. (0070-08/08)

Question: Does “in the care of” mean that a MAT or PMAT certified person must be on site or on the field trip when there is a child who needs, or may need, emergency medication or does it mean a certified person needs to be in every class or in every group of children if one of the children needs or may need emergency medication?

Answer: As with CPR and First Aid, the intent of the standard is that there is always at least one person available on site, and on a field trip, to administer any form of medication, including “emergency medications,” in a timely manner. For emergency situations, any response over 5 minutes would not be considered “timely.” In the case of emergency medications, having a PMAT or MAT certified person in each classroom might be necessary if a facility is very large or a MAT or PMAT certified person can’t immediately respond to an emergency because he/she is directly supervising children, or other situation that would prohibit a timely response. If a facility does not have a certified MAT or PMAT staff person in each room, the facility’s medication administration policy should identify how the facility will respond to emergency medication needs in a timely manner. (0071-08/08)

22 VAC 40-185-240.D.5-6 Daily health observation TA 0072 deleted 11/12

22 VAC 40-185-240.D.5-6 Daily health observation

Question: Does training in daily health observation have to be given by physician, RN, or official of a local health department?

Answer: No, the standard does not require this. The training should be from someone who is knowledgeable in the topic. (0251-11/12)

PART IV. PHYSICAL PLANT

22 VAC 40-185-270.A Areas and equipment clean, safe and operable

Question: Is a pacifier attached to a stuffed animal, such as a wubbanub, acceptable to use at a center for infants?

Answer: No. 22 VAC 40-185-270.A requires areas and equipment used in a center to be safe. The American Academy of Pediatrics and other organizations that work to prevent SIDS (Sudden Infant Death Syndrome) recommend no stuffed toys in a crib with an infant. A wubbanub is a pacifier attached to a stuffed animal designed to be used while a child is lying down and/or sleeping. There is no need for this product in a child day center; a pacifier alone works just as well to calm and soothe an infant. See TA on 22 VAC 40-185-430.M 3. (0252-11/12)

Question: This standard no longer references “objects small enough to be swallowed.” Are these small objects now allowed?

Answer: No, objects small enough to be swallowed are still choking hazards and are now covered under 22 VAC 40-185-430.B which requires materials and equipment to be (a) an appropriate size for the child using it and (b) age and stage appropriate. Licensing staff will use discretion on citing a violation regarding small objects. (0075-08/08)

Question: Are licensing staff to cite rust and peeling paint on metal equipment?

Answer: Yes, rust and peeling paint on metal equipment are a violation of 22 VAC 40-185-270.A that states: “Areas and equipment of the center, inside and outside, shall be maintained in a clean, safe and operable condition.” Paint, especially paint dating earlier than 1978, could contain lead, which can put children at increased risk for lead poisoning. Rust can reduce metal’s integrity. (0076-08/08)

Question: What, if anything, can be done with wooden equipment that has splinters?

Answer: Licensing staff will consult with center staff that rough, splintered wood might be able to be sanded enough that there are no longer splinters. (0077-08/08)

Question: How will licensing staff handle the safety hazard of large tree roots, stones, drain pipes, etc., that are exposed due, in part, to erosion?

Answer: Licensing staff will identify the hazard, e.g., exposed drain pipe could pose a tripping hazard or exposed root in use zone of climber could be struck by a child in a fall from the climber. These types of safety hazards fall under 22 VAC 40-185-270.A: “Areas and equipment of the center, inside and outside, shall be maintained in a clean, safe and operable condition.” (0078-08/08)

Question: Are metal gates/fences that have long protruding bolts and protruding wire considered a hazard?

Answer: Yes. “Areas and equipment of the center, inside and outside, shall be maintained in a clean, safe and operable condition.” (0079-08/08)

Question: Is it safe to use polyvinyl chloride (PVC) pipe as a containment barrier/border?

Answer: It has been documented that in temperatures less than 32 degrees Fahrenheit, PVC pipe can become brittle and break into pieces. Additionally, if the pipe is hollow, it is more likely to break if jumped on, or kicked, etc. Being hollow also increases the likelihood that the pipe will easily move, necessitating some measure to stabilize it, such as staking it, or filling it with sand, etc.

Consequently, licensing staffs should consult with providers who are considering the use of PVC pipe as a containment barrier/border option, or who are already using it, to alert them to the risks of using it as a containment barrier/border on the playground. If PVC pipe is currently being used, it should be routinely monitored for breaks and cracks that could expose sharp edges. (0080-08/08)

22 VAC 40-185-270.A, 280 and 290 Buildings, hazards & physical plant

Question: In facilities used for more than child care (e.g., schools, churches, recreation centers), do all the areas used by children, or traveled through, have to meet all the physical plant related standards?

Answer: Any space used in the calculation of square footage is subject to all the physical plant related standards. Hallways, locker rooms, sanctuaries, etc. may or may not need to meet the physical plant related standards. If children routinely only travel through the area, then that area is not subject to the physical plant standards. However, if children routinely use (e.g., devotions, to change clothes) or stop in the area (e.g., wait in line until the cafeteria is ready to receive the children) then the area is subject to the standards. (0081- rev 03/11)

22 VAC 40-185-270.B Portable heaters

Question: Can a portable heater that is not being used in an emergency situation be used in a classroom? Can a center use a portable heater in areas of the center that are not used by children e.g. Director's office?

Answer: A portable heater can only be used in a center in case of an emergency and in accordance with manufacturer's instructions. The manufacturer's instructions will likely address children's accessibility to the heater. The standards do not specify where in the center the portable heater can be used. (0221-09/11)

22 VAC 40-185-270.E Drinking fountains

Question: Does the term "accessible" mean children can get to water at all times? Is it necessary for centers to take water with them when children are playing outside?

Answer: Children must have access to water at all times. There are numerous ways drinking water can be accessible during outside play time such as staff taking water and cups outside, having a water fountain outside, or having staff available to take children inside to get water. (0082-08/08)

22 VAC 40-185-280.B Hazardous substances and other harmful agents

Question: Is it acceptable to have a wall mounted soap dispenser containing soap that the manufacturer has labeled with, "Keep out of the reach of children" in a bathroom used by children?

Answer: Yes. Liquid soap that has a "Keep out of the reach of children" label usually claims to have, at a minimum, antibacterial properties. Although it is best practice to not use these types of liquid soaps, there is no prohibition against their use. Because of the manufacturer's claims and/or the ingredients, the warning label is required. However, the risk to children is at the lowest level – a low likelihood of harm, especially in the quantities of soap a child could obtain from a wall-mounted dispenser. Wall-mounted liquid soap dispensers that are securely fastened to the wall, that deliver soap "one squirt" at a time, and have a reservoir for the liquid soap that can be securely closed, shall be considered "inaccessible" to the children. This applies even if the liquid soap is labeled with, "Keep out of the reach of children." (0198-4/13/09)

Question: What is considered being “Kept in a locked place using a safe locking mechanism”?

Answer: Kept in a locked place using a safe locking mechanism means:

- Storage in a room or closet with a locked lock on the door, or a child safety device over the doorknob while children are in care. (This includes closets inside a room if the room has a locked lock on the door or a child safety device over the doorknob); or
- Storage areas or cabinets secured by a functioning child safety lock or latch that is used appropriately. If the safety lock/latch is broken or not in use, the substances are accessible and the facility will be cited for noncompliance. (0207-09/09)

Question: How do you determine if a substance is hazardous?

Answer: To determine if a substance is hazardous and needs to be kept in a locked place using a safe locking mechanism, look for the statement “Keep out of the reach of children” AND any of the following words on the product’s label:

- Danger
- Caution
- Warning
- Flammable
- Harmful if Swallowed
- Causes Burns
- Vapor Harmful
- Poison

(U.S. Consumer Product Safety Commission Requirements under the Federal Hazardous Substances Act: Labeling and Banning Requirements for Chemicals and Other Hazardous Substances) (0208-09/09)

Question: Do substances labeled “Keep out of reach of children” without any of the other words listed above on the label need to be kept in a locked place using a safe locking mechanism?

Answer: These substances do not have to be kept in a locked place using a safe locking mechanism, but they must only be used under adult supervision and otherwise must be inaccessible to children (See explanation of “Inaccessible” at question number 0168 under 22 VAC 40-185-520 of this document).

Exceptions: Hand sanitizers, liquid hand soaps, and sunscreen labeled “Keep out of reach of children” do not need to be inaccessible to children five years of age or older provided that the labels on the hand sanitizers, liquid hand soaps, or sunscreen do not contain any other warning words listed above and the products are used under adult supervision. (0209-09/09)

Question: Would toilet tank and bowl cleaners that hang inside the tank or bowl be considered unsecured chemicals in a CDC?

Answer: Since the sanitizers and cleaners contain potentially harmful chemicals and are accessible to the children via the water in the bowl, they should not be used in centers. (0083-08/08)

Question: Can toy cleaning systems that incorporate open inaccessible, but unlocked, containers of cleaning solutions be used in classrooms?

Answer: No. The best practice is to wash, sanitize, rinse and allow toys to air dry in between use by different children. Allowing containers that hold cleaning solutions to be stored unlocked in the classroom on a shelf that could fall or tip over is not acceptable. Cleaning systems are to be stored in a safe inaccessible area inside or outside the classroom. (0084-08/08)

22 VAC 40-185-280.B.2 Hazardous substances and other harmful agents. Exception

Question: For a program that provides care for infants and/or toddlers where the diapering or toilet training is consistently being done throughout the day, is having those diapering area's cleaning supplies inaccessible, but not locked in compliance with the standards?

Answer: This is an exception to the standard (280.B.) that all cleaning supplies and hazardous materials must be locked when not in use. An example of adherence to 280.B is when a table used for meals is being cleaned and the cleaning items are taken out of the locked area, used, and then returned to the locked area once the table is clean. This exception was created specifically to address issues when a similar procedure was applied to diapering. Because of the exception, there are times when cleaning supplies used in diapering do not have to be locked away when not in use.

If there are only infants in the room and diapering occurs many times throughout the day and the cleaning supplies are out of the reach of children, then the facility is in compliance. If toddlers are present, then their ability to access the cleaning supplies must be taken into consideration when determining compliance. If diapering only occurs during certain designated time frames (e.g., 10:00 to 10:15), then the cleaning supplies should only be unlocked during those same time frames and locked away all other times. (0085-08/08)

22 VAC 40-185-280.D Single service articles

Question: What is the definition of 'single service articles'?

Answer: The term "single service articles" reflects the health department definition regarding one time usage articles related to food service. The definition states that "single-service articles" means tableware, carry-out utensils, and other items such as bags, containers, placemats, stirrers, straws, toothpicks, napkins, paper towels, and wrappers that are designed and constructed for one time, one person use after which they are intended for discard. (0253-11/12)

22 VAC 40-185-280.I Hazardous substances and other harmful agents

Question: Can shaving cream be used with children or is it considered a hazardous art material because it is labeled "Keep out of the reach of children"?

Answer: Yes, shaving cream may be used with children as a tactile or sensory exploration material and should only be used under supervision of an adult. Shaving cream is not manufactured and sold as art material, it is categorized as a cosmetic or personal use item. Many cosmetic products are required to have "Keep out of the reach of children" on the labels. The warning is not designed to prohibit the use of the product by children, but is intended to caution that children should only use the product with adult supervision.

For additional assistance in determining if a product is classified as a household product, personal care item, or art material, visit the United States Department of Health and Human Services website. The website provides information on a variety of household products which are sorted into broad categories such as: auto products, landscape/yard, personal care, arts& crafts, pet care and inside the home. <http://householdproducts.nlm.nih.gov/index.htm>
(0205-09/09)

Question: How do we determine what materials are considered to be hazardous art materials?

Answer: All materials manufactured, packaged and sold as art supplies are required to be tested and warning labels must be placed on ALL hazardous art materials. ASTM D - 4236-94 Standard Practice for Labeling of Art Materials Including Children's Art and Drawing Products requires testing and labeling for all art materials that are intended for use in the household or by children. That

includes items such as: chalks, charcoal, clays, crayons, felt tip markers, finger paints, glues, pastes, pastels, tempera paints, and watercolors. Art materials that are safe for use with children will have the following label: “Conforms to ASTM D-4236.”

When selecting and using items packaged as art materials, select only those products which are labeled “Conforms to ASTM D-4236.”

For additional information, the U.S. Consumer Product Safety Commission has a publication “Art and Craft Safety Guide” that may be helpful. <http://www.cpsc.gov/CPSC/PUBS/5015.pdf> (0206-09/09)

22 VAC 40-185-290 Tamper resistant receptacles

Question: Are tamper resistant receptacles an acceptable alternative to child-resistant protective covers?

Answer: Yes. Tamper resistant (TR) receptacles have an internal mechanism which prevents the insertion of anything into the sockets of the receptacle, therefore protective covers are not needed. “TR” is usually imprinted on the receptacle. If ‘TR’ is not imprinted on the receptacle, the provider should provide documentation that tamper resistant receptacles were installed. (0215 -12/10)

22 VAC 40-185-310.A and B Areas

Question: How should space calculations be done? How should a center’s capacity be calculated?

Answer: The standards clearly state that infant space is to be calculated separately and how it should be done (e.g., using 25 or 35 square feet). There has been some confusion on how to calculate the capacity for the remaining space. Since the remaining children all need at least 25 square feet (or 35 square feet in a building that is licensed as a CDC for the first time on or after June 1, 2008 or any new addition to an existing CDC occupied on or after June 1, 2008), there is no need to separate them into age groups for space calculation purposes. However, each room available for use by children is to have its capacity calculated separately. Closets, bathrooms, counters not used by children and hallways located within a room are not to be considered in the space calculation. Once the square footage of the classroom has been determined, it is to be divided by 25 (or possibly 35). Since each child needs the fully allotted square footage, there can be no rounding up for capacity. So, if the room can hold 5.75 children, then the capacity of that room would be 5.

Once the capacity of each room is determined, the total capacity of the center can then be calculated by adding the capacity of each room. For example, if the four rooms used for child care can contain 9.75, 10.75, 11.75 and 12.75 then the capacity of the center would be 42 (9+10+11+12=42). The premise is that a child cannot use space that is not in the room he or she is occupying

	Square Footage	# of Children	Capacity Calc.	
Room A	243.75	9.75	9	
Room B	268.75	10.75	10	
Room C	293.75	11.75	11	
Room D	318.75	12.75	12	
Center Capacity Using 25 ft ² for Non-Infant Space			42	

Clarification is needed that this method is for determining overall capacity and not to limit capacity in individual rooms. It is the department's expectation that children are afforded their 25 square feet the majority of their time at the center. The expectation is that the capacity of any given room not be consistently exceeded. For example, if a center has a capacity of 100 children, 50 of which would occupy a multipurpose room when at full capacity, those 50 children should not be crammed into other rooms for an extended period of time. (0086-08/08)

Question: Is the space occupied by items such as: cubbies, counters, and shelves counted as usable 'indoor space available per child' when determining a facility's capacity?

Answer: Yes. Space occupied by items such as shelves, counters, and cubbies located within the areas used by children, shall be considered as usable indoor available space, as long as the space is accessible to and regularly used by children, and is not used exclusively for storage. (0204 06/09)

22 VAC 40-185-310.B. Square footage

Question: When determining whether to calculate the capacity of a building using 25 square feet per child or 35 square feet, how should "currently licensed" be defined?

Answer: Any building that was licensed as a child day center for at least one day between June 1, 2005 and May 31, 2008 shall have its capacity calculated using 25 square feet per child for the life of the building. This applies regardless of who operates the licensed program in that building and even if there was a break in the building's use as a licensed child day center during the June 2005 to May 2008 time frame. Any space that was not used to calculate the facility's capacity when it was licensed between June 1, 2005 and May 31, 2008 must now allocate 35 square feet of space per child. Examples of "additional space" include, but are not limited to, rooms that were not used previously in calculating the facility's capacity and new construction. (0087-08/08)

22 VAC 40-185-310.E. Playground

Question: Do the standards require every center to have a playground onsite.

Answer: On-site playgrounds are not required. However, the facility must have a feasible plan for providing outdoor play time as required for each age group. (0088-08/08)

22 VAC 40-185-310.F Playground areas for infant/toddlers

Question: Would foam interlocking square pads placed over concrete be considered an unpaved surface for the separate infant and toddler playground area?

Answer: Yes. 22 VAC 40-185-310.F requires that the facility has a separate playground area for infant/toddlers that has 25 sq. ft of unpaved surface per infant /toddler on the outdoor area. By placing foam interlocking square pads over the concrete (paved) surface of the patio, the top surface would become "unpaved". (0222-09/11)

22 VAC 40-185-310.G. Space for ill or injured children

Question: Does the new regulation still have a requirement to have separate space for children who are upset or tired?

Answer: While not specifically required, 22 VAC 40-185-360.C states children shall be allowed to sleep or rest as individually needed. (0089-08/08)

22 VAC 40-185-320 Urinals

Question: When a center that is requesting a capacity of 35 preschool children has only one unisex bathroom that contains one toilet and one urinal, is this sufficient?

Answer: No. 22 VAC 40-185-320.A requires that centers shall be provided with at least two flushable toilets that are readily available to children and two sinks. The urinal would not be included in the requirements of 22 VAC 40-185-320.A (0223-09/11)

22 VAC 40-185-320.B.4 Hand dryers

Question: Are hand dryers such as <http://www.dysonairblade.com/homepage.asp> allowed in CDCs for use by children of all ages?

Answer: We are not aware of anything that would prohibit the use of this kind of dryer for all ages of children in a CDC. The manufacturer has recommendations which should be followed as to height placement depending on the age of the individual using the device. Centers should also ensure that water does not pool or puddle on the floor around the device if children have to wait to use it. (0254-11/12)

22 VAC 40-185-330 Resilient surfacing

Question: Is Poly Green Foam acceptable as resilient surfacing? Is the 'Synlawn' brand system acceptable as resilient surfacing?

Answer: Poly Green Foam meets the criteria for resilient surfacing with a critical fall height of 6 ft when it is installed according to the manufacturer's instructions. The "Synlawn" system is acceptable as a resilient surface if it is installed according to the manufacturer's instructions, which include foam padding under the synthetic turf. The "Synlawn" website states that the "Synlawn" resilient surfacing system has been designed for all types of playground equipment and tested in accordance with ASTM/ IPEMA standards and CSA approved fall attenuation with a critical fall height up to 12 feet. If there are any questions, it would be up to the facility to request testing documentation. The manufacturer also has playground consideration guidelines regarding the height of the equipment, the areas of high use and HIC (Head Injury Criteria) requirements. Centers must keep documentation that surfacing is installed according to the manufacturer's instructions. (0224-09/11)

22 VAC 40-185-330.B Resilient surfacing

Question: Can two playground surfacing materials be mixed, such as poured-in-place and mulch? If a provider has a surfacing, such as poured-in-place, does not have documentation of its specifications, and the company is no longer in business, can this be considered an acceptable resilient surface?

Answer: The standards, by definition, state resilient surfacing means: "...impact absorbing surfacing materials that comply with minimum safety standards when tested in accordance with the procedures described in the American Society for Testing and Materials (ASTM) F-1292-99 as shown in the National Program for Playground Safety's [NPPS] "Selecting Playground Surface Materials: Selecting the Best Surface Material for Your Playground." This NPPS brochure is included as an attachment in the CDC Standards. The CDC standards do not directly address combined surface materials and licensees have been

instructed to follow the NPPS brochure. In the past, guidance from NPPS, ASTM and CPSC had been that combined surfaces were not recommended, not tested, and therefore, not allowed.

However, guidance has changed and there are now two categories of combined surfaces that need to be addressed: 1) Combined/mixed loose-fill materials such as: mulch, pea gravel, sand, shredded rubber, etc. and 2) Installing loose-fill materials over hard surfaces such as: concrete, asphalt, or hard packed dirt.

1) Combining two (or more) loose-fill surfacing materials:

Current industry guidance is that combining loose-fill materials is not recommended because of the sheer number of possible mixes/combinations. However, individual facilities using or working with combined types of loose-fill surfacing materials may obtain their own on-site, impact attenuation testing, done by an approved third-party testing lab, to determine the combined surface's resiliency. This is generally quite costly therefore few facilities have the funds to go this route. However, if a facility obtains their own third-party independent laboratory testing and receives/maintains the documentation that supports the combined surface's resiliency (related to the type and height of equipment) DOLP will consider the facility as having met the standard's requirements.

2) Installing loose-fill surfacing materials over hard surfaces:

In response to community needs, CPSC now addresses the installation of loose-fill surfacing materials over hard surfaces. The Public Playground Safety Handbook at 2.4.2.3 (page 10) states..... CPSC staff strongly recommends against installing playgrounds over hard surfaces, such as asphalt, concrete, or hard packed earth, unless the installation adds the following layers of protections.....and CPSC goes on to describe the following for installing layers of loose-fill over a hard surface (figure 1, page 11 – Public Playground Safety Handbook, 2010):

- a. Hard surface is covered with 3-6 inches of loose-fill gravel for drainage,
- b. Loose-fill is then covered by Geotextile cloth (aids in drainage), and
- c. Above Geotextile cloth, the installation of the proper depth of loose-fill related to type of loose fill and equipment type/height.
- d. Additionally, CPSC recommends impact mats under swings when using this installation method.

Finally, if there is no paperwork available to document the poured-in-place material's resiliency, the provider can:

- 1) Obtain independent third-party testing of the combined surface, or
- 2) The poured-in-place can be considered as the bottom layer/hard surface and the loose-fill may be installed over the poured-in-place surface. Additionally, in this case, with the hard surface being a poured-in-place surface, it can be assumed that even without documentation, this surface is considered more resilient than asphalt, concrete or hard packed dirt, therefore, the loose-fill resilient surface placed above the rubber poured-in-place materials would be considered the only surfacing material required. As long as the facility installs and maintains the proper depth of the loose-fill over the rubber-poured-in-place surface, it would meet the intent of 22 VAC 40-185-330.B.
- 3) If the facility does not have documentation on any type of installed surface and is unable to locate or obtain information from the manufacturer or installer concerning the surfacing, the facility shall work with their inspector to evaluate the surfaces on a case-by-case basis. (0255-11/12)

Question: A CDC has 3 inches of shredded rubber installed as a resilient surfacing and has been advised by the manufacturer that this measurement meets current guidelines. Does this amount of shredded rubber meet requirements for resilient surfacing in 22 VAC 40-185-330.B?

Answer: No. The ASTM chart “Compressed Loose Fill Synthetic Materials Depth” referenced under 22 VAC 40-185-330.B requires a minimum of 6 inches of shredded rubber. (0256-11/12)

Question: Is it considered acceptable resilient surfacing in the fall zones of play equipment if the poured-in-place was poured in squares that have been patched together and pea gravel has settled in the crevices between the squares?

Answer: No, this is not acceptable resilient surfacing. Although rubber tiles are included as an acceptable resilient surface in procedures described in the American Society for Testing and Materials standard F1292-99 as shown in Figures 2 (Compressed Loose Fill Synthetic Materials Depth Chart) as required by 22 VAC 40-185-330.B, in this situation, the tiles have separated at the seams with gravel visible, making them unacceptable as a unitary resilient surfacing. According to resilient surfacing manufacturers, rubber tiles are susceptible to separation between the seams often caused by heat related expansion and contraction of the rubber material. (0257-11/12)

Question: How is six inches of resilient surfacing determined? How should resilient surfacing be maintained? How can six inches of resilient surfacing be kept under swings or the bottom of slides?

Answer: Dig with a trowel or other instrument. Take a measurement with a calibrated measuring device, at least 10 inches in length. Take at least 2 measurements in the fall/use zone of each piece of equipment, and more if topography dictates. For instance, if the surfacing beneath/around a piece of play equipment, e.g., a swing, slide, climber, seesaw, etc. looks low, take a measurement there and/or in the other spots that appear low. For composite (multi-station) equipment, take at least 2 measurements in the fall/use zone of each functional piece of equipment, e.g., slide area, climber area, etc. If a measurement is obtained that is less than required, cite this under Standard 22 VAC 40-185-330.B, noting the measured depth, and providing a description of the applicable piece of equipment, e.g., resilient surfacing at the end of the slide located in the toddler playground had a depth of 3 inches (less than required). Record the actual measured depth(s) in inches.

To assure that the required amount of resilient surface is maintained, it may be necessary to rake the resilient surface after each playground use. Having a system for regular raking is important since children have been seriously injured from falls onto an inadequate resilient surface. This maintenance of resilient surfacing could also be a learning experience for children by having them help rake the resilient surface with child size equipment. In addition to raking, “wear” mats are also acceptable in combination with a loose fill resilient surface under swings or at the bottom of slides to help assure a safe surface.

Regarding fall zones, the standard requires the fall zone to: “encompass sufficient area to include the child’s trajectory in the event of a fall.” Different types of equipment would allow different lengths of trajectory. The fall area of two stationary pieces of playground equipment that are positioned adjacent to one another may overlap if they are located a minimum distance of six feet apart. The final decision must be made based on the specific playground equipment in use. (0090-08/08)

Question: How do we assess some of the newer materials such as WOODCARPET®, FIBAR SYSTEM 300®, Sof’ Play®, Inc., etc., and rubber tiles and poured in place rubber surfacing for resiliency?

Answer: WOODCARPET®, FIBAR SYSTEM 300®, Sof’ Play®, Inc., etc. are considered engineered wood fibers and their shock absorbing capabilities have been tested. Persons wishing to install these materials should request test data from the manufacturer identifying the critical height of the desired material. (0092-08/08)

Question: Are we expected to obtain a statement from a local mulch distributor that its wood chips or mulch meet ASTM standards? Does mulch fall under definition of wood chips or engineered wood fibers?

Answer: The key to determining the acceptability of a resilient surface is to assess how well it meets the definition of a type of surfacing in the chart found in the National Program for Playground Safety (Figure 2). If a product does not fall under one of the definitions, then documentation of it having been tested for the specific critical height of the equipment according to ASTM standards needs to be provided. All poured in place, rubber mats/tiles, and shredded rubber surfaces must have documentation of have an ASTM critical height rating. The category of "sand" referenced in Figure 2 is applicable to all forms of sand. (0093-08/08)

Question: What is an acceptable correction plan/date for playground violations?

Answer: If a playground has violations, the only acceptable "Plan of Correction" is that the area or equipment for which the violation was received will not be used again until the problem is corrected. This would take effect immediately. (0094-08/08)

Question: Are tot swings required to have resilient material? Some are enclosed in small areas.

Answer: All playground equipment that can be climbed upon or has moving parts shall be located over resilient surfacing. (0095-08/08)

Question: What will be the fall zone for tot swings?

Answer: Figure 3 of the National Program for Playground Safety brochure accompanying and referenced in the standards says that the fall zone for swings should be twice the height from the pivot point to the ground in front of and behind the swing and 6 ft on each side. If adequate documentation is provided that states a smaller fall zone is sufficient, an AV may be approved. (0096-08/08)

Question: The critical height/ resilient material depth chart doesn't clarify if mulch falls in the wood chip category. How would we determine the accurate height of swings at schools where the swings are too high to measure? The critical height chart only goes up to eight feet. Does the resilient surface depth change above this point? If so, how do we determine it?

Answer: Mulch falls into the wood chip category. Since "mulch" does not have a specific definition, the licensing staff will need to determine whether the mulch being used fits the definition of "wood chips." Some forms of "mulch" contain pieces of wood (e.g., large branches that were not adequately processed into twigs) that make it unsafe as resilient surfacing. Such mulch would not fall into the "wood chip" category.

The licensing staff must determine the critical height of the equipment in question. If the equipment's critical height is greater than the maximum height on the chart (Figure 2, Appendix VII of the regulation), then the provider will need to request that the manufacturer of the equipment (if known), or a playground surface manufacturer, or a qualified playground expert (e.g., a certified playground licensing staff) determine the type and minimum amount of surfacing needed to protect children from serious injury. (0097-08/08)

Question: Do the steps to a piece of equipment need resilient surfacing? What about steps to a playground or between two or more playgrounds?

Answer: Steps on or attached to play equipment need resilient surfacing. However, steps to access a playground do not. (0098-08/08)

Question: What about the guardrail barrier on a deck—is measurement taken from deck or top of barrier/guardrail?

Answer: The measurement is taken from the deck, unless the top of the barrier/guardrail meets the definition of a designated play surface, which is any elevated surface for standing, walking, sitting, or climbing, or a flat surface that is larger than 2 inches wide by 2 inches long, and a slope that is less than 30° from horizontal. (0099-08/08)

Question: Will variances be considered for fall zones that fall short a foot or less of the required distance?

Answer: Yes. Exceptions will be decided on a case by case basis. (0100-08/08)

Question: Now that the standard has changed to state that resilient surfacing must be under all playground equipment, what about a metal and board bus with the seats 12-18 inches off the ground?

Answer: The standard reads...“Where playground equipment is provided, resilient surfacing shall comply...and shall be under equipment with moving parts or climbing apparatus to create a fall zone free of hazardous obstacles. Resilient surfacing is only required for playground equipment with moving parts or designed for climbing. If children are using this piece of equipment for climbing then resilient surfacing would be required. (0101-08/08)

Question: How do we measure the use zone for the end of a slide?

Answer: Because the standards refer to the “Selecting Playground Surface Materials” as our resource, the use zone requirement for slides is to be “four feet plus the height of the slide in front of the slide chute.” You measure from the end of the slide. If adequate documentation is provided that states a smaller fall zone is sufficient, an AV may be approved. (0102-08/08)

22 VAC 40-185-330.D Equipment and materials

Question: Are tire swings allowed on preschool playgrounds?

Answer: A tire shaped swing that is made of a flexible material (e.g., rubber, soft pliable plastic) is acceptable. Tire shaped swings that are made of a hard molded plastic (often with a metal support structure) are not. (0103-08/08)

22 VAC 40-185-330.D.1 Swing seats

Question: How is the standard concerning infant and toddler nonflexible molded swings to be enforced when a facility uses a public playground where the equipment is installed for multiple ages on the same playground without a barrier between the infant and toddler play area and the play area for older children?

Answer: The staff shall make the molded swing inaccessible to preschool and school age children (e.g., tie it back, station a teacher near to limit access). The staff are also responsible for determining when the equipment is not safe for infants and toddlers and therefore making it inaccessible to them as well. (0104-08/08)

22 VAC 40-185-330.F Shady area on playground

Question: Is there a specific amount of shady space required? Must there be a shady space to accommodate every child on the playground? Specifically, is there a certain square footage of shade required per child? What constitutes “shade” – trees?, canopies?, gazebos? Can the “building” provide shade?

Answer: Each child should have access to shade. It is not practical that shade be available for all the children at one time, but it needs to be large enough to accommodate a reasonable number of children at one time, considering children’s needs and preferences, and temperature. There is no square footage requirement and anything that provides an adequate amount of shade is acceptable. In order for the building to be considered the sole source of shade, it must provide shade that meets the above criteria whenever children are scheduled to be on the playground. (0105-08/08)

22 VAC 40-185-330.A-F and 430.A-H Exception

Question: Does this exception, specifically the words ‘and areas approved for use by students’, include indoor areas or just outdoor areas? A public school uses an art room that has a large paper cutter that children use during school hours. Would the exception apply to the use of this paper cutter indoors?

Answer: This exception does not apply to indoor areas. The intent of this legislation was to address outdoor play equipment and outdoor play areas. (0258-11/12)

PART V. STAFFING AND SUPERVISION

22 VAC 40-185-340.A Staff to ensure care, protection and guidance

Question: When an infant is placed in an infant seat, or bouncy seat or any other type of device that rocks or moves and the seat is equipped with a mechanism for securing the infant such as a belt, strap or two sided waist clip device, is it a violation when providers do not use the securing mechanisms? The only standard that directly references these types of securing mechanisms is 22 VAC 40-185-570.A.2.

Answer: Yes, it is a violation to leave an infant unsecured in a seat that is equipped with securing mechanisms. Standard 22 VAC 40-185-570.A2 applies to devices that are in use while feeding; 22 VAC 40-185-340.A would apply when infants are unsecured at all other times during the day. (0259-11/12)

Question: Sometimes toddlers or younger children need to be protected from older children - do the standards no longer require this protection?

Answer: According to 22 VAC 40-185-340.A, this protection must be provided as needed. (0106-08/08)

22 VAC 40-185-340.C Requirements during field trip transportation

Question: Do centers have to maintain ratios while children are being transported to and from a field trip? Is a program leader required to be present on the vehicle during this transportation?

Answer: No, ratios described in 22 VAC 40-185-350.E are not required to be maintained during field trip transportation and a program leader is not required to be present during field trip transportation. Once the children come back together at the destination of the field trip, the requirements in 22 VAC 40-185-340.C would apply. (0227-09/11)

22 VAC 40-185-340.C Two individuals at the center

Question: What is the meaning of “direct means for communication” between the two people working/volunteering at the center?

Answer: The intent of this standard is for the second person to obtain help if there is an emergency situation. See 22 VAC 40-185-240.B.4 for an additional standard about emergency procedures intended to help assure there are adequate procedures for emergencies. (0107-08/08)

22 VAC 40-185-340.D Grouping of children

Question: How is a “group” defined? How is a group determined in the following situation? School age children are grouped together in a large room but the children are divided at times. In this situation, half the children are on the playground and the other half are inside. Does each of these two groups need a program leader who meets qualifications? What does it mean to be “regularly present”?

Answer: A group will need to be determined on a case-by-case basis. If a classroom or group of children is regularly subdivided for an extended period of time and there cannot be sight supervision of both groups at the same time, there would need to be a qualified program leader in both groups. On the other hand, if a group of children in a gym or camp location are regularly subdivided for extended periods of time, but the program leader can have sight supervision of the various groups or activities and is responsible for the programming of each activity, there may only be a need for one program leader meeting qualifications. It is important to remember that according to the standard a program leader cannot supervise more than two aides. Separation of children for a special activity for a short period of time (e.g., an aide taking a group of children on a patio just outside the classroom for reading time), or when the children are separated during restroom time, does not necessarily mean there are two groups of children. The intent of “regularly present” is that a program leader must be with each group of children during the day except for short breaks, (e.g., a restroom break), special activities, or the times listed in 22VAC 40-185-340.E. (0108-08/08)

22 VAC 40-185-340.D Student teachers

Question: Do student teachers count as aides and need to be supervised by a qualified program leader? Are they considered volunteers? Can aides be volunteers?

Answer: No. If student teachers are not counted in the staff-child ratio and are not serving as the lead teacher’s classroom aide, the requirements of 22 VAC 40-185-340.D do not apply. In this circumstance the student teachers are volunteers and not aides. Yes, aides can be volunteers. (0228-09/11)

22 VAC 40-185-340.F Sight and sound supervision

Question: Does “actual sight and sound supervision” require the ability of staff to immediately respond to the needs of the children being supervised when determining compliance with 22 VAC 40-185-340.F, which reads: “Children under 10 years of age always shall be within actual sight and sound supervision of staff....”

Answer: In order to adequately supervise children in care, a staff person must be able to provide immediate intervention and/or assistance in case of an emergency or to attend to children’s needs. Staff separated from children by a physical barrier, such as a wall, cannot maintain supervision of the children in their care. The inclusion of a window in a wall that separates a staff person from the children in his/her care that does not allow for immediate access does not alter this determination. (0109-08/08)

22 VAC 40-185-340.F-G Supervision of children

Question: When children are changing into swimsuits (both preschool age and school age), do they need to be “sight and sound” supervised while they are changing or is it permissible to sound supervise for short periods of time?

Answer: 22 VAC 40-185-340.E states that “children under 10 years of age always shall be within actual sight and sound supervision of staff, except that staff need only be able to hear a child who is using the restroom provided that....” It is reasonable to consider changing into swimsuits as an activity comparable to using the restroom. It is not necessary or always appropriate for staff to “sight and sound” supervise children while they are undressing. If a child is able to dress himself without staff assistance, sound supervision would be acceptable as long as a staff member checks on a child at least every five minutes and there is a system to assure that individuals who are not staff members or persons allowed to pick up a child in care do not enter the area while in use by children. Also, 22 VAC 40-185-340.A states that staff must always ensure the care, protection and guidance of the children they supervise. This means additional monitoring of the children may be necessary to assure the protection of the children. Other considerations may include group gender and range of children’s ages. (0110-08/08)

22 VAC 40-185-340.H Supervision of children

Question: What is considered “adjacent to the center” when determining compliance with the requirement that two staff members be on the outdoor activity area whenever one or more children are present and the outdoor activity area is not adjacent to the center?

Answer: If the outdoor activity area shares a common border or is within sight and sound of the center, it shall be considered adjacent to the center. (0111-08/08)

22 VAC 40-185-340.I Supervision of children

Question: Will the bus driver need to park the bus and walk to the center door to assume custody of the children? Are center staff expected/required to take children to the bus stop and supervise their entry on the bus and are they required to meet the bus in the afternoon to pick up the children?

Answer: It is doubtful that bus drivers could leave their buses with children on board, therefore it should be expected that a center should supervise the children it is releasing until they get on a bus. A center is responsible for a child until another responsible adult assumes responsibility for that child. It is also expected that children released from a bus (i.e., released from the school's responsibility) are immediately considered under the supervision of the center, unless the bus driver is willing and able to bring the child(ren) into the center. Standards 340.I and 340.J are applicable here. (0112-08/08)

22 VAC 40-185-350.A Staff-to-children ratios

Question: How are staff-to-children ratios to be determined - by ratio group or classroom group?

Answer: Ratios shall be determined per room, not per age grouping. A caregiver in a room does not have sight and sound supervision of children in another room, and by definition, is not supervising such children. Therefore, a teacher not supervising children cannot be counted in the staff-to-child ratios for such children. The accurate way to calculate teacher-per-child ratios is literally to count the number of children who are cared for by an individual caregiver at one time. For example, if there are two staff members for a total of 20 three-year-olds, and the ratio for threes is one staff member for every 10 children, then 10 is the total number of children any one staff member can have in his or her care at a given time. An acceptable exception would be for an aide to take a quick bathroom break (i.e., not a personal break in which he/she is out of the room for an extended period of time. (0113-08/08)

22 VAC 40-185-350.D Ratios during designate rest and sleeping periods

Question: Since staff to children ratios can be doubled during rest periods, are the staff that are taking their breaks required to remain in the building? If staff do not need to remain in the building, do they have to remain on the premises?

Answer: During designated rest times, staff to child ratios may be doubled for certain age ranges. Only one person is required to be in a room of sleeping/resting children during the designated rest time to ensure their safety. The additional staff required by this standard must be in the building.

Compliance Determination: Example – When awake, 40 three year olds would require four staff (staff A, B, C, and D) to maintain a ratio of 1:10. During the designated rest time, the same 40 three year olds' ratio is 1:20 which requires two staff. To meet 350.D.1, one of the two staff (staff person A) is required to be in the room and actively on duty. To meet 350.D.2, the second staff (staff person B) must be on duty in the building to help. To meet 350.D.3, a third person (any staff person not counted in another group's ratio, i.e., program director) must be on duty in the building to help in case of an emergency. In this scenario, the third and fourth staff (staff persons C and D) that were needed when the 40 children were awake could be out of the building. Please note that the ratios should not be doubled until the vast majority of children are settling down and resting. (0114-08/08)

22 VAC 40-185-350.E.7 Staff-to-child ratios for balanced mixed-age groupings

Question: Is a class of 12 children, ages 4 and 5 considered a balanced mixed-age group? A center would like to use the ratio requirements for balanced mixed-age groups so they do not need two staff members in this class.

Answer: No, the situation described above is not a balanced mixed-age group. The definition of balanced mixed-age group states the program is for children ages 3-5, with a relatively even allocation of each age (3, 4, and 5) in the group. Balanced mixed-age groups should not be created because of staffing constraints; it involves a curriculum designed to evenly mix preschool age children with a program leader with specialized training. The class is guided by a curriculum designed for this mixed-age group, and the group must have the same children for a set period of time. The program leader must have 8 hours of classroom management training in balanced mixed-age groups. (0260-11/12)

Question: What courses qualify for the mixed-age training? Where can someone get the training?

Answer: VDSS offers two four-hour training sessions on managing mixed age groups. Montessori teacher qualifications would also be acceptable. Training sessions offered by others on mixed-age groups may also be appropriate, but will need to be reviewed. (0116-08/08)

Question: What is an extended absence?

Answer: Two weeks should be used as a general guide when complying with this standard. (0117-08/08)

Question: What is the meaning of “sufficient substitute staff”? What is the meaning of “auxiliary persons”?

Answer: In this standard, sufficient substitute staff means this person meets qualifications except for the eight hours of training in balanced mixed age groups. If the substitute also meets the eight hours of training, a 14 ratio would apply instead of a 1:12 ratio. Auxiliary persons are people who are available in the event of an emergency such as a cook or floater. This person does not need to meet qualifications. (0118-08/08)

Question: What is the staff-to-children ratio for this group of children during the designated rest period?

Answer: This standard allows a 1:28 staff-to-children ratio during the designated rest period. (0119-08/08)

22 VAC 40-185-350.F Assigning a child to a different age group

Question: May a child who is younger than children in an older established age group for a classroom be placed in that older age group (class) without having to reduce the ratio to meet the staff-to-child ratio requirements necessary for the younger child under typical (i.e., in his or her own age group) circumstances when the information required in standard 40-185-350 F already has been obtained?

Answer: According to the current standard 22 VAC 40-185-350.F, staff-to-children ratio requirements, with a parent's written permission and a written assessment by the program director and child care supervisor or program leader, a center may choose to assign a child to a different age group if such age group is more appropriate for the child's developmental level and the staff-to-children ratio shall be for the established age group.

According to this standard, the staff-to-child ratio does not need to be reduced for the younger child provided that the center director has the necessary supporting documentation. Just be sure that the director (and/or teacher) has assessed and documented the child's developmental stage. Also, just to be sure that this particular child is indeed ready for such advancement to an older classroom; there are a few questions that should be addressed in an appropriate assessment.

Developmental questions:

Although the child may be ready in terms of her cognitive development and abilities, is she also ready on physical, social/emotional, and linguistic levels?

- a. FOR EXAMPLE, in terms of PHYSICAL development, is he/she potty trained (if the majority of the rest of her older class is potty trained or there is not a sufficient system for including a diaper wearing child in a potty trained class, this could be an issue).
- b. In terms of SOCIAL AND EMOTIONAL development, is he/she still engaging in primarily parallel play or might she be able to actively engage in cooperative play (as the three year olds should be doing). That is, would there be a problem with her disassociating from the class and engaging only in on-looking behavior as opposed to active participation WITH her classmates?
- c. In terms of LINGUISTIC development, is he/she able to effectively communicate her needs, desires, and emotions using her words? That is, would she be able to communicate with her peers in appropriate ways (with words and gestures) as opposed to inappropriate ways (e.g., hitting and/or biting)?

Finally, as long as the child's developmental assessment would suggest that such a placement is appropriate for the child and the center has the supporting assessment, permission and signatures required, it is alright to include this particular child in the older age group without reducing the staff- to-child ratio for that younger child. (0120-08/08)

22 VAC 40-185-350.F.2 Reassignment of children

Question: Please clarify 350.F.2. A center may temporarily reassign a child from his regular group and staff members for reasons of administrative necessity, but not casually or repeatedly disrupt a child's schedule and attachment to his staff members and group.

Answer: Administrative necessity is when there are no other reasonable options available. For example, if a staff person must leave the building and a substitute (including the Assistant Director or Director) is not immediately available to take that teacher's/aide's place in the classroom then that would constitute an administrative necessity. (0121-08/08)

Question: What is meant by "temporarily," "casually" and how do we enforce it?

Answer: "Temporary" and "casual" must be determined by the licensing staff on a case-by-case basis, through interviews with staff, possibly a review of records for the child/children in question, an evaluation of the center's overall staffing pattern and use of professional judgment. The language in the standard itself offers a clue to whether a finding of noncompliance would be appropriate. Are children's schedules being repeatedly disrupted? Is there evidence from interviews and observation that children's attachments to the group and to staff have been disrupted? As with any finding of noncompliance, the documentation must be clear enough so that any reasonable person would agree that a violation exists. (0122-08/08)

PART VI. PROGRAMS

22 VAC 40-185-370.1 Sleep time for infants

Question: Is a facility prohibited from waking a 9 month old child as requested by the parent, after 2 ½ hours of sleep?

Answer: No, the standards do not prohibit the facility from following a parent request to awaken their child before a certain length of sleep time has elapsed. Standard 22 VAC 40-185-370 states “there shall be a flexible daily schedule for infants based on their individual needs.” It is beyond the authority of the standards to prohibit a private business, from having the discretion to consider all parent requests (unless prohibited by the CDC standards). A child’s individual needs are not solely determined by the child’s behavior; there may be other factors to consider. There should be a dialogue between the center director, the child’s parent and teacher, then on a case by case basis, a decision would be made that best meets the individual needs of the child. The center’s decision should take into consideration that the parent’s request is age and stage appropriate for their child, reasonable, and that it does not rise to a level that would be considered child abuse or neglect. (0244-09/11)

22 VAC 40-185-370.3 Outdoor time for infants

Question: How much outdoor time is required for infants?

Answer: The standard does not state how much time is required. Because the care of infants is driven primarily by each child’s needs (versus a structured predetermined schedule that applies to all children), it is appropriate not to have established outdoor times for this age group. Compliance determination involves determining that infants have daily outdoor experiences, which may simply include a ride in a carriage or stroller. Refer to standard 380.A.1 for some general guidance. (0123-08/08)

22 VAC 40-185-370.3 and 380.A.1. Outdoor air quality

Question: Who is responsible for determining the air quality?

Answer: The Department of Environmental Quality in conjunction with the Environmental Protection Agency are responsible for determining air quality (0124-08/08)

<http://www.deq.state.va.us/>

http://www.epa.gov/cgi-bin/airnow.cgi?MapName=super&MapType=current_hour

(0124-08/08)

Question: Are summer camps exempt from air quality standard since there might not be a place for indoor activities?

Answer: Programs for school age children are not exempt from the air quality standard. This doesn’t prohibit being outdoors, it prohibits strenuous outdoor activity. (0125-08/08)

22 VAC 40-185-370.5.g. Tummy time

Question: How is tummy time to be monitored?

Answer: If licensing staff is not there to observe it, he or she needs to check the documentation. If licensing staff sees a pattern of infants being placed only on their backs, this may indicate a problem and warrant closer monitoring or investigation by the licensing staff. (0126-08/08)

22 VAC 40-185-380.A Daily activities for toddlers and preschoolers

Question: When determining the amount of time a child should have for outside play, should the time a child spends in transit by the facility be included in the “hours of operation”?

Answer: A facility’s “hours of operation” are the hours that the actual building is open for care. The transportation times for children to the center can vary dramatically, e.g., one child might live five minutes from the center and another 60 minutes, and would be very difficult to use as good or consistent measure for determining the hours of operation. Besides, if a child has to ride a public school bus 30 minutes to school, those 30 minutes would not be considered in the calculations for the amount of outdoor time needed. Therefore, if a child is on a center owned bus for 30 minutes those minutes should not be considered in the calculations either. (0127-08/08)

22 VAC 40-185-410.1 Forbidden actions

Question: Are centers allowed to swaddle a child in care at the request of parents or is swaddling considered “restricting movement through binding or tying” and therefore a forbidden action?

Answer: Swaddling is not a forbidden action and may be used in centers, by request of parents, if practiced correctly and safely. Infant swaddling is an ancient practice that is thought to be comforting for some very young children. Whether or not to use swaddling with young children is a decision between a parent and center. Swaddling is an acceptable action under the following conditions: Swaddling is used only during sleeping/napping times; swaddling is not used as a physical restraint to control behavior; swaddling is comforting to the child and the child does not appear to be in distress because they are swaddled (some children are not comforted by swaddling but terrified), and swaddling is a continuation of the child’s home sleeping habit/routine. The American Academy of Pediatrics (AAP) offers guidance for parents on swaddling which may be downloaded at: <http://aapnews.aappublications.org/content/32/9/11.2.full>

AAP suggests some situations to swaddle or wrap a young infant snugly in a blanket, thereby helping the child to feel safe and secure. These situations include infants who are easily startled and wake due to their own muscle movements; who seem uncomfortable for no apparent reason; or who seem distressed by the free movement of his arms and legs. While centers may honor the request of parents and swaddle young children, Caring for Our Children, 3rd Ed 2011, Standard 3.1.4.2 cautions that swaddling may pose safety issues if not done correctly and not all babies like to be swaddled. Therefore when swaddling is used, the center should maintain a continuing dialog with the parent and assess each individual child’s sleeping habits and needs as the child grows physically and emotionally matures. (0261-11/12)

Question: Is it acceptable to use a leash with a two-year old child while on a field trip to the county fair?

Answer: No. The use of a child leash is a forbidden action in child day center programs. 22 VAC 40-185-410.1 Forbidden actions states that....restricting the movement through binding or tying is forbidden. Using a leash to control a child's movement is tying or binding the child to the staff member. In addition, to promote children's physical, intellectual, emotional, and social well-being, 22 VAC 40-185-400.B requires staff to interact with children using consistency in applying expectations and requires that behavior guidance shall be...constructive in nature, age and stage appropriate, and intended to redirect children to appropriate behavior..... The use of a leash singles out an individual child, does not teach or redirect the child in what is appropriate behavior, and is not constructive in nature. Some acceptable means of guiding the behavior of two-year old children to ensure safety while on field trips would be to use a 'walking rope' with all of the children in the group; adding additional adults who care for and focus on specific, individual children within the group; or the use of an individual or multi-child strollers. Finally, consideration must be made to determine if a field trip to a local county fair is a developmentally appropriate activity for this specific group of two-year old children in care. (0262-11/12)

22 VAC 40-185-410.2 Enclosure in a confined space

Question: Does this standard allow a provider to use a playpen or other equipment to confine a preschool age child?

Answer: In accordance with 22 VAC 40-185-400.B about behavioral guidance being constructive in nature and age and stage appropriate, preschool children should not be confined in equipment. Also, use of a play yard for an older child could be humiliating for the child. (0128-08/08)

22 VAC 40-185-420.A.5 Medication administration policy

Question: Must the center's medication administration policy be written?

Answer: Yes. The center's decision addressing whether, or under what conditions, to administer medicines at the facility must be in writing. (0129-08/08)

22 VAC 40-185-420.C Parent involvement

Question: Must we allow the parent to stay in the center all day even when she is disruptive with her cell phone and has her purse on the floor?

Answer: This is a center issue (what are their policies on classroom observations) rather than a licensing issue. The purse should be inaccessible to the children. (0130-08/08)

22 VAC 40-185-420.E Infant daily record

Question: Is the infant daily record described in 22 VAC 40-185-420.E required to be kept for 2 years?

Answer: No, the infant daily record required by 420.E is not required to be kept. It is required to be posted. (0229-09/11)

22 VAC 40-185-420.E.3.a. Semiannual scheduled opportunities for parental feedback.

Question: How do the facilities document the scheduled feedback events?

Answer: This standard requires that centers provide an opportunity for parents to provide feedback to the center. Any documentation (e.g., appointment sign-up sheet, written request for an evaluation or the evaluation) that shows the center giving parents this opportunity will suffice. (0131-08/08)

Question: Is the semi-annual opportunity for parental feedback required for after-school programs?

Answer: Parents shall be provided at least semi-annual, in writing, information on their children as outlined in the standard. There is no exception for after-school programs. (0132-08/08)

22 VAC 40-185-420.E.3.b Annual update of child's record information

Question: How do facilities verify the updating of parental documentation?

Answer: It does not matter how a facility documents that it conducted an annual audit of each child's record and asked for parental review to determine if the information was still accurate and complete, as long as the center documents (i.e., something in writing) that the update/review took place. Documentation could be as simple as initialing and dating the child's registration form each year to indicate no change, or inclusion in the child's record of an updated registration form. (0133-08/08)

22 VAC 40-185-430.C.2 S-hooks

Question: May S-hooks be taped when it is difficult to completely close them? What is safe and unsafe?

Answer: No. S-hooks may not be taped. An S-hook is considered closed if there is no gap or space greater than a penny. Taping an S-hook closed does not satisfy the closure requirement and could create the illusion of safety. While it can reduce the ability to entangle a piece of clothing, there is still the danger that the S-hook could remain open underneath the tape and slip off the chain, or that the tape could hide wear/deterioration, or worsening rust, which can reduce metal's integrity. (0134-08/08)

Question: May hardware other than a S-hook be used to secure swings to the swing hanger, or to the swing chain?

Answer: Yes. Licensing staffs should consult with providers to make them aware that once they use a piece of hardware other than what the manufacturer recommends for a specific piece of equipment, they assume the liability. Some companies require purchasers to sign a "Hold Harmless Clause" if they choose to purchase hardware intended for their brand of equipment on another brand. Signing this means that the purchaser won't hold the company liable for any injuries received or court-related costs associated with using their hardware on another brand of equipment.

If a provider cannot determine the manufacturer of a piece of equipment, precaution should be taken to ensure that the hardware used has the strength necessary to support the use by multiple children at any given time. To best ensure this, it is recommended that hardware be purchased that is specifically designed for use on playground equipment, or that is at least the weight, size, diameter, etc. of that intended for use on playground equipment. (0135-08/08)

22 VAC 40-185-430.C.3 Play equipment

Question: Please explain protrusions, sharp points, shearing points, and pinch points.

Answer: A protrusion can be defined as two threads beyond the face of a nut. It can also be defined as a projection that does not meet the protrusion test when done with the set of three gauges made available to each Regional Licensing Office. A sharp point is an accessible point that can puncture or cut the skin. A shearing point is the place where at least two moving parts meet which could cause the child to suffer a bruise, cut, scrape, amputation, or fracture during use of the equipment. A pinch point is the place where at least two moving parts meet which could cause a part of the child's body to be squeezed or bound, causing pain. (0136-08/08)

22 VAC 40-185-430.D Indoor resilient surfacing

Question: Do we have guidance/resources on types of indoor resilient surfacing other than the rubber mats/tiles listed on the American Society for Testing and Materials (ASTM) chart?

Answer: The National Program for Playground Safety's "Selecting Playground Surface Materials: Selecting the Best Surface Material for your Playground" is the only resource referenced in the Standards for Licensed Child Day Centers. The Technical Assistance for standard 10 Definition of Resilient Surfacing states "...rubber mats/tiles shown in the chart on pages 6-7 of the National Program for Playground Safety's "Selecting Playground Surface Materials: Selecting the Best Surface Material for your Playground" would be an example of resilient surfacing that could be used indoors. Otherwise, there is no distinction in the standards between indoor and outdoor resilient surfacing. (0225-09/11)

Question: Are resilient surfacing and fall zones required for indoor soft play equipment for toddlers?

Answer: Resilient surfacing is only required if the indoor slides and climbing equipment is over 36 inches. If the equipment is over 18 inches and less than 36 inches, the equipment shall not be over bare floor. Fall zone requirements in 22 VAC 40-185-330.B apply if the indoor equipment is used for climbing or has moving apparatus. (0226-09/11)

22 VAC 40-185-430.D Slides and climbing equipment

Question: What is the definition of "unenclosed" climbing portion of slides and climbing equipment?

Answer: When determining the critical height of a piece of equipment that is enclosed (i.e., has a barrier that prohibits children from climbing out of or falling off of the piece of equipment), the barrier would not be included in the measurement, only the "unenclosed" portions would be measured. (0137-08/08)

Question: Can existing equipment over 7 or 8 feet remain in use?

Answer: Yes, but not by toddlers and preschoolers unless the climbing portion is enclosed. The appropriate amount of resilient surfacing would also be required. See the Technical Assistance for standard 330.B for more information on the amount of resilient surfacing needed for equipment with a critical fall height over 8 feet. (0138-08/08)

Question: There has been some discussion regarding inflatable party/event bouncers at center during the summer. What is our stance regarding these at centers?

Answer: When inflatable equipment is used on the site, the following criteria must be met

1. Inflatable slide/equipment is to be treated like any other piece of climbing equipment. There must be adequate (based upon the height of the slide) resilient surfacing placed at the end of the slide and/or in the fall zones. (continued on next page)

2. If a child can fall off or out of any piece of equipment, resilient surfacing will be required in the fall zone. The amount of surfacing will be determined by the equipment's critical height.
3. Each piece of equipment must have an equipment operator (usually provided by the company supplying the equipment, but it could be a person trained to monitor it) who will ensure that the piece is properly anchored and inflated. If not properly inflated, a child may become trapped between the sides and the floor creating a potential risk of injury or suffocation.
4. The equipment operator will also monitor that the equipment is being used correctly. In addition to the operator, a staff from the facility must be stationed nearby to assist in monitoring the activity and assisting the children entering/exiting the piece of equipment.
5. The piece of equipment must have sides high enough to keep the child from falling off or out.
6. Only the appropriate number of children may utilize the equipment at any one time. The children should be grouped according to similar ages (e.g., three year old children and school age children not using the piece of equipment at the same time).
7. The height restrictions placed on equipment used by toddlers and preschoolers must be adhered to.

If inflatable equipment is used after regular center hours when parents are present (e.g., a family fun day) then the standards regarding climbing equipment shall not apply. (0139-08/08)

Question: Do the licensing staff measure the height of the equipment or do centers keep written information on playground equipment?

Answer: If there are no blueprints/manufacturers specifications available, then the licensing staff will need to measure to determine the critical fall height of the equipment. (0140-08/08)

22 VAC 40-185-430.G Equipment and materials

Question: Does an indoor enclosed loft, that has steps to reach it, need resilient surfacing around it? We felt that the loft itself probably did not because it is fully enclosed and not climbable, but we had concerns about the stairs leading up to the loft.

Answer: First establish the use of the loft. If the loft is being used as an extension of the "classroom," then resilient surfacing would not be required. If children will be climbing in/on the loft, then it is considered climbing equipment and must have adequate resilient surfacing. If the loft has a ladder instead of steps, then it is considered climbing equipment. If the loft has steps and is used by preschool or younger children, the steps to the loft would need to meet the requirements of 22 VAC 40-185-290.1. (0141-08/08)

22 VAC 40-185-430.H Trampolines

Question: How will sports camps (gymnastics) meet 430.H (Trampolines may not be used.)?

Answer: Since staff at these types of camps are trained to teach gymnastics, an AV can be and should be requested for this standard. (0142-08/08)

Question: Would a "Moon Bounce" be considered a trampoline?

Answer: When inflatable bouncers/jumpers are used on site, the following criteria must be met.

1. Each piece of equipment must have an equipment operator (usually provided by the company supplying the equipment, but it could be a person trained to monitor it) who will ensure that the piece is properly anchored and inflated. If not properly inflated, a child may become trapped between the sides and the floor creating a potential risk of injury or suffocation.
2. The equipment operator will also monitor that the equipment is being used correctly. In addition to the operator, a staff from the facility must be stationed nearby to assist in monitoring the activity and assisting the children entering/exiting the bouncer.

3. The bouncer must have sides high enough to keep the child from falling off or out.
4. Only the appropriate number of children may utilize the equipment at any one time. The children should be grouped according to similar ages (e.g., three year old children and school age children not bouncing at the same time.)

If inflatable equipment is used after regular center hours when parents are present (e.g., a family fun day) then the standards regarding climbing equipment shall not apply. (0143-08/08)

22 VAC 40-185-430.K Individual place for personal belongings

Question: Will use of individual book bags placed on a table meet this requirement?

Answer: The intent of this standard is for each child to have an individual space for storing personal belongings for security and contamination reasons. At a minimum, a known or specific place that is predictable each day such as a book bag on a specific spot of a table must be provided. (0144-08/08)

22 VAC 40-185-430.M Play yards

Question: What is considered a play yard? Does it include mesh sided, foam items on floor, net - fence type thing?

Answer: This standard requires that play yards meet Juvenile Products Manufacturers Association (JPMA) and the American Society for Testing and Materials (ASTM) requirements. The American Society for Testing and Materials (ASTM) defines a play yard as a: "framed enclosure with a floor made for the purpose of containing a child who is unable to climb out of the play yard and having a height of 35" or less, or weighing not more than 30 pounds." Effective 1997, ASTM developed separate specifications for play yards and non-full size baby cribs. Play yards should not include "play fences" or enclosures that completely surround an area or play-space within which a young child may be confined. These enclosures fall under ASTM specifications for expansion gates and expandable enclosures. Also according to ASTM, manufacturers of "play fences" do not call them a "play yard" or "playpen" and do not recommend them as a play yard. (0145-08/08)

22 VAC 40-185-430.M.2; 430.N. Recalled equipment

Question: Who is responsible for informing the facilities of recalls on equipment? Regarding use of recalled play yards and cribs, how will this be enforced? Will there be a list sent to licensing staffs?

Answer: It is important to realize that it is the provider's responsibility to adhere to the standards, and that would include determining what has been recalled. Both licensing staffs and providers may receive an automatic CPSC email alert on recalled products by going to www.cpsc.gov, clicking on [Sign up for email announcements](#), entering an email address on the next screen and, at minimum, checking the box to receive [all recalls](#). Another recommended website is www.recalls.gov. This site includes child safety seat recalls from National Highway Transportation Safety Administration.

If an licensing staff sees a piece of equipment that has been recalled in a center a violation will be issued and the only acceptable plan of correction is that the equipment be removed immediately from the center. (0146-08/08)

22 VAC 40-185-430.M.3; 440.L Equipment and materials; Cribs, cots, rest mats, and beds

Question: Are all soft items such as floor pillows, filled comforters and blankets, stuffed animals, and infant support pillows always prohibited for use by children under two?

Answer: Pillows and filled comforters are prohibited in play yards (22 VAC 40-185-430.M.3).

Pillows and filled comforters are prohibited for children under the age of two while they are in cribs, cots, rest mats, and beds (22 VAC 40-185-440.L). The purpose of these standards is to prevent suffocation and to reduce the risk of Sudden Infant Death Syndrome (SIDS).

Pillows, filled comforters and blankets, stuffed animals, infant support pillows, and similar items are NOT prohibited everywhere in the environment used by children under the age of two. It is important to have some 'soft spaces' in the environment used by children under the age of two. While the standards do not prohibit stuffed animals in play yards, cribs, cots, rest mats, and beds occupied by a child under the age of two, providers should be warned that these items pose a risk of suffocation to a sleeping child under the age of two.

If an infant falls asleep in a play space while on or around pillows, filled comforters or stuffed animals, the child must be moved to his crib, cot, rest mat or bed, because the child would no longer be safe from the risk of suffocation (see 22 VAC 40-185-370.1.e which addresses the safety of infants who fall asleep in play spaces). (0217-03/11)

22 VAC 40-185-440.H Cribs

Question: Do cribs manufactured and used for only for emergency evacuations/drills have to meet the new federal crib rules?

Answer: Yes, all full-sized and non-full sized cribs must meet the new federal crib rules, even if the crib is only used for emergency evacuation purposes. The federal crib rules do not have a separate category and no exemptions exists for evacuation/fire drill cribs, therefore providers must check with the manufacturer of each crib in question to find out if the crib meets the new federal crib rules. In RARE INSTANCES there are some specialty cribs that are designed and certified as "medical devices" that are NOT covered under the new federal crib rules. These cribs are regulated by the Food and Drug Administration (FDA) and are generally found ONLY in hospital/clinic environments. These are typically NOT the type of crib purchased and in use in child care facilities.

To determine if a hospital run facility has a crib considered and certified as a "medical device" by the FDA, providers can contact DSMICA.

DSMICA Contact Information

<http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/ucm142656.htm>

Reporting Problems to the FDA - includes Medical Device Reporting and Emergencies

<http://www.fda.gov/ForConsumers/ConsumerUpdates/ucm095859.htm#chart>.

Division of Licensing Programs Crib memos:

http://www.dss.virginia.gov/files/division/licensing/cdc/intro_page/current_providers/notices/consumer_product_safety_commission_mandatory_standards_for_cribs.pdf

http://www.dss.virginia.gov/files/division/licensing/cdc/intro_page/current_providers/notices/new_cpsc_crib_safety_standards_memo.pdf

http://www.dss.virginia.gov/files/division/licensing/cdc/intro_page/current_providers/notices/crib_standards_an_information_sheet_for_child_care_providers.pdf

(0263-11/12)

Question: What is the most recent information regarding mesh-sided portable cribs and the proper use of them?

Answer: The standard requires that cribs meet Consumer Product Safety Commission Standards (CPSC). A “portable crib” is defined in the CPSC standards as “a non-full-size baby crib designed so that it may be folded or collapsed, without disassembly, to occupy a volume substantially less than the volume it occupies when it is used.” “Non-full-size cribs,” as defined by CPSC, are cribs that: 1) are intended for use in or around the home, for travel and other purposes and 2) have an interior length dimension either greater than 55 inches or smaller than 49 ¾ inches, or an interior width dimension either greater than 30 5/8 inches or smaller than 25 1/8 inches, or both.

The CPSC standards include a definition of “crib-pen.” A crib-pen is a non-full-sized baby crib the legs of which may be removed or adjusted to provide a “play pen” (two words) or yard for a child.

Mesh/net/screen cribs, non-rigidly-constructed baby cribs, cradles (both rocker and pendulum types), car beds, baby baskets and bassinets (also known as junior cribs) are not subject to the provisions of the CPSC standards for full-size and non-full-size cribs. They are also not subject to the provisions of CPSC standard §1500.18 which bans certain toys and equipment intended for use by children. Because they are not covered in the law and because center standards require use of cribs for sleeping that meet CPSC standards, mesh/net/screen cribs are not permitted for sleeping in child day centers.

Play yards may be used in child day centers, but may not be used as the designated sleeping area. A play yard is a framed enclosure with a floor made for the purpose of containing a child who is unable to climb out of the play yard, is less than three feet tall, and who weighs no more than 30 pounds. The sides may be either mesh-fabric or rigid-sided and the padding in the floor pad must not be more than one inch thick. Mesh-sided play yards must not be used if: 1) the play yard has been recalled; the weave is more than ¼ inches; there are tears, holes, or loose threads; the mesh isn't securely attached to the top rail or floor plate; the top rail cover has tears or holes; there are missing, loose or exposed staples, if used; a pillow, comforter, or other soft bedding is provided; or the latching or locking device requires a minimum force of 10 pounds to activate the release mechanism. (0147-08/08)

22 VAC 40-185-440.J Cribs, cots, rest mats, and beds

Question: If the ends of a crib are Plexiglas, does the end of the crib constitute a “wall”?

Answer: Although the separation/spacing of cribs and other sleeping equipment/furniture is necessary to ensure easy access for fire safety/evacuation, another purpose is to prevent the transmission of infectious agents. According to the health department, children are more susceptible to the transmission of infectious agents while lying down or sleeping than when upright or awake. The use of proper spacing or a barrier between cribs aids in preventing the transmission of infectious agents. A barrier can be in the form of a whole or partial wall made of non-porous material such as Plexiglas. A crib that is manufactured with Plexiglas ends can be placed end-to-end, as if against a wall. However, cribs must have 30” of space between the service sides and any other furniture or crib to ensure access to the crib when occupied. Prior to using a crib with Plexiglas when it is not an original manufactured part of a crib, the facility is responsible for ensuring there are no rough or sharp edges or entrapments that would make the crib unsafe. (0148-08/08)

Question: If one crib is occupied and the crib immediately beside the occupied crib is empty, are the 12 inches of required space between cribs and 30 inches of space on the service side still applicable?

Answer: The 30" is still applicable on the service side of the occupied crib, but the 12" between cribs does not. The space between cribs is needed to separate sleeping/resting children from one another to reduce the likelihood of the spread of disease. When only one child is present the 12" requirement is not necessary, and therefore not required. (0149-08/08)

22 VAC 40-185-440.L Sleep sacks

Question: Are sleep sacks prohibited?

Answer: No. Sleep sacks for infants lessen the risk level for Sudden Infant Death Syndrome and are a better choice than a regular blanket. The new sleep sacks are not made of materials like a comforter, and would meet the intent of 22 VAC 40-185-440.L. If a center uses a sleep sack for an infant they must also have a bottom sheet to meet the intent of 22 VAC 40-185-450.A. If using a sleep sack for a premature infant, the center would have to make sure that sack would not be too large for them. (0230-09/11)

22 VAC 40-185-450.C Clean linens

Question: Can mats be stacked each day when stored?

Answer: Cots and mats are usually stacked during storage. The concern is that dirty or soiled linens from one cot or mat may contaminate the clean linens of others. The design of the cot keeps the sleeping surface off the floor and thus the sleeping surfaces do not touch dirty or soiled surfaces when stored. Although mats only have to be sanitized weekly, the sleeping surface (i.e., the linens) must be clean. If the linen used by a child has come into contact with the floor, the floor side of another mat, the sleeping surface of another child, food or any bodily fluids, then it is not considered clean.

If the linens are removed from the mat or some procedure is followed to ensure the sleeping surface of children's rest mats don't come into contact with each other or the underside of a mat that has been on the floor, then mats may be stacked. Procedures to ensure compliance with this standard may include folding the sleeping surfaces of mats onto themselves or placing butcher paper between the mats before stacking. (0151-08/08)

22 VAC 40-185-450.C.2, 500.B.3.a, and 320.B.3 Water temperature TA 0150 deleted 11/12

22 VAC 40-185-450.D Pillow pets

Question: Since "Pillow Pets" are technically pillows; do they have to be covered if used when sleeping?

Answer: Pillows Pets are stuffed toys that can be used as a pillow or a stuffed animal toy. The corresponding standard would depend on how the Pillow Pet was being used by the child in care. If it is being used by the child as a pillow when sleeping, then 22 VAC 40-185-450.D requires that pillows when used shall be assigned for individual use and covered with pillow cases. 22 VAC 40-185-450.C requires that linens shall be cleaned and washed weekly. 22 VAC 40-185-440.L

requires that pillows and comforters shall not be used by children under the age of two in cribs, cots, rest mats or beds. 22 VAC 40-185-430-M.3 prohibits the use of pillows or filled comforters in play yards. If the Pillow Pet is used as a stuffed animal toy for a child then 22 VAC 40-185-430.I requires that "If other personal articles are used, they shall be individually assigned." (0231-09/11)

22 VAC 40-185-470 Pools and equipment

Question: When is a pool classified as a swimming pool versus being classified as a wading pool?
Answer: The state building code defines "swimming pool" as any structure intended for swimming, recreational bathing or wading that contains water over 24 inches deep. The state building code does not define "wading pool," but for purposes of this standard, a "wading pool" is a pool that contains water 24 inches deep or less. (0212 – 07/10)

PART VII. SPECIAL CARE PROVISIONS AND EMERGENCIES

22 VAC 40-185-490.A.1 Child's temperature

Question: Which method should be used to take a child's temperature that would exclude him/her from the center at 101°F?

Answer: The standards are deliberately silent on the method to use to take a child's temperature. What must be enforced is exclusion of children with temperatures over 101°F, no matter what method is used to make that determination. Health care professionals differ slightly on which type of thermometer to use for which ages and how temperature should be taken. Most however, advise against a provider taking a rectal temperature on any child that is not his own without special training from a health care professional and parental directive. (0152-08/08)

22 VAC 40-185-490.C Notification of communicable diseases

Question: Is a center required to post a notice to parents when head lice are discovered at the center?

Answer: No, the standard requires the center to notify parents of children's exposure to diseases on the Virginia Department of Health communicable disease reference chart, it does not require posting of such notice. The requirement is to notify parents. The manner in which the center notifies parents is up to the center management. It meets our standard as long as the parents are notified within the required timeframes. The facility is required to notify parents when head lice are discovered at the facility. The current communicable disease chart is found:

http://www.vdh.virginia.gov/Epidemiology/documents/pdf/Communicable_Disease_Chart.pdf
(0264-11/12)

Question: How does a life threatening disease need to be reported? What documentation, if any, is required of this reporting?

Answer: Life threatening diseases need to be reported to the parents immediately via the quickest method possible (e.g., telephone, email, Instant Messaging). Some form of written documentation should be filed. This could include, but is not limited to, an attendance sheet with check marks next to each child's name symbolizing someone from the center contacted the parent, the parent's signature acknowledging the contact, a note in each child's file documenting the name of the parent contacted and the time the contact took place. (0153-08/08)

22 VAC 40-185-490.D Notification of communicable diseases

Question: Need clarification on when notification of communicable disease exposure is forbidden by law. Are HIV and AIDS the only ones forbidden by law?

Answer: Section 32.1-36.1 of the Code of Virginia states: "the results of every test to determine infection with human immunodeficiency virus shall be confidential." Section 32.1-127.1:03 of the Code of Virginia recognizes "a patient's right of privacy in the content of a patient's medical record." These sections of the law then provide specific circumstances in which this type of health information may be disclosed. According to staff in the Office of Epidemiology, if children at a child care program have been exposed to a communicable disease such as chickenpox, it would be appropriate to state that the children were exposed without citing the particular child with chickenpox. A child with HIV attending a child care program should not be considered exposure to a communicable disease since this virus is very fragile when exposed to air. (0154-08/08)

22 VAC 40-185-500.A Hand washing and toileting procedures

Question: Are there any requirements regarding required temperature of running water used by children during hand washing?

Answer: No. 22 VAC 40-185-500.A.1-2 only requires that children's hands be washed with soap and running water, there is no temperature requirement other than 22 VAC 40-185-320.B.3 that requires restroom areas to have sinks located near toilets that are supplied with running warm water that does not exceed 120 degrees F.

The standard only requires that the running warm water temperature does not exceed 120 degrees F in a restroom area sink located near toilets. Hand washing with plain soap and warm water does not result in pathogen destruction (water would have to be over 130°F to do that; scalding of the skin occurs at 120°F), but the removal of dirt/germs occurs through the friction that is generated with scrubbing and a generous flow of water. The advantages of warmer water are that it does work best to cut the body oils on our skin that hang on to dirt and germs and it also makes soap more sudsy, which helps it pick up more debris on our hands. (0265-11/12)

Question: May hand sanitizer be used as an extra precaution by staff or children after washing hands with soap and water?

Answer: Yes. The standard requires staff and children's hands be washed with soap and water, the standards do not prohibit staff or children from using hand sanitizer in addition to washing hands with soap and water. (0203-rev 09/09)

Question: If children have to leave the building to wash hands before/after eating, do they need to use wipes to clean their hands immediately before/after eating? Sometimes it can take 15-20 minutes for the whole class to get hands washed.

Answer: No. The requirement to wash hands before eating is to cut down on the amount of germs shared. After eating, is twofold, not only allergy issues, but children usually get pretty grimy with food substances when they eat. Washing hands after eating keeps the 'food substances' off everything else they touch after eating. (0232-09/11)

Question: May disposable wipes be used to wash children's hands?

Answer: Disposable wipes, instead of soap and running water, may be used to wash children's hands before and after meals or snacks. (0155-rev 09/09)

Question: What does the term "germicidal cleansing agent" mean?

Answer: "Germicidal cleansing agent" means hand sanitizer. (0211-09/09)

22 VAC 40-185-500.A.4 Cleaning hands

Question: May hand sanitizer be used by children to wash their hands?

Answer: Hand sanitizers, instead of soap and running water, may only be used when running water is not available. However, hand sanitizers may be used in addition to washing with soap and running water.

NOTE: Hand sanitizers are flammable due to the alcohol content and there are state fire regulations regarding their safe storage. The State Fire Marshal has advised that centers that are considering installing wall-mounted dispensers or storing large amounts of hand sanitizer contact their local fire official to ensure they are in compliance with the fire regulations. (0210-09/09)

Question: May staff use hand sanitizers instead of using soap and water to wash their hands?

Answer: No. Standard 500.A.3 requires use of soap and running water. 500.A.4 is an exception to this standard and allows the use of a hand sanitizer ONLY if running water is not available. NOTE: Hand sanitizers are flammable due to the alcohol content and there are state fire regulations regarding their safe storage. The State Fire Marshal has advised that centers that are considering installing wall-mounted dispensers or storing large amounts of hand sanitizer contact their local fire official to ensure they are in compliance with the fire regulations. (0156-rev 09/09)

22 VAC 40-185-500.B Diapering area

Question: What is an acceptable proximity between the sink and the diapering table?

Answer: To prevent spreading of disease, staff are required to wash their hands prior to and immediately after each diaper change. Staff must be diligent with hand washing to prevent the contamination of collateral surfaces by unwashed hands (e.g., door knobs, gates). In addition, staff must clean the diapering area after each change with soap and water (see 500.B.8 for an exception to cleaning of the surface after each diaper change). Therefore, the sink should be close enough to the actual site of diapering so that the staff person does not have to touch any surfaces or walk a great distance to access the sink. It is unacceptable to have a sink more than one room away from the diapering area, even if a staff person does not have to touch any surfaces to access the sink. (0157-08/08)

22 VAC 40-185-500.B.6 Disposable diapers

Question: Does a lined trash can without a lid meet this standard for discarding disposable diapers?

Answer: No. A diaper disposal system shall have a lid. (0158-08/08)

22 VAC 40-185-500.B.8 Exception: Disposable barriers for diapering surfaces

Question: Please define disposable barrier.

Answer: In this context, it is a clean, dry barrier that can be thrown away (i.e., it is not reused – one child per barrier) (e.g., butcher paper, banner paper). Unacceptable barriers include, but are not limited to: newspaper, plastic bags, and cardboard. (0159-08/08)

22 VAC 40-185-510 Medications

TA 0233 deleted 11/12

22 VAC 40-185-510.C.3 Medication, long term authorization

Question: Can MAT forms be modified to allow parent and physician permission for long term medication to expire at 12 months, instead of 6 months? If a MAT form is altered to fit a provider's policies and procedures, can they keep the MAT logo?

Answer: MAT forms are not required, and much of the information requested on the MAT forms is not required by the standards. The provider needs to follow the regulation requirements, which do not require an expiration date on long term prescription authorization. It is the physician's responsibility to determine when the documentation for the use of a long term medication will need to be updated. While the regulations do not require this, if the MAT form is changed, the MAT logo should be removed. Please note- there are new model forms for medication administration that comply with the standards, found at: http://www.dss.virginia.gov/facility/child_care/licensed/child_day_centers/index.cgi (0266-11/12)

22 VAC 40-185-510.G.3 Labeling medication

Question: Can a CDC administer prescription medication that is given to a parent as a 'sample' from a child's physician, and not dispensed by a pharmacy? Do the samples have to be labeled?

Answer: Yes, a CDC can administer 'sample' prescription medications given to a parent for a child in care. The 'sample' medication must be maintained in the original 'sample' container. There must be written instruction from the prescriber (usually a physician, nurse practitioner, or physician's assistant) that indicates the child's name and instructions pertaining to dosage, frequency, and manner of administration. This written instruction can be in the form of a label on the 'sample' medication, a prescription, or written authorization from the physician. A 'sample' medication will either be a prescription medication or non-prescription medication and all applicable standards will apply. Sample medications dispensed by an authorized prescriber (physician, nurse practitioner, or physician's assistant) meet the intent of this standard. (0267-11/12)

Question: If there is written authorization from the child's physician and parent for long term prescription drug use, is there no expiration on the authorization?

Answer: Regulations from the Board of Pharmacy have specific guidelines on filling and refilling prescription medication but this does not address the person giving medicine to a child. Also, prescription medications may not have expiration dates. According to Board of Pharmacy regulations, certain medications cannot be filled more than six months after the date on which the prescription was issued. The length of time for filling or refilling other medication can be up to two years after the date on which it was issued. Therefore, physicians will usually update prescription medication. This is needed since body weights change for young children. It is recommended that physician permission for long-term drug use by child care operators specify the duration for using the medication and that operators follow this advice. Also, long-term prescription medication can include over-the-counter medications if accompanied by a physician's authorization and the parent's authorization. (0160 - rev 09/11)

22 VAC 40-185-510.J Medication kept in a locked place

Question: Can a school-age child carry his or her own inhaler with a doctor's permission?

Answer: In order for a child to have his or her medication on his or her person the following criteria must be met:

1. Ten years of age or older,
2. A letter from a doctor or a prescription label stating that the medication must be immediately accessible in case of emergency and that the medication would not be harmful if obtained and taken by another child,
3. Written permission from his or her parent and statement that the child is responsible enough to keep up with and administer the medication,
4. The center Director must determine that the medication can be retained and administered by the child without interference from other children; otherwise, a staff person must provide continuous sight and sound supervision of the group when the child has the medication.

If these criteria cannot be met, then the medication shall be placed in a location that is not accessible to children, which may include an unlocked location with staff being responsible for immediate action should an emergency occur. Note: For older school-age children, inaccessible might mean being locked in a medicine box or in a staff person's direct control (i.e., the staff person has it on his/her person – in hand, in a fanny-pack that is we being worn). (0162-08/08)

Question: Do EpiPens need to be locked?

Answer: Yes; unless a doctor's note states otherwise. It is important that it be located and locked in such a way as to allow someone quick access to it when an emergency occurs. The facility's medication administration policy should address issues related to the timeliness of accessing emergency medications. (0163-08/08)

22 VAC 40-185-510.L Expired medication authorization

Question: When authorization for a medication has expired and the medication has not yet been picked up, upon which day should the violation be issued?

Answer: A violation should only be issued if 14 days have passed since the authorization expired and after the 14th day (i.e., day 15) the medication can still be found at the facility. A violation should not be issued prior to the 15th day. (0164-08/08)

Question: How do you propose we dispose of non-flushable meds (e.g., Epipens)?

Answer: Medications that cannot be flushed should be disposed of in some form of hard puncture-resistant, leak-proof container with a tight-fitting screw top (i.e., a homemade “sharps” container – e.g., a peanut-butter container, laundry detergent bottle, bleach bottle). The container should be clearly labeled according to OSHA standards, and sealed with heavy-duty tape for added safety. It should be kept out of reach of children.

Providers should contact the local public works/sanitation department in the locality where the center is located, to find out if the locality has special procedures for disposal of medical waste. Staff at the local health department may also be able to provide guidance.
(0165-08/08)

22 VAC 40-185-520 Use of baby powder

Question: Can center staff apply baby powder to a child in care?

Answer: Yes. The use of baby powder is not prohibited by the standards. Baby powder is considered an over the counter skin product and shall meet the requirement in 22 VAC 40-185-520.A. Although the use of baby powder is not prohibited by the standards, best practice information is:

- **Baby powder is not recommended by the American Academy of Pediatrics. Powder can cause breathing problems and serious lung damage when inhaled, and it's not always easy to keep the powder out of the air where your baby might breathe it. This is most worrisome with talc-based powders, which have small, easily inhaled particles.**
- **There's no evidence that baby powder helps to prevent or treat diaper rash. The best preventive strategy is to clean and pat dry a baby's bottom at each diaper change and then apply a thin layer of protective ointment or cream.**
- **If you wish to use powder, exercise these precautions and develop safe practices.**
- **Powder should be inaccessible to the children in care.**
- **Apply powder by shaking it on your hands as far away from the baby's head as possible. Don't sprinkle the powder directly onto the infant's body. This prevents the creation of the cloud of smoke which occurs when one shakes the powder directly from the container.**

(0268-11/12)

22 VAC 40-185-520 Authorizations for topical skin products

Question: Is the brand name required on the written authorization for topical skin products?

Answer: No, the standard does not require product name or brand name on written authorizations for topical skin products. (0234-09/11)

22 VAC 40-185-520.A Lip balm

Question: How should a child day center handle Lip Balm that is brought in for use by a child in care? Is a parent's written permission needed? What are the storage requirements?

Answer: Lip balm is considered an over the counter topical skin product. 22 VAC 40-185-520.A requires that over the counter skin products shall be used in accordance with manufacturer's recommendations and shall not be kept or used beyond the expiration date of the product. Written authorization by the parent is not required. The Standards for Licensed Child Day Centers do not address storage requirements of this product. 22 VAC 40-185-430.I requires ...”If personal articles

are used, they shall be individually assigned”. Best practice would be to monitor the child’s use of the lip balm so that it is only used by the individual child to prevent the spread of germs. (0235-09/11)

22 VAC 40-185-520.B.3, C.3, D.3. Over-the-counter skin products

Question: What is considered being “inaccessible to children”?

Answer: Inaccessible to children means:

- Storage in a room or closet with a locked lock on the door, or a child safety device over the doorknob while children are in care. (This includes closets inside a room if the room has a locked lock on the door or a child safety device over the doorknob); or
- Storage areas or cabinets secured by a functioning child safety lock or latch that is used appropriately. If the safety lock/latch is broken or not in use, the substances are accessible and the facility will be cited for noncompliance; or
- Storage out of the reach of children. Out of reach means a child who is observed in or using that space cannot reach the item while his feet are on the floor.

Exceptions to this would be if there is a step of some sort, such as a step stool in front of a sink where there are items on the counter next to the sink, or a toilet that is under the shelf that stores items in the bathroom when a child uses the bathroom without the direct supervision of a staff member. For example, a tube of diaper ointment in the infant room at the back of a counter would be out of reach and inaccessible. However, in a four year old classroom, where the children could reach the tube of diaper ointment on the counter, the item would be considered accessible. (0168-rev 09/09)

22 VAC 40-185-520.B.6 Over-the-counter skin products

Question: One of our programs has a question about sunscreen. Standard 520.B.6 states, “children nine years of age and older may administer their own sunscreen if supervised.” Does this mean that children eight years of age and younger may not administer their own sunscreen if supervised? The concern they have is that some of the older children may not be comfortable with a staff member rubbing sunscreen on their bodies.

Answer: One of the definitions of administer is to dispense. For children under nine years of age the staff person must be in charge of taking the bottle of sunscreen and placing an appropriate amount of lotion in the child’s hand, but the child may apply/rub the solution onto his/her skin. The staff could assist (like the middle of the child’s back) as necessary but must ensure the lotion is applied correctly (i.e., sufficiently). (0170-08/08)

22 VAC 40-185-520.C Diaper cream

Question: If diaper cream is being used for “prevention,” how long is the authorization form good for?

Answer: A parent can authorize the use for “prevention” as long as they deem necessary. (0236-09/11)

Question: What form of written authorization is needed in order to apply Vaseline as diaper ointment on a child, and what documentation should the center be completing when the center does apply Vaseline on a child?

Answer: If Vaseline (petroleum jelly) is being used in the place of diaper ointment then standard 520.C shall apply. If it is being used for some other purpose then standard 520.A shall apply. (0167-08/08)

22 VAC 40-185-520.C.4 Diaper ointment

Question: Can a CDC accept and use a “homemade” mixture of over-the-counter products such as Vaseline and Corn Mill (food item) to apply to a child for diaper rash? Would there need to be a special permission from the parent for application specific for this child/this mixture?

Answer: Yes, a facility may choose to use a ‘homemade’ diaper ointment made/mixed by the parent and provided to the facility by the parent as long as the ingredients do not include any prescription medications. In this instance, the parent would be considered the ‘manufacturer’ and the container provided to the facility by the parent would be considered the “original container.” The container must be labeled with the child’s name as required by 22 VAC 40-185-520.C.2; include an expiration date as required by 22 VAC 40-185-520.A; and since it is homemade it must include directions for use required by 22 VAC 40-185-510.F. In addition, because a food product is being used for another intended purpose (getting rid of diaper rash) the use of a homemade ointment would be considered a special accommodation requested by the parent and should be documented in the child’s record as required by 22 VAC 40-185-60.A.8. However, if the facility is uncomfortable or uneasy with the acceptance and use of a homemade diaper ointment, 22 VAC 40-185-40.E allows the facility the authority to develop policy that might, for example, include requiring additional documentation by a health care provider for the use of the product or possibly include a policy stating that they will not accept or use homemade diaper ointment products. (0269-11/12)

Question: Can the record of the application of diaper ointment be included on the daily infant report or does it have to be separate documentation?

Answer: The record of ointment can be included on the daily infant report as long as adverse reactions are included on the report. (0171-08/08)

22 VAC 40-185-520.D Insect repellent

Question: Can a preschool age child use or wear an ‘OFF Bug Spray Fan’?

Answer: Yes, there is no prohibition in the standards for a preschool age child to use this kind of insect repellent. It should be noted that this particular kind of repellent is designed to work when stationary, so the center and parent should determine if it is the most appropriate repellent for an active preschool child to use outdoors. If a preschool age child uses this repellent, the center must provide supervision that provides for the safety of all children who may come into contact with the vapors from this unit. This would include ensuring that children with wet hands do not touch or play with the unit (based on the manufacturer’s precautions), or get close enough to inhale vapor from the unit. All requirements of 22 VAC 40-185-520.D apply for the child wearing the unit. (0270-11/12)

22 VAC 40-185-530.A.2 First Aid/CPR

Question: Does the statement “other designated program approved by the Department of Social Services” allow for individuals to submit a training/curriculum for review by the department? If so, what information is required to be submitted and what is the correct procedure?

Answer: The curriculum must be submitted to DSS- Licensing. The form “First Aid and Cardiopulmonary Resuscitation (CPR) Course Approval can be found at: http://www.dss.virginia.gov/files/division/licensing/cdc/intro_page/current_providers/forms/all_other/032-05-0051-02-eng.pdf

The curriculum will be reviewed and a determination will be made as to whether the curriculum is consistent with the current American Heart Association guidelines for infant/children/adult CPR and AED applications. (0271-11/12)

Question: Are online classes acceptable for first aid and cpr certification?

Answer: The Division of Licensing Programs does not accept online CPR/First Aid courses if it does not also include an in-person skills demonstration as part of the training. Certifications for first aid and CPR courses require students to show competency by successfully passing a knowledge test and demonstrating skills proficiently. CPR courses must be appropriate for the entire age span of the children in the center’s care. (0237-09/11)

Question: Will licensing accept EMT (Emergency Medical Technician) certification through the VA Dept of Health & certified by the Director of EMS (Emergency Medical Services) in place of Standard/Basic First Aid certification?

Answer: Yes, Virginia EMT certification can be substituted for standard CPR and first aid training. As long as the EMT certification is current, their EMT training included a curriculum for CPR / First Aid that has been previously approved by the Division of Licensing Programs (DOLP) and they can provide appropriate documentation, a Virginia EMT certification is an acceptable substitution. If an organization has a course/training that has not been approved by DOLP and wishes to submit their curriculum to the DOLP for evaluation, they can complete a “Request for First Aid and Cardiopulmonary Resuscitation (CPR) Course Approval” form. The form may be viewed at http://www.dss.virginia.gov/files/division/licensing/alf/intro_page/current_providers/forms/032-05-0095-00-eng.pdf (0238-09/11)

22 VAC 40-185-530.A and 580.A First aid/CPR when transporting children

Question: Do the standards require a person trained in first aid and CPR to be present in the vehicle when the center provides transportation for the children to and from the center?

Answer: Yes. 22 VAC 40-185-530.A requires at least one person trained in first aid and CPR appropriate to the age of children in care to be present wherever children are in care, which includes when children are being transported to and from the center. The standards do not require that this person be a staff member or the driver of the vehicle. (0272-11/12)

22 VAC 40-185-530.A.2 First aid and CPR training

Question: What courses are approved by the Department of Social Services?

Answer: Contact the Division of Licensing Programs Children’s Health and Safety Consultant for a list of the currently approved courses. (0172-08/08)

Question: What CPR courses from the American Heart Association meet this standard - some do not evaluate skill or provide a written test? Pediatric Basic Life Support (PBLIS) Plus provides training pertaining to infants and children up to age eight. Would a staff member taking this course also need to take a course covering adult CPR?

Answer: The course must certify the participant since the standard refers to “certification” - an attendance card by itself would not be acceptable. The age of the children at the center needs to

be considered - if children are over eight years of age, adult CPR is required unless the CPR instructor can state that the course covers the ages of children served. (0173-08/08)

22 VAC 40-185-540.D.1 Activated charcoal

Question: Where can we purchase activated charcoal?

Answer: Many natural food stores sell activated charcoal. You could also check in a health food store or order online. Your local red cross may know of local availability. (0239-09/11)

22 VAC 40-185-540.D.1 First aid and emergency supplies

Question: Can providers purchase activated charcoal in a tablet or capsule form?

Answer: The Poison Control Center states that Activated Charcoal tablets or capsules should NOT be used for poisons. They recommend using small gram bottles of dry powder that can be mixed with water or soda pop. Some bottles already have water or sorbitol in them. Sorbitol can cause diarrhea in children. NEVER use burnt toast, charred wood, or charcoal briquettes. Always call Poison Control BEFORE administering activated charcoal. (0174-08/08)

22 VAC 40-185-550.A Emergency preparedness plans

Question: Are the state/local authorities aware of working with centers regarding emergency preparedness?

Answer: Every locality in Virginia has an emergency coordinator. A list of these officials can be found on the Virginia Department of Emergency Management (VDEM) website at: <http://www.vdem.state.va.us/library/#directories>. Contact has been made with the Virginia Department of Emergency Management. They have been provided a copy of language in this standard, and have agreed to notify the local coordinators that they may be receiving requests for assistance from licensed facilities. Our contact at VDEM was also advised that our licensing staffs will be looking for confirmation, perhaps in the form of a signature, that centers' emergency plans were in fact developed in consultation with local or state authorities as required in the standard. The signoff will NOT be an indicator that the plans are approved. The signoff will indicate that the plans have been reviewed and that the emergency coordinators may have provided some recommendations. It will be the responsibility of the center to incorporate and implement the recommendations into their emergency plan. (0175-08/08)

Question: If a provider uses the VDH booklet "It Pays to Prepare," can this be considered consultation with local/state authorities?

Answer: No. Emergency preparedness plans must be customized to meet the unique needs of individual centers, based on the community in which the center is located and the children served. The plan for a center located near a nuclear power plant, for example, may not be the same as for a center in a different location. The referenced booklet may be a useful resource, but would not substitute for consultation with local/state authorities. (0176-08/08)

Question: Are color codes going to be used for terrorism (emergency scenarios)?

Answer: The use of color codes for terrorism is not addressed in the standards. However, the authorities who will provide consultation on the development of emergency preparedness plans may recommend incorporation of this nationally recognized warning system into these plans. (0177-08/08)

22 VAC 40-185-550.B.3.b, and 550.B.4.b Procedures for emergencies

Question: What are considered “essential documents” for emergency evacuation and shelter-in-place emergency plans?

Answer: Each center’s emergency preparedness plan must be customized to meet the unique needs of individual centers. Each center shall identify in their customized emergency plan their essential documents and the process in place for securing the listed documents. Essential documents shall, at a minimum, include records of children in attendance that day, for each child: parent contact information, names of the two designated people to call if parent cannot be reached, information on allergies, intolerance to food, medication, etc., and any special healthcare needs; for each staff member: address and telephone number of person to be contacted in an emergency. (0202-04/09)

22 VAC 40-185-550.C Emergency evacuation and shelter-in-place procedures/maps

Question: Must the emergency evacuation procedures be posted along with the evacuation map?

Answer: Yes. These procedures must be posted in a location conspicuous to staff and children on each floor of each building. The standards do not require posting of the entire emergency preparedness plan, just the emergency evacuation and shelter-in-place procedures and maps. (0178-08/08)

22 VAC 40-185-550.F Posted numbers

TA 0179 deleted 11/12

22 VAC 40-185-550.I Procedures for emergencies

Question: How are the parents to be notified of the center’s emergency preparedness plan – in writing? Documented conversation? Conversation with parent according to PD?

Answer: Standard 420.A.10 requires it be provided to the parent in writing. (0180-08/08)

22 VAC 40-185-550.L Notifying parent of minor injuries

Question: What is considered “end of the day”? Is the “end of the day” when the center closes (in this case 6:30 p.m.) or is it midnight – the end of the 24 hour calendar day?

Answer: The intent of “the end of the day” in the standard is the end of time period that a center has responsibility for the supervision of the child. 22 VAC 40-185-550.K-L are written to differentiate/allow the center leeway in notification times based on the seriousness of an injury. The language in 22 VAC 40-185-550.L.....”by the end of the day”...is intended to allow the center to inform the parent of minor injuries when the child is picked up, as opposed to immediately, as is required for serious injuries. (0273-11/12)

PART VIII. SPECIAL SERVICES

22 VAC 40-185-560 Food service

Question: If a center asks parents to provide snacks for the entire class, do requirements in 22 VAC 40-185-560.F apply?

Answer: No. If the parents provide the snacks to the entire class, requirements in 22 VAC 40-185-560.F do not apply because the center is not providing the snacks. Requirements in 22 VAC 40-185-560.G apply because the food is 'brought from home'. The center is still required to provide care and protection to the children (22 VAC 40-185-340.A), which includes ensuring that children are not served food they are allergic to. (0274-11/12)

22 VAC 40-185-560.A Times for meals and snacks

Question: Is a center allowed to put snacks out on a table for children to get them when they want instead of having a designated time for snacks?

Answer: This standard requires the center to schedule appropriate times for snacks and meals. It would be acceptable to specify a range of time for snacks. In this situation, the center would still need to: assure the snack meets United States Department of Agriculture (USDA) requirements for nutrition (22 VAC 40-185-560.F.1), take safety measures for perishable food (22 VAC 40-185-260.B.3 and 22 VAC 40-185-560.J), and have proper supervision to assure children's hands are washed before eating (22 VAC 40-185-500.A.1). (0181-08/08)

22 VAC 40-185-560.C Nutrition and food services

Question: If breakfast is served to children between 8:00 a.m. and 8:30 a.m. and then lunch is served at 11:30 a.m., are the "three hours between each meal" based on the start time of breakfast (8:00 a.m. in this example) or the end time of breakfast (8:30 a.m. in this example)?

Answer: Since there is no more than three hours between the end of the breakfast period and the beginning of the lunch period this practice is acceptable. If the schedule does not have a block of time for snack or the meal but only a start time, it is reasonable to consider the snack time would be 15 minutes and meal time would be 30 minutes. (0182-08/08)

22 VAC 40-185-560.F Center providing food

Question: If a center that does not normally provide food occasionally provides food, is it required to follow the requirements of 22 VAC 40-185-560.F?

Answer: Yes. Any time a center provides food, the requirements of 22 VAC 40-185-560.F must be met (USDA guidelines, adequate food for second helpings, a variety of nutrients served, and no choking hazards for children three years of age and younger). Fluid milk is required by USDA guidelines; substituting another dairy product is not allowed. (0213-12/10)

22 VAC 40-185-560.F Serving milk

Question: Does a center have to serve milk at lunch and supper, or can they offer children a choice of milk, water, or juice?

Answer: The center must serve milk at lunch and supper as required by USDA, not offer a choice of beverage. USDA does not recommend 'choices' of milk, juice or water served during lunch or supper. (0240-09/11)

22 VAC 40-185-560.F.4 Foods considered choking hazards

Question: Is there a specific list of foods that pose choking hazards to children three years of age or younger? Can hot dogs and grapes be served if they are cut into pieces? Are raisins choking hazards?

Answer: It is not possible to provide a list to cover all the potential food items that can pose a choking hazard to young children. However, foods that are round, hard, small, slippery, or thick and slippery are considered high-risk foods for young children because they can lodge in small airways causing a child to choke.

Examples of these foods are: hot dogs (whole or sliced into rounds), raw carrot rounds, whole grapes, hard candy, chewing gum, nuts, seeds, hard pretzels, peanuts, popcorn, marshmallows, spoonfuls of peanut butter, and chunks of meat larger than can be swallowed whole.

Raisins are not choking hazards. Caring For Our Children states "although dried fruits are sometimes mentioned as food hazards, a search of the literature does not identify a single instance where raisins were associated with a lethal choking incident. Because raisins are wrinkled, air likely gets around them, enabling the child's cough to remove them from the airway." (0183 – rev 09/11)

Hot dogs and grapes may be served to children three years of age or younger IF cut into small, non-round pieces, as shown in photo 1 below.

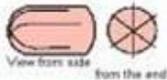


Photo 1

Hotdogs are to be cut lengthwise from end to end multiple times as shown in photo 2 below, and then minced into very small pieces as shown in photo 3.



Photo 2



Photo 3

22 VAC 40-185-560.G Food brought from home

Question: When a child brings food from home, what responsibility does the center have if the food does not meet USDA guidelines?

Answer: The standards cannot regulate the nature of the food brought from home. If the food brought from home is forgotten, inadequate in quantity, or spoiled, the center must provide appropriate food as described in 22 VAC 40-185-560.F. The center must also discard unused portions of opened food at the end of the day or return the food to the parent. (0214-12/10)

Question: May a center that allows snacks from home sell “junk food”? What if the center has a vending machine for snacks? Parents will send money with their child to buy these snacks instead of preparing a snack at home to bring to the center. Define an “appropriate” snack and an “inadequate” snack. What is the center’s responsibility for supplementing inadequate snacks?

Answer: It is acceptable for parents to allow their children to purchase “junk food” from a vending machine. 22 VAC 40-185-560.G requires an “appropriate” snack if the child’s snack from home (or purchased) is forgotten, inadequate or perishable. While the “appropriate” snack may not contain two components, it must be sufficient in quantity for the age of the child. For example, two saltine crackers would not be appropriate as a snack for a school age child. It is suggested that centers follow the USDA guidelines for good nutrition. (0184-08/08)

Question: When food is brought from home (e.g., several unopened jars of baby food to be used over several days), how should it be dated?

Answer: Any prepared item (e.g., bottles of formula/milk, sandwiches, foods packaged or prepared by the parent) must be labeled with the date it was brought into the center. Food items that are in factory sealed containers (e.g., cartons/bottles of juice, pre-packaged formula, boxes of cereal) that are unopened and clearly labeled with a “sell by date” or an “expiration date” do not need an additional date unless opened and stored for later use. When this occurs, the containers must be labeled with the date opened. (0199-04/09)

Question: When food is ordered in and not provided by the center, what responsibility does the center have? Does the center have to provide milk at lunch if they are not providing the meal?

Answer: If the parents provide the food, or the center orders food that is paid for by the parent, the center does not have to meet USDA requirements described in 22 VAC 40-185-560.F. The center would not be required to serve milk at lunch. 22 VAC 40-185-560.G requires the center to have extra food or provisions to obtain food if children forget their lunch, bring a lunch that is inadequate in quantity, or bring in spoiled food. (0241-09/11)

22 VAC 40-185-560.G.1 Food brought from home

Question: What is to be considered “sealed” when food is being brought from home (baggies, plastic container, etc)? If the food is in the labeled lunchbox do they still have to be sealed and dated?

Answer: The container (e.g., paper bag, lunch box) that food is brought from home in must be securely closed or fastened. A child’s lunchbox or lunch-bag should be labeled with the child’s name. The box or bag can be labeled with the date, or the individual food containers within the box or bag. (0185-08/08)

22 VAC 40-185-560.J Nutrition and food services

Question: Can food with a printed date on the packaging that has passed be served to children?

Answer: There is no uniform system used for food dating, but here are four main types of label information:

- "Sell By" date: This date is a reference date for the grocery store. It tells the store how long to hold the food for sale and should not be available for sale or purchased after this date. Food sold on or before the "sell by" date can still be eaten after that date. For example, milk generally is safe to drink seven to 10 days after the date on the label.
- "Freshness" date or "Quality Assurance" date: This date suggests how long the manufacturer thinks the food will remain at peak quality. The label might read "Best if

used by November, 2007." The product still may be used after this date, although it may no longer meet the company's standard for freshness.

- "Pack" date or "Package" date: This is the date the food was packaged or processed. With this information, consumers can decide which package is fresher. The label for fresh meat identifies a pack date.
- "Expiration" or "Use By" date: This is the last date by which the product should be eaten. It might read, "Do not use after March, 2005." Always discard food that has passed the expiration date.

Regardless of the date on any product, always be on the lookout for any signs of spoilage when using packaged foods. Never buy sealed packages that are opened and also avoid dented or bulging cans. If a food tastes or smells odd or has something growing on it, throw it out immediately. Never taste food that may be spoiled. If you have questions about the freshness of a product, most major food companies print an 800 phone number on the label to call. (0186-08/08)

22 VAC 40-185-560.K Nutrition and food services

Question: If a Head Start center does not provide food, but uses the food service from the public school cafeteria, is the center required to sanitize the public school cafeteria tables before and after the children eat?

Answer: No. If a Head Start center uses the public school cafeteria while school age children are also eating, the cafeteria tables are not part of the center facility, the center may not have the authority to clean and sanitize the tables, and therefore this standard does not apply. If a licensed head start center has an agreement with the public school system that requires center staff to clean and sanitize the tables used by center children, center staff must follow their agreement. The public school cafeteria is regulated by the Department of Education and Department of Health during school hours of operation, and the tables are cleaned and sanitized by public school staff according to these regulations. Best practice would be for the center staff to clean and sanitize the sections of the cafeteria tables where Head Start children eat, but time and space may not allow this and the regulation does not require it.

This interpretation does not apply to centers with school-age programs that use public school facilities when school is not in session. In a center with a school-age program, the cafeteria tables are not cleaned and sanitized by public school employees when school is not in session; therefore the center is responsible for cleaning and sanitizing the cafeteria tables as required in 22 VAC 40-185-560.K. (0275-11/12)

Question: Does sanitizing a table prior to an afternoon program start time qualify as having been sanitized "before" each use?

Answer: Since children are not required to eat at tables, any surface used for eating must be sanitized after any non-food or non-food use item has been placed on it and within several minutes prior to the food being served on it. Any eating surface must be clean and free of germs in case food touches it. (0187-08/08)

22 VAC 40-185-560.M Nutrition and food services

Question: Can children eat their snack while doing homework?

Answer: Yes, as long as the children wash their hands before and after eating. Staff should always supervise children that are eating in case there are any signs of choking. (0188-08/08)

Question: Are staff required to sit with children during snack time?

Answer: No, staff are not required to sit with children during snack time. (0189-08/08)

22 VAC 40-185-570.B Special feeding needs

Question: Can water be placed in a bottle and given to a child who is going to rest?

Answer: No. This standard prohibits use of bottles while a child is in his designated sleeping location. (0190-08/08)

22 VAC 40-185-580.C Car seats

Question: What is the most current requirement for car seats when transporting children under four years of age?

Answer: See Attachment V in the licensing standards. (0191-08/08)

22 VAC 40-185-580.C.1 Safety belts

Question: Can more than 15 seat belts be professionally installed on a vehicle originally designed for 15 passengers?

Answer: No. Please inform Home Office of any facility that is using a vehicle that has been modified in this way. (0192-08/08)

22 VAC 40-185-610.A Evening and overnight care

Question: May sleeping bags be used?

Answer: According to 22 VAC 40-185-440.A, a sleeping bag may not be used in place of a crib, cot, rest mat or bed during the designated rest period. According to 22 VAC 40-185-610.A and B, sleeping bags may be used by camps when providing evening care or overnight care to school age children on an occasional basis. According to 22 VAC 40-185-610.F, the requirements of 22 VAC 40-185-440.A through E apply to the camp's use of sleeping bags (individual use, identified for use by a specific child, 2 ½ feet from heat-producing appliance, and 12 inches of space between occupied sleeping bags). (0193-08/08)

22 VAC 40-185-610.L Evening and overnight care

Question: Is supper required if evening/overnight care is offered?

Answer: Supper would be required by 22 VAC 40-185-560.A, depending on the hours of operation. (0194-08/08)

GENERAL QUESTIONS

Question: Are turtles and other reptiles allowed in a school age classroom?

Answer: Yes. The standards do not prohibit centers from keeping turtles and other reptiles as pets in the center. Although the standards do not prohibit a center from having turtles and other reptiles in the center, if the reptiles (turtle and bearded dragon) are kept in an open container and are accessible to the school age children, the staff should supervise the children carefully at all times to ensure that the children do not handle the reptiles or any items that come into contact with the reptiles. If the children do touch the reptiles or items in the reptile's habitat, they should wash their hands immediately.

For best practices please note the following recommendations: Caring for Our Children advises that: Reptiles and amphibians- inclusive of non venomous snakes, lizards, iguanas, turtles,... should not be kept at or brought onto the grounds of a child care facility. The rationale is that reptiles carry salmonella and pose a risk to children who are likely to put unwashed hands into their mouths. Probably 90% of all reptiles carry and shed salmonella in their feces. Iguanas, snakes, lizards, and turtles are common carriers of the bacterium. Reptiles that carry salmonella do not show any symptoms, thus there is no simple way to tell which reptiles play host to the microbe and which do not, because even those that have it do not constantly shed the bacterium. Salmonella infection is caused when individuals eat after failing to wash their hands properly after handling a reptile or objects the reptile contaminated (this can be either indirect or direct contact with infected reptiles). The Center for Disease Control recommends Reptiles (e.g., turtles, snakes, and lizards): Do not keep in facilities with children aged <5 years, nor should children aged <5 years be allowed to have direct contact with these animals. (0276-11/12)

Question: Is a cream or topical skin product such as Bag Balm acceptable to be used as diaper cream in a center?

Answer: No. Bag Balm is not approved by the FDA for use by humans. Bag balm is designed to treat infection on cow udders. While its antiseptic qualities have led to use as a hand salve and/or treatment for diaper rash, it is not approved by the FDA for these purposes. The child health consultant at the Virginia Health Department does not approve it for use as a diaper cream in child day centers. (0277-11/12)

Question: I have a center with a Finch in their school age classroom. Is there any problem with this type of bird in a center?

Answer: There are no prohibitions in the CDC standards related to any type of bird(s). (0278-10/12)

CODE OF VIRGINIA
Chapter 18Code 63.2-1809.A. - Proof of Identity.

Question: When should licensing staff destroy personal ID information?

Answer: First and foremost, licensing staffs are not to destroy any facility's records; that is the facility's responsibility. Second, as shown on the model form enrollment form, there is no need for a facility to photo copy any proof of identity documentation. All that is required is that there be documentation of a staff person having seen the proof of identity documentation. It is recommended that the staff person records (again, as shown on the model child registration form) the type of documentation submitted. It is highly recommended that the facility not photocopy proof of identity documentation. Since there is nothing prohibiting a center from doing this, facilities that choose to do so, need to ensure that such documentation is destroyed after the requisite period of retention (i.e., two years after the child has left the center).

Please provide guidance concerning copies of Social Security cards of adults/staff and destruction thereof. We have no authority to do anything about the social security numbers of adults because the Code of Virginia only pertains to children in care. (0196-08/08)

APPENDIX A**CRITERIA FOR PROVIDER TRAINING****Virginia Department of Social Services Division of Child Care and Development**

There are training requirements for directors/administrators and staff in licensed programs/facilities. These criteria are to be used as general guidelines in determining which training should be counted toward meeting the requirements as set out in the program regulations.

To promote the effectiveness of training efforts by licensed facilities, it is recommended that licensed programs/facilities:

- carefully assess the needs of trainees upon employment and at least annually thereafter;
- review and document the reputation and skills of the facilitator, trainer, and/or the company selling the materials;
- assure the fit between the trainees and the facilitator, trainer, or training method; and
- design/plan further training or retraining based on job-performance observations.

Whenever possible, evaluation of participants should be built into the training. At a minimum, there should be a demonstration of knowledge and when appropriate a demonstration of competency in performing the skills presented in the training. The director/administrator or licensee should look for the knowledge and skill gained from training to be successfully applied on the job, as will licensing staffs during inspections.

In selecting a trainer, facilitator, training materials or correspondence courses, the following should be considered:

1. The training topic should be applicable to the individual's job functions and the population that the individual serves. For example, it is not appropriate for an individual who works solely with infants and toddlers to receive credit for attending training geared toward school-age child care.
2. Training content should not be in conflict with the program regulations. For example, it is not appropriate for training content to teach methods of behavior control which include corporal punishment when these are prohibited by program regulations.
3. All training requirements specified in the standards must be met. For example, some standards may require a certain curriculum or an approved curriculum. The Medication Management training for adult programs must use the curriculum approved by the Board of Nursing. Other standards may set requirements on the trainer's qualifications. For example, training for the use of restraints in assisted living facilities must be provided by a licensed healthcare professional.
4. The training level selected (basic, intermediate, or advanced) should be appropriate to the individual's previous education and experience.
5. The training should be conducted by an individual with verified expertise related to the training topic. Verified means documentation exists confirming that the person conducting the training has education and/or experience in the training topic.
6. Training may be acquired through the following:
 - ✓ Accredited four year colleges or universities;

- ✓ Accredited community colleges;
- ✓ Conference workshops;
- ✓ Instructor-led training including:
 - Training sessions conducted by the Division of Child Care and Development, The Division of Licensing Programs, other public or private agencies or organizations, provider associations, individuals or companies with verified expertise on the topic; or
 - In-service training offered by the licensed program/facility using an individual with verified expertise on the topic to conduct or lead the training;
- ✓ Self-study programs including:
 - Training offered by the Division of Child Care and Development or The Division of Licensing Programs through such media as TV, audio, video, CD-ROM, web-based or books when the Division oversees the assessment materials and issues the certificate; or
 - Correspondence courses offered through print, TV, video, CD-ROM, books or web-based courses. The individual will maintain copies of all materials submitted to the sponsoring entity along with the certificate or letter of completion. Materials will be available for review by licensing staff upon request.

For child day centers - under the supervision of the director/administrator/training-education coordinator as long as the director/administrator/training-education coordinator has verified expertise on the course topic and can provide guidance as needed. The director/administrator/training-education coordinator should determine the number of training hours to be credited to the individual. The certificate or letter of completion should be issued by the entity sponsoring the course based on successful completion by the individual.

For family day homes - when a certificate or letter of completion is issued by the entity sponsoring the course based on successful completion of work by the individual. It is recommended that the individual complete the study course with consultation and assistance from a colleague or mentor with verified expertise in the topic, although this may not be feasible at times.

- Use of audio, video tapes, TV, CD-ROM, web-based or books when used in in-service training, under the supervision of a facilitator with verified expertise on the course topic who can provide guidance as needed. The facilitator should determine the number of training hours to be credited to the individual.

7. Documentation of all training for each individual must include the name of the trainee, the title of the training, name of facilitator/instructor/training-education coordinator, documentation of the instructor's expertise, sponsoring entity, date of training, and number of contact/or credit hours of training or other documentation defined in specific standards. [4/13/05 dao]