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**Rules of**  
**Department of Elementary and**  
**Secondary Education**  
**Division 25—Office of Childhood**  
**Chapter 200—Child Care Subsidy**

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**Title 5—DEPARTMENT OF  
ELEMENTARY AND  
SECONDARY EDUCATION  
Division 25—Office of Childhood  
Chapter 200—Child Care Subsidy**

**5 CSR 25-200.050 Definitions**

*PURPOSE: This regulation establishes the definitions that will be used throughout regulations 13 CSR 35-32.050 to 13 CSR 35-32.130.*

- (1) For the purposes of 13 CSR 35-32.050 through 13 CSR 35-32.130, the following terms shall be defined pursuant to this regulation.
- (2) “Adjusted Gross Income” means the applicant’s gross income less health insurance premiums paid for by household members.
- (3) “Agency Error” means Child Care Subsidy incorrectly paid on behalf of a participant due to an action by the division. These actions may include, but are not limited to:
- (A) Loss or misfiling of forms or documents;
  - (B) Data entry errors;
  - (C) System errors;
  - (D) Mathematical errors;
  - (E) Failure to determine eligibility correctly or in a timely manner or to certify subsidy in the correct amount when all essential information was available to the division; or
  - (F) Failure to make timely changes to re-determine eligibility following amendments to policies requiring the changes by a specific date.
- (4) “Applicant” means a person applying to be a recipient of Child Care Subsidy.
- (5) “Background check” shall include:
- (A) A search of the state criminal and sex offender registries or repositories in Missouri and in the state where the child care provider, employee, or volunteer resides, and each state where such person resided during the preceding five (5) years;
  - (B) A search of the Family Care Safety Registry as described in sections 210.903 through 210.936, RSMo, and state-based child abuse and neglect registries and databases in the state where the child care provider, employee, or volunteer resides, and each state where such person resided during the preceding five (5) years; and
  - (C) A search of the National Crime Information Center, a Federal Bureau of Investigation fingerprint check using the Integrated Automated Fingerprint Identification System,
- and a search of the National Sex Offender Registry established under the Adam Walsh Child Protection and Safety Act of 2006 (42 U.S.C. 16901 et seq.).
- (6) “Certificate of Registration” means the legal document issued to a child care provider by the division for a period not to exceed one (1) year which indicates the child care provider has met the minimum health and safety requirements, subject to compliance with sections 210.025 and 210.027, RSMo and 13 CSR 35-32.070.
- (7) “Child Care Services” means child care provided to an eligible child on a regular basis either in or away from the child’s residence, for less than twenty-four (24) hours per day, provided by an eligible child care provider as defined in section (16).
- (8) “Child Care Provider” means a child care center, group home, or family home that provides child care services, whether known or incorporated under another title or name.
- (9) “Child Care Provider Applicant” means an individual applying to be registered or contracted as a child care provider.
- (10) “Child Care Subsidy” means the program that makes payment to a child care provider, or in rare circumstances reimburses the parent, by the division if the department finds a family unit eligible for child care services.
- (11) “Child with Special Needs” means an eligible child who is under the age of eighteen (18), or under age nineteen (19) and still in school, who meets one (1) or more of the following verified criteria:
- (A) A child receiving Supplemental Security Income (SSI);
  - (B) A child receiving services through the Missouri Department of Mental Health;
  - (C) A child with a physical or mental disability or delay verified in writing by a medical professional or mental health professional;
  - (D) A Protective Service Child;
  - (E) An Adoption Subsidy Child; or
  - (F) A child under court-ordered supervision.
- (12) “Department” means the Missouri Department of Social Services.
- (13) “Director” means the director of the Children’s Division of the Department of Social Services.
- (14) “Division” means the Children’s Division of the Department of Social Services.
- (15) “Eligible Child” means:
- (A) A child who resides with a parent who meets the program and financial eligibility requirements for the particular type of Child Care Subsidy and who—
    - 1. Is a citizen of the United States of America or a qualified alien; and
    - 2. Is under the age of thirteen (13); or
    - 3. Is under the age of eighteen (18) and classified as having a special need; or
    - 4. Is under age nineteen (19) and still in school and classified as having a special need; or
  - (B) A protective Services Child.
- (16) “Eligible Child Care Provider” means one (1) of the following:
- (A) A child care provider licensed by the Missouri Department of Health and Senior Services and contracted with the Missouri Department of Social Services; or
  - (B) A child care provider determined to be license exempt by the Missouri Department of Health and Senior Services and registered and contracted with the department; or
  - (C) A child care provider caring for four (4) or fewer children not related to the child care provider within the third degree by blood, marriage, or adoption and registered and contracted with the department, in accordance with 13 CSR 35-32.070; or
  - (D) An out-of-state child care provider licensed or exempt from licensure, based on that state’s license requirements, and registered and contracted with the department; or
  - (E) A child care provider under the jurisdiction of a military base and is registered and contracted with the department.
- (17) “Eligibility Unit” means people living in the same household, whose needs and income shall be considered when determining eligibility for Child Care Subsidy, including:
- (A) The child for whom care is requested;
  - (B) The child’s parents (whether married or unmarried);
  - (C) The child’s parent’s spouse;
  - (D) The child’s biological, step-, half-, or adopted sibling(s) under eighteen (18) years of age;
  - (E) The unmarried parental partner who is the parent of the child’s sibling;
  - (F) The child under eighteen (18) years of age of the unmarried parental partner;
  - (G) The Non-Parent Caretaker Relative (NPCR) if no biological or adoptive parent or legal guardian resides in the household; and
  - (H) A school age child, who is also the parent of a child in the same home, has the option of being a separate family unit for purposes of determining eligibility for Child Care Subsidy.



- (18) “Emergency preparedness and response plan” means planning for emergencies resulting from a natural disaster or a man-caused event (such as violence at a child care facility).
- (19) “Exempt from licensure” means a child care provider pursuant to section 210.211, RSMo.
- (20) “Gross Income” includes, but is not limited to, income from the following:
- (A) Wages, salary, and income from self-employment;
  - (B) Commissions, tips, bonuses;
  - (C) Dividends and interest;
  - (D) Social Security benefits, including disability and survivor benefits;
  - (E) Pensions and annuities;
  - (F) Estate Income;
  - (G) Unemployment and worker’s compensation; and
  - (H) Alimony and child support.
- (21) “Intentional Violation” means the receipt of any benefit through the wrongful acquisition or issuance of Child Care Subsidy payment for child care services by the division through false representation or concealment of material facts by the participant, eligibility unit, child care provider, or any other representatives. These actions may include, but are not limited to:
- (A) Submission of inaccurate information for the purpose of obtaining compensation for which the child care provider is not legally entitled;
  - (B) Charging the division an amount higher than what is charged for private pay participants for the same child care services;
  - (C) Failure to maintain the Child Attendance Record by the eligibility unit as specified by the division;
  - (D) Improper billing practices that do not comply with the child care provider’s agreement or that do not comply with state or federal laws and regulations governing child care services;
  - (E) False or misleading statements, oral or written, regarding the participant’s income or other circumstances that affect eligibility or the amount of subsidy received; or
  - (F) Failure to timely report changes in income or other circumstances that affect eligibility or the amount of subsidy received.
- (22) “Licensed child care provider” means a child care provider pursuant to section 210.201, RSMo.
- (23) “Licensed exempt” means a child care provider pursuant to section 210.211, RSMo.
- (24) “Maximum base rate” means the amount paid to the child care provider based on the age of the child for whom child care services are requested, hours of care requested, the facility type requested, and the applicable geographic area of the state.
- (25) “Medical Professional” means a licensed physician pursuant to section 632.005, RSMo, a nurse practitioner, or physician’s assistant.
- (26) “Mental Health Professional” means a mental health professional pursuant to section 632.005, RSMo, or licensed clinical social worker.
- (27) “Overpayment” means any benefit or payment received in an amount greater than the amount the participant or child care provider is entitled to receive.
- (28) “Parent” means a child’s biological parent whose parental rights have not been terminated, a step-parent, an adoptive parent, a legal guardian, a caretaker relative, or other person standing in *loco parentis* for the child who has applied for Child Care Subsidy.
- (29) “Participant” means an applicant for Child Care Subsidy found to be eligible to receive Child Care Subsidy.
- (30) “Promissory Note” means a written, dated, and signed promise by one (1) party to pay money to another party on demand or at a specified future date.
- (31) “Protective Services Child” means a child in foster care or receiving preventive services through the division.
- (32) “Qualified Alien” means any person who is not a citizen or national of the United States who, at the time such person applies for, receives, or attempts to receive a federal public benefit, is—
- (A) Lawfully admitted for permanent residence under the Immigration and Nationality Act, as codified in 8 U.S.C. section 1101, et. seq.;
  - (B) Granted asylum under section 208 of such Act, as codified in 8 U.S.C. section 1158;
  - (C) A refugee admitted to the United States under section 207 of such Act, as codified in 8 U.S.C. section 1157;
  - (D) Paroled into the United States for a period of at least one (1) year under section 212(d)(5) of such Act, as codified in 8 U.S.C. section 1182 (d)(5);
  - (E) An alien whose deportation is being withheld under section 243(h) of such Act, as codified in 8 U.S.C. section 1253 as amended;
- (F) Granted conditional entry pursuant to section 203(a)(7) of such Act, as codified in 8 U.S.C. section 1153 (a)(7) as in effect prior to April 1, 1980; or
- (G) A Cuban or Haitian entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1980 (Public Law 96-422).
- (33) “Rate Differential” means an additional amount paid to a child care provider over and above the maximum base rate.
- (34) “Recoupment” means the repayment of an overpayment by a reduction in a future payment to the child care provider.
- (35) “Registered Child Care Provider” means a child care provider who is exempt from licensure or licensed exempt as defined in section 210.211, RSMo.
- (36) “Related Child” means the relationship of the child to the child care provider is within the third degree, which includes siblings (if not residing in the same home), nephews, nieces, grandchildren, and great-grandchildren.
- (37) “School Age” means an eligible child at least five (5) years of age.
- (38) “Sliding Fee” means participant’s share of the child care cost based on the eligibility unit’s income and household size.
- (39) “Staff” means a person employed by a child care provider or a volunteer who is counted in staff/child ratios.
- (40) “Substantiated Child Abuse and Neglect Report” or “Substantiated CA/N Report” means when the division has determined that there is sufficient evidence to believe that a person committed child abuse or neglect, either by finding of probable cause prior to August 28, 2004, or by a preponderance of the evidence after August 28, 2004.
- (41) “Transitional Child Care” means a benefit program assisting families currently receiving Child Care Subsidy with the continued cost of child care at a reduced rate of the regular Child Care Subsidy payment when the family’s income increases and becomes greater than the full Child Care Subsidy income eligibility guidelines allow, with the families having an increased responsibility for the cost of child care.
- (42) “Unintentional Violation” means the



receipt of any benefit through the wrongful acquisition or issuance of Child Care Subsidy payment for child care services by the division through incorrect representation, but not by the concealment of material facts by the participant, eligibility unit, child care provider, or any other representatives. These actions may include, but are not limited to:

(A) The participant or child care provider unintentionally failing to provide the division with the correct or complete information;

(B) The child care provider failing to notify the division that their license status has changed or business operation changes have occurred that affect the payment rate; or

(C) The child care provider submitting information, such as invoices or attendance records, with unintentional errors.

(43) “Unrelated Child” means a child who is not related to the provider within the third degree of consanguinity or affinity.

*AUTHORITY: sections 207.020, 210.025, and 210.027, RSMo 2016,\* 42 U.S.C. section 9858, et. seq., Executive Order 03-03. This rule originally filed as 13 CSR 35-32.050. Original rule filed Jan. 3, 2017, effective Aug. 30, 2017. Moved to 5 CSR 25-200.050, effective Aug. 28, 2021.*

*\*Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986, 1993, 2014; 210.025, RSMo 1999, amended 2004; and 210.027, RSMo 1999, amended 2014.*

### 5 CSR 25-200.060 Eligibility and Authorization for Child Care Subsidy

*PURPOSE: This rule establishes the requirements for eligibility requirements and authorization of Child Care Subsidy.*

(1) Eligibility. To be eligible to receive Child Care Subsidy, the applicant shall meet the following criteria:

(A) Residency. The applicant must reside in the state of Missouri and intend to remain in the state of Missouri for the duration Child Care Subsidy is provided;

(B) Citizenship Status. A child receiving services shall be a—

1. United States (U.S.) citizen; or

2. Qualified alien pursuant to 8 U.S.C. section 1641;

(C) Eligibility Unit. The applicant must qualify as an eligibility unit. A school age child, who is also the parent of a child in the same home, has the option of being a separate family unit for purposes of determining eligibility for Child Care Subsidy;

(D) Relationship. The applicant for child care services must be the parent of the child

for whom child care services are being requested;

(E) Income Eligibility Requirements.

1. To qualify for Child Care Subsidy, the eligibility unit’s Adjusted Gross Income must be less than or equal to the maximum income for the family size allowed by income guidelines. Guidelines shall be published annually in an electronic format available to the public. Income guidelines are based on the Federal Poverty Level as published in the *Federal Register*. An eligibility unit income may not exceed eighty-five percent (85%) of the state median income for an eligibility unit of the same size on the date a subsidized service is delivered. Protective services children do not have to demonstrate a financial need for Child Care Subsidy under this subsection.

2. Eligibility unit assets cannot exceed one (1) million dollars as certified by the applicant. The eligibility unit shall provide documentation of eligibility unit’s assets if requested by the division.

3. The applicant shall provide documentation or any information requested by the Family Support Division to verify the eligibility unit’s income;

(F) Need for Child Care.

1. To be eligible for Child Care Subsidy, applicant must have a valid need for child care and must be unable to arrange another child care plan. The applicant must provide documentation or any information requested by the Family Support Division to verify his/her need for child care. The need requirement is met under the following circumstances:

A. The applicant is a recipient of Temporary Assistance for Needy Families (TANF) benefits and employed, in school, or enrolled in a training program for employment; or

B. The applicant is enrolled in a school or training program—

(I) To complete the High School Equivalency Test (HiSET);

(II) To attend regular high school classes;

(III) To attend a college or university with the intent of receiving a bachelor’s degree; or

(IV) To attend a training or educational program in which the end result is a professional or technical job skill leading toward employment in a specific field upon graduation; or

C. The applicant has a disability or incapacity, confirmed by a medical professional or mental health professional, which renders him/her unable to care for a child except with the provision of child care. The applicant must submit a written, signed statement from a medical professional or mental

health professional. This statement must include the hours of care needed per day/week and the anticipated duration of need for care;

D. The applicant is consider homeless as defined in 42 U.S.C. section 11302(a), also known as the McKinney-Vento Homeless Assistance Act, and the applicant is working with a community based organization to eradicate homelessness; or

E. The child is in the legal custody of the Children’s Division pursuant to an order of the juvenile court.

(2) Processing of Application.

(A) An applicant shall request child care subsidy in person, by telephone, by mail, by fax, or by electronic means using a form furnished by the division. The form shall include, but not be limited to, information related to the applicant’s residency, citizenship, household composition, relationships, assets, and household income.

(B) Applicants shall provide complete and accurate information to the division when determining eligibility or continuing eligibility for child care services. Applicants who fail to provide complete and accurate information or to comply with the provisions of these rules shall be ineligible for Child Care Subsidy.

(C) Information provided by applicants or participants shall not be disclosed to the public, except as allowed by section 208.120, RSMo.

(D) Upon receipt of a completed application, the Family Support Division of the Department of Social Services shall review the application and determine the applicant’s eligibility.

(E) If the Family Support Division determines the applicant is eligible for Child Care Subsidy, the Family Support Division will send a written notice to the applicant notifying him/her of child care services authorized, amount of sliding scale fee, and changes that must be reported to maintain eligibility.

(F) If the Family Support Division determines the applicant is not eligible for Child Care Subsidy, the Family Support Division will send a written notice to the applicant. The notice shall—

1. Inform the applicant of the nature of the decision;

2. Include a brief summary of the factual and legal basis for the division’s decision; and

3. Notify the applicant of his/her right to appeal to the director.

(3) Payment.

(A) Parental Choice.

1. A participant may enroll his/her child with any child care provider contracted with



the division, subject to acceptance by the child care provider. A parent may choose to enroll his/her child with a different provider at any time. Child Care Subsidy payments shall be made directly to the child care provider. The parent shall notify the Family Support Division of the initial child care provider and any change in the child care provider within ten (10) days of the change. The notice shall include: the date of disenrollment from the provider, the names and identifying information of the child(ren) involved and, where applicable, identify the new subsidized child care provider.

2. If the participant chooses a child care provider who will care for a related child, the participant must sign an attestation of relationship to the child on a form provided by the division.

(B) Maximum Payment. Maximum payment by the division for infant, preschool, or school-age child care services shall not exceed the maximum base rate plus any rate differentials or the actual charges by the child care provider, whichever is less. The maximum base rate is set on an annual basis based on appropriations from the General Assembly for the child care subsidy program and is based on the age of the child, hours of care requested, facility type, and in the applicable geographic area of the state.

(C) Sliding Fee Scale. Child care participants may be required to pay a fee to the child care provider based on their adjusted gross income and family size. This fee shall be based on a sliding fee scale, which shall be determined on an annual basis based on appropriations from the General Assembly.

1. The sliding fee amount is determined by the household size and adjusted gross income.

2. The maximum child care subsidy payment shall be the maximum base rate minus the applicable sliding fee amount, if any.

3. The maximum base rate is based on the age of the child for whom child care services are requested, hours of care requested, the facility type requested, in the applicable geographic area of the state. The maximum base rate is subject to appropriations.

4. The sliding fee may be waived for a child with special needs.

5. Child care participants who fail to pay the required sliding fee shall be ineligible for Child Care Subsidy until the required sliding fee is paid or until the child care participant enters into a written agreement with the child care provider to pay the required fee. The participant shall provide a copy of any such agreement to the division before the subsidy is paid.

(D) Co-Payment. Child care participant may

be required to pay a co-payment to the child care provider when the child care provider's rate for care is higher than the maximum rate paid by the division. The parent must negotiate this fee directly with the child care provider. The division shall not be responsible for the payment of, collection, or enforcement of any co-payment.

(4) Maintaining Eligibility.

(A) Reporting Changes.

1. A participant must report the following events to the Family Support Division within ten (10) business days from the date of occurrence:

A. A change in income if it exceeds eighty-five percent (85%) of the state median income for an eligibility unit of the same size;

B. Eligible child no longer resides with the participant;

C. Cessation of employment, job training, or education program; or

D. Any changes to the participant's contact information, including, but not limited to, address and phone number.

2. Failure to timely report the above changes may result in a participant overpayment pursuant to 13 CSR 35-32.100.

3. Upon receipt of a reported change under subparagraphs (4)(A)1.A.–(4)(A)1.C, the Family Support Division shall redetermine the participant's eligibility to receive child care subsidy, and notify the participant of the redetermination in the same manner as described in section (2). The Family Support Division may, but is not required to, redetermine the participant's eligibility upon receipt of a reported change under subparagraph (4)(A)1.D.

4. Participants will remain eligible for child care subsidy for not less than three (3) months after parent's employment, job training, or educational program ends.

(B) Annual Redetermination. To continue to receive child care subsidy, participants shall request a redetermination every twelve (12) months from the date of initial eligibility determination or most recent redetermination.

(C) Transitional Child Care. An eligibility unit may be allowed a gradual phase out of child care assistance if the family income has increased but remains less than upper income limit for the highest level of transitional child care. The Family Support Division shall determine the eligibility unit's eligibility for transitional child care and shall notify the parent in writing.

(5) Direct Appeal to the Director. Any applicant or participant, whose child care subsidy eligibility has been denied or changed may

appeal such decision to the director in accordance with the provisions of section 208.080, RSMo.

(A) The participant/applicant shall request a direct appeal to the director in writing within ninety (90) days of the date of notification of the denial or change of Child Care Subsidy eligibility.

(B) If the participant/applicant timely makes a direct appeal to the director, the director shall designate the Administrative Hearings Unit of the Division of Legal Services of the Department of Social Services to hear all cases. The Administrative Hearings Unit shall hear cases under the procedures outlined in 13 CSR 40-2.160.

(C) The burden shall be on the participant/applicant to prove:

1. The denial or change of Child Care Subsidy eligibility was inconsistent with all applicable laws and regulations.

(D) The department may present testimony, documents, or other evidence to rebut evidence presented by the participant/applicant.

(E) Upon completion of the hearing, the Administrative Hearings Unit shall issue a written decision as approved by the director, except in default cases or cases disposed of by stipulation, consent order, or agreed settlement. The decision shall include or be accompanied by findings of fact and conclusions of law. The findings of fact shall be stated separately from the conclusions of law and shall include a concise statement of the findings on which the agency bases its order. The Administrative Hearings Unit shall deliver or mail its decision, findings of fact, and conclusions of law to each party, or his/her attorney of record. The decision of the Administrative Hearings Unit shall be the final decision of the department.

(6) Destruction of Records. The division may destroy all applications and records compiled in connection with the determination and payment of Child Care Subsidy after ten (10) years have elapsed after the case is closed or the application has been rejected and the decision is final.

*AUTHORITY: sections 207.020, 210.025, and 210.027, RSMo 2016,\* 42 U.S.C. section 9858, et. seq., Executive Order 03-03. This rule originally filed as 13 CSR 35-32.060. Original rule filed Jan. 3, 2017, effective Aug. 30, 2017. Moved to 5 CSR 25-200.060, effective Aug. 28, 2021.*

*\*Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986, 1993, 2014; 210.025, RSMo 1999, amended 2004; and 210.027, RSMo 1999, amended 2014.*



### 5 CSR 25-200.070 Registration Requirements for Child Care Providers Serving Four (4) or Less Unrelated Children

*PURPOSE: The purpose of this rule is to implement the provisions of sections 210.025 and 210.027, RSMo, for the purpose of registering child care providers and defining eligibility for providers to receive state or federal funds for providing child care services.*

(1) Requirements for Registration. To receive a certificate of registration as a registered child care provider, the child care provider applicant shall meet the requirements set forth in this section.

(A) The child care provider applicant must have attained eighteen (18) years of age.

(B) The child care provider shall not care for more than four (4) unrelated children.

(C) A child care provider applicant shall—  
1. Pass a background check as defined in 13 CSR 35-32.050. Passing a background check shall include:

A. The child care provider shall not have received a substantiated child abuse and neglect report;

B. The child care provider shall not have been previously refused licensure or have experienced licensure suspension or revocation;

C. The child care provider cannot appear on the Department of Mental Health's Disqualification Registry pursuant to section 630.170, RSMo;

D. The child care provider shall not be a registered sex offender or required to register as a sex offender in any state;

E. The child care provider applicant shall not have had a certificate of registration denied or revoked within the past six (6) months; and

F. A child care provider applicant shall not have pled guilty or *nolo contendere* to or been found guilty of—

(I) Any felony for an offense against the person as defined in Chapter 565, RSMo, or any other offense (misdemeanor or felony) against the person involving the endangerment of a child as prescribed by law;

(II) Any misdemeanor or felony for sexual offense as defined in Chapter 566, RSMo, for an offense against the family as defined in Chapter 568, RSMo, with the exception of the sale of fireworks to a child under the age of eighteen (18), for pornography or related offense as defined by Chapter 573, RSMo, for an offense relating to public assistance including, but not limited to, unlawful receipt, conversion or transfer of public benefits pursuant to sections 578.377 through 578.381, RSMo, (sections 570.400 through

570.404, RSMo, after January 1, 2017), perjury committed when obtaining public assistance pursuant to section 578.385, RSMo, (section 570.408, RSMo, after January 1, 2017); or

(III) Any similar crime in any federal, state, municipal, or other court of similar jurisdiction or any offenses or reports which will disqualify an applicant from receiving state or federal funds, including the following:

(a) The following crimes, in any degree, if considered a felony in the jurisdiction in which it was filed: murder, manslaughter, assault, kidnapping, felonious restraint, false imprisonment, interference with child custodial rights, adult abuse or stalking, burglary; or

(b) The following crimes, in any degree, if considered a felony or misdemeanor in the jurisdiction in which it was filed: rape, sodomy, prostitution, child molestation, bigamy, child abandonment, child endangerment, criminal nonsupport of a child, child abuse, elder abuse, robbery, arson, armed criminal action, unlawful possession/use/transfer of a firearm or weapon, unlawful promotion/possession/furnishing of obscene or pornographic material (including, but not limited to, child pornography), or human trafficking;

(c) The following crimes, in any degree, if considered a felony or misdemeanor in the jurisdiction in which it was filed and if involving the endangerment of a child or a child victim: assault, kidnapping, felonious restraint or false imprisonment, interference with child custodial rights; or

(d) The following crimes, in any degree, if considered a felony or misdemeanor in the jurisdiction in which it was filed and if filed within the past ten (10) years: unlawful possession, sale, transfer, or trafficking of a controlled substance or any similar crime;

(e) The following crimes, in any degree, if considered a felony in the jurisdiction in which it was filed and if committed against the Department of Social Services or any division thereof: fraud, stealing, or forgery; or

(f) Any municipal court offense for conduct which, if prosecuted in a court of general jurisdiction, would be an offense described in subparagraph (1)(C)1.F. above.

(D) The child care provider shall submit a "Risk Assessment for Tuberculosis" form, to be completed, signed, and dated by a medical professional no more than ninety (90) days prior to submission. If a child care provider has active, contagious tuberculosis, the child care provider must submit documentation

showing that a medical professional has certified that the child care provider is non-infectious before the child care provider may become registered.

(E) Child care provider shall submit a statement completed, signed, and dated by a medical professional no more than ninety (90) days prior to submission on a prescribed form, regarding his/her opinion of the physical and mental health of the child care provider applicant and certifying that a physical examination was completed within the past ninety (90) days, that the child care provider applicant was free from communicable disease, and is not a threat to the health of children.

(F) Child care provider applicant and anyone residing with the child care provider applicant shall be legally allowed in the presence of children.

(G) All individuals residing with the child care provider applicant over the age of seventeen (17) shall pass—

1. A search of the Family Care Safety Registry as described in sections 210.903 through 210.936, RSMo; and

2. State-based child abuse and neglect registries and databases in Missouri and in the state where the child care provider household member resides, and each state where such person resided during the preceding five (5) years;

3. State-based sex offender registry or repository in Missouri and in the state where the child care provider household member resides, and each state where such person resided during the preceding five (5) years;

4. No individual residing with the child care provider applicant over the age of seventeen (17) shall have received a substantiated child abuse and neglect report, appear on the Department of Mental Health employee disqualification list, or be a registered sex offender or required to register as a sex offender in any state.

(H) The department shall not pay for any costs associated with the requirements of registration.

(I) The child care provider applicant must cooperate and allow for an unannounced on-site inspection by the division or designee at initial application. The on-site inspections shall ensure that the child care provider applicant's home is in compliance with the following health, safety, fire, and other requirements:

1. Local ordinances, codes, and regulations.

A. The child care provider applicant's home shall meet local ordinances, codes, and regulations, particularly with regard to fire safety and smoke or carbon monoxide detectors.



B. If there are no local ordinances or regulations regarding smoke and carbon monoxide detectors that apply to the child care provider applicant's home, the child care provider applicant shall—

(I) Install and maintain operable smoke and carbon monoxide detectors in accordance with the manufacturer's instructions;

(II) Install and maintain all detectors on the ceiling or wall at a point centrally located in a corridor or other area giving access to rooms used for providing child care services in the home unless the manufacturer's instructions provide otherwise; and

(III) Ensure that when activated, the detectors shall provide an alarm in the structure or room;

2. Physical Space: The physical space of the child care provider applicant's home must meet the following criteria:

A. It must be clean, free of insects and vermin;

B. It must have working heating and cooling systems;

C. It must have potable, running water, at least one (1) flushable toilet and one (1) sink for hand washing accessible to children;

D. Hygiene items such as toilet paper, soap, hand drying towels (paper or cloth) must be accessible to children;

E. The food preparation area clean and equipped to prepare snacks and meals;

F. It must have inside space for play and napping;

G. Hazardous materials must be inaccessible to children;

H. Smoking in the home is prohibited while children are present;

I. Weapons and ammunition stored in locked cabinets inaccessible to children; and

J. Smoke detectors and fire extinguisher present;

3. Outdoor play area: The outdoor play area must meet the following criteria:

A. It must be an area safe, maintained, and no hazards;

B. The outdoor area must either be continuously fenced to ensure that the children cannot leave and others cannot enter the premises without supervision; or, if not fenced, child care provider must have a division approved, supervision plan for when children are in outdoor play area;

C. Pools and open water areas are not accessible to children without adult supervision; and

D. Play equipment is well-constructed and free from hazards;

4. Emergency preparedness and response plan available and posted;

5. Animals: Any animals present on the premises must meet the following criteria:

A. They must be non-threatening to children;

B. None of the animals may have a history of attacking or injuring human beings or other animals;

C. The animals must be disease free and have all required vaccinations according to state and local law;

D. Indoor and outdoor areas used by children are free of animal excrement; and

E. Litter boxes are not located in food preparation or serving area and inaccessible to children;

6. The child care provider applicant's home must be free of illegal substances and criminal activity.

(J) The child care provider applicant shall register with Opportunities in a Professional Education Network (OPEN) and secure a Missouri Professional Development Identifier (MOPD-ID) to track and successfully complete all required trainings as approved by the division. The child care provider shall provide satisfactory, written documentation of successful completion to the division. The child care provider applicant shall successfully complete training which includes, but is not limited to:

1. First Aid and Cardiopulmonary Resuscitation (CPR);

2. Child Care Subsidy Orientation;

3. Prevention of Sudden Infant Death Syndrome and Safe Sleeping;

4. Prevention of Shaken Baby Syndrome and Abusive Head Trauma;

5. Emergency Disaster Response and Planning;

6. Mandatory Child Abuse and Neglect (CA/N) Reporting;

7. Prevention and Control of Infectious Diseases (including immunizations);

8. Administration of Medication, consistent with standards for parental consent;

9. Prevention and Response to Food Allergy Emergencies;

10. Building and Physical Premises Safety; including identification of and protection from hazards that can cause bodily injury;

11. Handling and Storage of Hazardous Materials and the Appropriate Disposal of Bio-Contaminants; and

12. Transportation of Children.

(K) If a child care provider applicant has an outstanding debt owed to the state due to a previous child care overpayment, the child care provider applicant must participate in a repayment plan pursuant to 13 CSR 35-32.050 to become registered with the division.

(2) Providing Care for Related Child. If a child care provider applicant wishes to provide child care to a related child, the child care provider applicant must meet the requirements listed in section (1) and must sign an attestation of relationship to child on a form provided by the division.

(3) Providing Care in the Child's Home. If a child care provider applicant wishes to provide child care in the child's home, the child care provider applicant must meet the requirements listed in section (1), with the exception of the on-site inspection listed in subsection (1)(I).

(4) Processing of Application.

(A) Upon receipt of an initial application for registration and completion of on-site inspection, the division shall review all information to make a determination as to whether the child care provider applicant is eligible to receive a certificate of registration. The division, in its discretion, may request additional documentation if concerns arise regarding the child care provider applicant's ability to provide for the health and safety of children, ability to follow generally accepted accounting practices (GAAP), or to address other concerns as noted by the division. The child care provider applicant shall provide all requested documentation.

(B) If the division determines the child care provider applicant meets all eligibility requirements, the division shall issue a certificate of registration good for one (1) year to the child care provider applicant.

(C) If the division determines the child care provider applicant fails to meet eligibility requirements, the division may, in its discretion, give the child care provider a reasonable opportunity to cure any defect. The division may specify a reasonable time frame for the provider to cure the deficiency, not to exceed ninety (90) days. The division shall take into account the severity of any defect and whether such defect is likely to be cured in a reasonable amount of time. If the division determines that a defect cannot be cured or the applicant is otherwise ineligible, the division shall provide written notice of the denial of registration. The notice shall—

1. Inform the child care provider applicant of the nature of the decision;

2. State generally the factual and legal basis for the division's decision; and

3. Notify the child care provider applicant of his/her right to seek an administrative review.

(5) Renewal of Child Care Provider Registration.



(A) A child care provider shall renew registration annually. The child care provider shall adhere to the time frames listed below for every subsequent renewal.

(B) To renew a certificate of registration as a registered child care provider, the child care provider shall—

1. Within ten (10) days of circumstance, incident, or occurrence which would alter any information provided in the child care provider's original application for registration, the child care provider shall notify the division in writing;

2. Perform the following annually:

A. Cooperate and allow for an unannounced on-site inspection by the division or designee prior to renewal. The on-site inspections shall ensure that the registered child care provider is in compliance with the health, safety, fire, and other requirements listed in subsection (1)(I);

3. Perform the following every two (2) years:

A. Submit a "Risk Assessment for Tuberculosis" form, to be completed, signed, and dated by a medical professional no more than ninety (90) days prior to submission. If a registered child care provider has active, contagious tuberculosis, the registered child care provider must submit documentation showing that a medical professional has certified that the registered child care provider is non-infectious before the registered child care provider may become renewed; and

B. Submit a statement completed, signed, and dated no more than ninety (90) days prior to submission by a medical professional on a prescribed form, regarding his/her opinion of the physical and mental health of the registered child care provider and certifying that a physical examination was completed no more than ninety (90) days prior to submission, that the registered child care provider was free from communicable disease and is not a threat to the health of children;

4. Perform the following every five (5) years:

A. Pass a background check as defined in 13 CSR 35-32.050. Passage of a background check shall be determined as defined in paragraph (1)(C)1. above;

B. All individuals residing with the registered child care provider over the age of seventeen (17) shall adhere to the requirements listed in subsection (1)(G) above; and

C. Upon receipt of registration renewal request, the division shall make a determination as to whether the registered child care provider is eligible to receive a renewed certificate of registration. The division shall follow the same process for the renewal of a registration as that followed to process an initial

application as described in section (2) above.

(6) Corrective Action. The division may require the child care provider to submit and implement a corrective action plan to resolve any health or safety concerns, regulatory violations, or contractual violations. The division shall provide written notification to the child care provider of the requirement to submit and implement a corrective action plan, identifying the specific performance, regulatory requirements, or contractual requirements not being met, and the expected corrective resolution.

(A) The child care provider shall submit a written corrective action plan to the division within ten (10) days of notice.

(B) The corrective action plan must include the actions the child care provider proposes to take to remedy concerns, time frames for achieving such, the staff responsible for the necessary action, the improvement that is expected, a description of how progress will be measured, and a description of the actions to be taken to prevent the situation from recurring.

(C) The division shall notify the child care provider in writing if the corrective action plan is approved or if modifications are required. In the event the division requires changes to the corrective action plan, the child care provider shall submit a revised corrective action plan, within ten (10) days of notice that changes are required.

(7) Registration Revocation.

(A) The division shall revoke a child care provider's registration if—

1. Health or safety issues exist which place children at risk of immediate harm;

2. Child care provider or anyone over the age of seventeen (17) living in the child care provider's home has a substantiated child abuse or neglect report;

3. Child care provider committed an intentional violation;

4. Child care provider failed to report child abuse and neglect when required by law to do so;

5. Child care provider is not mentally, emotionally, or physically fit to care for children as determined by a medical professional or mental health professional;

6. Child care provider is not legally allowed in the presence of children;

7. Child care provider failed to cooperate in a Welfare Investigative Unit investigation, a law enforcement investigation, a Child Abuse and Neglect investigation, compliance review, or audit; or

8. The Department of Health and Senior Services determines the child care provider is operating in violation of law.

(B) The division may revoke a child care provider's registration if—

1. Child care provider failed to disclose all household members subject to a check of the Family Care Safety Registry;

2. Health and safety issues exist that negatively impact the safety and well-being of the children in the child care provider's care, and the child care provider fails or is unable to rectify the issues;

3. Child care provider fails to successfully submit or complete the requirements of a corrective action plan within time period specified in the plan; or

4. Child care provider is non-compliant with registration requirements.

(C) If any health or safety issues exist which place children at immediate risk of harm, the division shall immediately revoke the child care provider's registration. In the case of immediate revocation, the child care provider shall promptly be granted an administrative review under section (9).

(D) If the division determines the child care provider's registration is subject to revocation and no health or safety issues exist which place children at immediate risk of harm, the division shall provide written notice of the revocation. The notice shall—

1. Inform the child care provider applicant of the nature of the decision;

2. State generally the factual and legal basis for the division's decision; and

3. Notify the child care provider of his/her right to seek an administrative review.

(8) Contract. To be eligible to contract to receive state or federal funds as a registered child care provider, the child care provider shall meet the following requirements:

(A) Obtain a certificate of registration which shall be maintained throughout the duration of the contract;

(B) The child care provider shall sign a contract issued by the state, agreeing to all terms including, but not limited to:

1. All records of children shall be confidential, protected from unauthorized examination and available to the parent(s) and division upon request unless otherwise allowed by law;

2. Child care provider shall care for no more than four (4) or fewer unrelated children;

3. Child care provider shall not be engaged in any other employment while providing child care services;

4. Child care provider shall maintain records pursuant to 13 CSR 35-32.130;

5. Child care provider shall notify all custodial parents and legal guardians of the child care provider's—





- A. Phone number;
- B. Discipline policy; and
- C. Emergency preparedness and response plan;

6. Child care provider shall notify custodial parents and legal guardians if the child care provider does not have immediate access to a telephone and provide parents with an alternative, effective method of communication;

7. Child care provider shall ensure custodial parents and legal guardians have access to their child(ren);

8. Child care provider shall report child deaths and serious injuries to the division within twenty-four (24) hours of the incident, using a form provided by the division. This includes, but is not limited to:

A. The death of a child if the child died while at the child care provider;

B. The death of a child enrolled at the child care provider if the child died of a contagious disease; or

C. A “serious injury” to a child that occurs while the child is at the child care provider or away from the child care provider’s facility but still in the care of the child care provider, if an injury results in the child being treated by a medical professional or admitted to a hospital;

9. Child care provider shall cooperate with any investigations, audits, or other requests of the division;

10. Child care provider shall follow all statutes, regulations, and policies of the division;

11. Child care providers must report the following changes to the division in writing within ten business (10) days: physical address, mailing address, telephone number, email address, the addition of any new household members seventeen (17) years of age or older, or current household member turns seventeen (17) years of age;

12. Child care provider shall not utilize physical or corporal punishment including, but not limited to, spanking, slapping, shaking, biting, or pulling hair;

13. Child care provider shall submit to monitoring by division or its designee for compliance with contractual or regulatory obligations. Such monitoring may include, but is not limited to—

A. Providing attendance records at the request of the division or its designee;

B. Submitting to unannounced or announced on-site inspections; or

C. Other monitoring as determined necessary by the division;

14. Child care provider shall attend annual training as approved by the division, and provide documentation of the successful

completion of all training to the division through the Opportunities in a Professional Education Network (OPEN).

(C) If the child care provider is providing care for a child in the child’s own home, the child care provider shall sign a contract issued by the state, agreeing to all terms listed in subsection (8)(B), except for the requirement listed in subparagraph (8)(B)13.B. The child care provider shall further agree in the contract that he/she shall not provide child care in the child’s home to any child who does not reside in the child’s home;

(D) A child care provider may not be eligible for a contract if the child care provider was denied a contract or a previous contract was terminated for cause and the underlying issues causing denial or termination of the contract have not been resolved. A child care provider may not be eligible for a contract if the child care provider was the owner, director, board member, officer, shareholder, agent, agent registered with the secretary of state’s office, or had decision making authority over a licensed or licensed exempt child care facility, and was denied a contract or a previous contract was terminated for cause;

(E) Termination of Contract. If a child care provider fails to adhere to the terms of the contract, the division may terminate the contract by providing written notice to the child care provider. The notice shall—

1. Inform the child care provider of the date upon which the contract shall be terminated;

2. State generally the factual and legal basis for the division’s decision; and

3. Notify the child care provider of his/her right to seek administrative review.

#### (9) Administrative Review.

(A) The child care provider/applicant may request an administrative review of the decision to deny registration, deny registration renewal, revoke registration, deny a contract, or terminate a contract by providing a written request for an administrative review within ten (10) days of the notification. The child care provider/applicant may submit additional documentation for consideration with the request for an administrative review. The division may, in its discretion, review any information received after the request for review, but is not required to do so. In no circumstances shall the division be required to review information provided after the division has conducted its administrative review.

(B) The child care provider/applicant may request the opportunity to present additional information via telephone conference call by making such a request in writing with the request for administrative review. If the child

care provider/applicant timely requests a telephone conference call, the division shall notify the child care provider/applicant in writing of the date, time, and telephone number at which the child care provider/applicant may present information. In such circumstances, the child care provider/applicant is responsible for ensuring that he/she is able to present information via telephone on the date/time provided, and that he/she has a working telephone and stable connection. The division shall not be responsible for any technical difficulties the child care provider/applicant may experience.

(C) The division shall—

1. Review the denial of registration, denial of registration renewal, registration revocation, contract denial, or contract termination, and any written materials provided by the child care provider;

2. Conduct a telephone conference call, if requested by the child care provider/applicant; and

3. Upon completion of the administrative review, notify the child care provider of the results of the administrative review in writing.

(10) Direct Appeal to the Director. If, after conducting the administrative review, the division upholds the denial of registration, denial of registration renewal, or registration revocation, the child care provider/applicant may appeal the decision directly to the director pursuant to section 208.080, RSMo. The child care provider/applicant must submit a request for direct appeal to the director within ten (10) days of notification of the results of the administrative review.

(A) If the child care provider/applicant timely makes a direct appeal to the director, the director shall designate the Administrative Hearings Unit of the Division of Legal Services of the Department of Social Services to hear all cases. The Administrative Hearings Unit shall hear cases under the procedures outlined in 13 CSR 40-2.160.

(B) The burden shall be on the child care provider/applicant to prove the denial of registration, denial of registration renewal, or registration revocation was inconsistent with all applicable laws and regulations.

(C) Upon completion of the hearing, the Administrative Hearings Unit shall issue a written decision as approved by the director, except in default cases or cases disposed of by stipulation, consent order, or agreed settlement. The decision shall include or be accompanied by findings of fact and conclusions of law. The findings of fact shall be stated separately from the conclusions of law and shall include a concise statement of the findings on



which the agency bases its order. The Administrative Hearings Unit shall deliver or mail its decision, findings of fact, and conclusions of law to each party, or his/her attorney of record. The decision of the Administrative Hearings Unit shall be the final decision of the department.

*AUTHORITY: sections 207.020, 210.025, and 210.027, RSMo 2016,\* 42 U.S.C. section 9858, et. seq., Executive Order 03-03. This rule originally filed as 13 CSR 35-32.070. Original rule filed Jan. 3, 2017, effective Aug. 30, 2017. Moved to 5 CSR 25-200.070, effective Aug. 28, 2021.*

*\*Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986, 1993, 2014; 210.025, RSMo 1999, amended 2004; and 210.027, RSMo 1999, amended 2014.*

#### **5 CSR 25-200.090 Registration Requirements for Licensed Child Care Facilities to Contract for State or Federal Child Care Funds**

*PURPOSE: The purpose of this rule is to define the requirements for child care providers licensed by the Department of Health and Senior Services, section for Child Care Regulations, who wish to contract with the division to receive state or federal funds for providing child care services.*

(1) Requirements to Contract. To receive a contract from the department to receive state or federal funds, a licensed child care provider and staff shall meet the following requirements:

(A) The child care provider shall be fully licensed and in good standing with the Department of Health and Senior Services, section for Child Care Regulations;

(B) The licensed child care provider and all staff shall be legally allowed in the presence of children;

(C) The department shall not pay for any costs associated with the requirements of licensure or requirements to contract with the department;

(D) The licensed child care provider and all staff shall register with Opportunities in a Professional Education Network (OPEN) and secure a Missouri Professional Development Identifier (MOPD-ID) to track and complete trainings. The licensed child care provider and all staff shall complete the following training prior to a contract being issued, which includes, but is not limited to:

1. First Aid and Cardiopulmonary Resuscitation (CPR);

2. Prevention of Sudden Infant Death Syndrome and Safe Sleeping, if serving chil-

dren two (2) years old or younger;

3. Prevention of Shaken Baby Syndrome and Abusive Head Trauma, if serving children two (2) years old or younger;

4. Emergency Disaster Response and Planning;

5. Mandatory Child Abuse and Neglect (CA/N) Reporting;

6. Prevention and Control of Infectious Diseases (including immunizations);

7. Administration of Medication, consistent with standards for parental consent;

8. Prevention and Response to Food Allergy Emergencies;

9. Building and Physical Premises Safety; including identification of and protection from hazards that can cause bodily injury;

10. Handling and Storage of Hazardous Materials and the Appropriate Disposal of Bio-Contaminants; and

11. Transportation of Children, if providing transportation as part of child care services.

(E) If a licensed child care provider seeking to contract with the division has an outstanding debt owed to the state due to a previous child care overpayment, the licensed child care provider must participate in a repayment plan pursuant to 13 CSR 35-32.110 to become contracted with the division;

(F) A licensed child care provider shall require all staff to meet all requirements listed in section (1) within ninety (90) days of becoming employed or volunteering. A staff member shall not provide direct supervision of children until the staff member has met the eligibility criteria set forth in section (1). A licensed child care provider may not be eligible for a contract if the licensed child care provider was denied a contract, or a previous contract was terminated for cause, and the underlying issues causing denial or termination of the contract have not been resolved;

(G) A licensed child care provider may not be eligible for a contract if the owner, director, board member, officer, shareholder, agent, agent registered with the secretary of state's office, or any other person with decision making authority over the facility, was denied a contract, or a previous contract was terminated for cause, and previous owner, director, board member, officer, shareholder, agent, agent registered with the secretary of state's office, or any other person with decision making authority over the facility remains in a position to make decisions on behalf of the facility.

(2) Contract.

(A) Upon receipt of a request to contract,

the division shall make a determination as to whether the licensed child care provider is eligible to enter into a contract with the department for state or federal funds for child care services.

(B) If the division determines the licensed child care provider meets all eligibility requirements, the division may issue a contract to the licensed child care provider. The licensed child care provider shall sign a contract, agreeing to all terms including, but not limited to:

1. Child care provider and staff shall not be engaged in other employment while providing child care services;

2. Child care provider shall maintain records pursuant to 13 CSR 35-32.130;

3. Child care provider shall notify all custodial parents and legal guardians of the child care provider's—

A. Phone number;

B. Discipline policy; and

C. Emergency preparedness and response plan;

4. Child care provider shall ensure custodial parents and legal guardians have access to their child(ren);

5. Child care provider shall report child deaths and serious injuries to the division within twenty-four (24) hours of the incident, using a form provided by the division. This includes, but is not limited to:

A. The death of a child if the child died while at the child care provider;

B. The death of a child enrolled at the child care provider if the child died of a contagious disease; or

C. A serious injury to a child that occurs while the child is at the child care provider or away from the child care provider's facility, but still in the care of the child care provider, which results in the child being treated by a medical professional or admitted to a hospital;

6. Child care provider shall cooperate with any investigations, audits, or other requests of the division;

7. Child care provider shall follow all statutes, regulations, and policies of the division;

8. Child care providers must report the following changes to the division in writing within ten business (10) days: physical address, mailing address, telephone number, email address, or any other circumstance, incident, or occurrence which would alter any information provided in the child care provider's original application for contract;

9. Child care provider shall not utilize physical or corporal punishment including, but not limited to, spanking, slapping, shaking, biting, or pulling hair;



10. Child care provider shall submit to monitoring by division or its designee for compliance with contractual or regulatory obligations. Such monitoring may include, but is not limited to:

- A. Providing attendance records at the request of the division or its designee;
- B. Submitting to unannounced or announced on-site inspections; or
- C. Other monitoring as determined necessary by the division;

11. Child care provider shall attend annual training as approved by the division and provide documentation of the successful completion of all training to the division through the Opportunities in a Professional Education Network (OPEN).

(C) If the division determines the licensed child care provider fails to meet all requirements to contract, the division shall provide written notice of the denial to contract with the licensed child care provider. The notice shall—

- 1. Inform the child care facility of the nature of the decision;
- 2. State generally the factual and legal basis for the division's decision, if applicable; and
- 3. Notify the child care facility of the right to seek administrative review.

(D) Corrective Action. The division may require the licensed child care provider to submit and implement a corrective action plan to resolve any health or safety concerns, regulatory violations, or contractual violations. The division shall provide written notification to the licensed child care provider of the requirement to submit and implement a corrective action plan, identifying the specific performance, regulatory requirements, or contractual requirements not being met and the expected corrective resolution.

- 1. The licensed child care provider shall submit a written corrective action plan to the division within ten (10) days of notice.
- 2. The corrective action plan must include the actions the licensed child care provider proposes to take to remedy concerns, time frames for achieving such, the staff responsible for the necessary action, the improvement that is expected, a description of how progress will be measured, and a description of the actions to be taken to prevent the situation from recurring.
- 3. The division shall notify the licensed child care provider in writing if the corrective action plan is approved or if modifications are required. In the event the division requires changes to the corrective action plan, the licensed child care provider shall submit a revised corrective action plan within ten (10) days of notice that changes are required.

(E) Termination of Contract. The division may immediately terminate a licensed child care provider's contract upon written notice if—

- 1. The licensed child care provider allows staff to work within the child care facility who have a substantiated CA/N report;
- 2. The licensed child care provider committed an intentional violation;
- 3. The licensed child care provider failed to report child abuse and neglect;
- 4. The licensed child care provider employs individuals or allows volunteers who are not mentally, emotionally, or physically fit to care for children as determined by a medical professional or mental health professional;
- 5. The licensed child care provider employs individuals or allows volunteers who are not legally allowed in the presence of children;
- 6. The licensed child care provider failed to cooperate in a Welfare Investigative Unit investigation, Child Abuse and Neglect investigation or assessment, compliance review, or audit; or
- 7. The Department of Health and Senior Services, section for Child Care Regulations, takes action to immediately suspend or revoke licensed child care provider's license;

8. If a condition exists that negatively impacts the health and/or safety of the children and the child care provider fails to rectify the issues in a timely manner;

9. The licensed child care provider fails to successfully submit or complete the requirements of a corrective action plan within the time period specified in the plan; or

10. The licensed child care provider is non-compliant with contractual requirements.

11. The division shall provide written notice of the termination. The notice shall—

- A. Inform the child care facility of the nature of the termination of the contract; and
- B. State generally the factual and legal basis for the division's decision; and
- C. Notify the child care provider of his/her right to seek administrative review.

(3) Administrative Review.

(A) The licensed child care provider may request an administrative review of the decision to deny a contract by providing a written request for an administrative review within ten (10) days of the notification. The licensed child care provider may submit additional documentation for consideration with the request for an administrative review. Documentation received after the request may not be considered by the division.

(B) The licensed child care provider may

request the opportunity to present additional information by telephone conference call by making such a request in writing with the request for administrative review. If the licensed child care provider timely requests a telephone conference call, the division shall notify the licensed child care provider in writing of the date, time, and telephone number at which the licensed child care provider may present information. In such circumstances, the licensed child care provider is responsible for ensuring that he/she is able to present information via telephone on the date/time provided, and that he/she has a working telephone and stable connection. The division shall not be responsible for any technical difficulties the licensed child care provider may experience.

(C) The division shall—

1. Review the denial/termination of contract and any written materials provided by the licensed child care provider;

2. Conduct a telephone conference call, if timely requested by the licensed child care provider; and

3. Upon completion of the administrative review, the division shall notify the licensed child care provider of the results of the administrative review in writing. This decision shall be the final decision of the agency.

*AUTHORITY: sections 207.020, 210.025, and 210.027, RSMo 2016, \* 42 U.S.C. section 9858, et. seq., Executive Order 03-03. This rule originally filed as 13 CSR 35-32.090. Original rule filed Jan. 3, 2017, effective Aug. 30, 2017. Moved to 5 CSR 25-200.090, effective Aug. 28, 2021.*

*\*Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986, 1993, 2014; 210.025, RSMo 1999, amended 2004; and 210.027, RSMo 1999, amended 2014.*

**5 CSR 25-200.100 Participant Overpayments**

*PURPOSE: This rule establishes procedures to use when determining and collecting child care subsidy overpayments made to participants.*

(1) Overpayments. All child care subsidy participant overpayments shall be subject to repayment from a participant up to the full amount of the overpayment.

(A) If the department determines that it has made an overpayment on behalf of a participant, as a result of agency error, participant error, fraud, intentional violations, unintentional violations, or inadvertent error, the department shall provide written notice to the



participant. The department shall send the notification via first class mail to the participant's address of record. The notification shall include—

1. The total amount of the overpayment;
2. The service date and/or dates;
3. The reason for the overpayment; and
4. The method in which the overpayment may be contested.

(B) Notifications sent to participant's address of record via first class mail shall constitute good service of notice.

(C) If the participant wishes to contest the overpayment, the participant shall make a direct appeal to the director pursuant to section 208.080, RSMo, in writing within ninety (90) days of the date of the written notice of overpayment.

(D) If the participant does not timely make a direct appeal to the director in writing, the department may proceed to collection of overpayment.

(2) Direct Appeal to the Director.

(A) If the participant timely makes a direct appeal to the director, the director shall designate the Administrative Hearings Unit of the Division of Legal Services of the Department of Social Services to hear all cases. The Administrative Hearings Unit shall hear cases under the procedures outlined in 13 CSR 40-2.160.

(B) The department shall not seek collection or repayment of an overpayment until the hearing is completed and a decision rendered.

(C) The burden shall be on the participant to prove there was no overpayment or that the overpayment was calculated incorrectly.

(D) Upon completion of the hearing, the Administrative Hearings Unit shall issue a written decision as approved by the director, except in default cases or cases disposed of by stipulation, consent order, or agreed settlement. The decision shall include, or be accompanied by, findings of fact and conclusions of law. The findings of fact shall be stated separately from the conclusions of law and shall include a concise statement of the findings on which the agency bases its order. The Administrative Hearings Unit shall deliver or mail its decision, findings of fact, and conclusions of law to each party, or his/her attorney of record. The decision of the Administrative Hearings Unit shall be the final decision of the department.

(3) Collection and Repayment.

(A) Once the assessment of the overpayment is final, the department may utilize any and all procedures in law and equity to collect the overpayment.

(B) The department and participant may enter into a voluntary repayment plan as follows:

1. The department and the participant shall negotiate a repayment plan within forty-five (45) days from the date the overpayment becomes final;

2. The repayment plan may include a single lump-sum payment or equal, monthly installment payments over a specified period of time; and

3. The department shall provide the negotiated repayment plan in writing to the participant. Every repayment plan that includes monthly installment payments shall also include a promissory note executed by the participant in favor of the Department of Social Services as provided by the department. The participant shall sign the repayment plan and promissory note, as applicable, and shall return the original, signed copy to the department. The participant shall then make payments as directed in the repayment plan and/or promissory note, as applicable.

(4) Default.

(A) An overpayment account shall be in default if—

1. The participant fails to negotiate a mutually agreeable repayment plan;

2. The participant fails to sign or return the repayment plan and/or promissory note;

3. The account is not subject to a repayment plan and the full amount is not repaid within ninety (90) days from the date of notice of overpayment or date of the Administrative Hearing Unit's decision, whichever is later; or

4. The account is subject to a repayment plan and/or an installment payment, and is not received within thirty (30) days of the date that it is due.

(B) If an overpayment is in default, the balance of the overpayment shall be immediately due and payable.

(C) The department may take appropriate actions to recover default accounts, which may include, but are not limited to:

1. Filing a claim for debt off-set with the Director of Revenue to recover the overpayment from any refunds due to the participant by the Department of Revenue pursuant to section 143.781, RSMo;

2. Filing a cause of action in a court of competent jurisdiction;

3. Other action as allowed by state or federal law as deemed appropriate by the department.

*AUTHORITY: sections 207.020, 210.025, and 210.027, RSMo 2016,\* 42 U.S.C. section 9858, et. seq., Executive Order 03-03. This rule originally filed as 13 CSR 35-*

*32.100. Original rule filed Jan. 3, 2017, effective Aug. 30, 2017. Moved to 5 CSR 25-200.100, effective Aug. 28, 2021.*

*\*Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986, 1993, 2014; 210.025, RSMo 1999, amended 2004; and 210.027, RSMo 1999, amended 2014.*

**5 CSR 25-200.110 Child Care Provider Overpayments**

*PURPOSE: This rule establishes procedures to use when determining and collecting child care subsidy overpayments made to child care providers.*

(1) Overpayments. All child care subsidy provider overpayments shall be subject to repayment or recoupment from a child care provider up to the full amount of the overpayment.

(A) If the department determines that it has made an overpayment to a child care provider as a result of agency error, child care provider error, participant error, fraud, intentional violations, unintentional violations, or inadvertent error, the department shall provide written notice to the child care provider. The department shall send the notification via first class mail to the child care provider's address of record. The notification shall include—

1. The total amount of the overpayment;
2. The service date and/or dates;
3. The reason for the overpayment; and
4. The method in which the overpayment may be contested.

(B) Notification sent to the child care provider's address of record via first class mail shall constitute good service of notice.

(C) If the child care provider wishes to contest the overpayment, the child care provider shall request an administrative review. This request shall be made in writing within thirty (30) days of the date on the notice of overpayment.

(D) If the child care provider does not timely request an administrative review in writing, the division may proceed to collection of overpayment.

(2) Administrative Review.

(A) If the child care provider timely requests administrative review, the child care provider may provide additional documentation for review within ten (10) business days of the request for administrative review. The department may not consider documents received after ten business (10) days.

(B) Upon receipt of a request for administrative review and additional documentation, the department shall—

1. Verify the child care subsidy payment



and overpayment were properly calculated;

2. Examine additional documentation or other material timely provided by the child care provider; and

3. Upon completion of the administrative review, the department shall notify the child care provider of the results of the administrative review in writing. The results of the administrative review may include a confirmation of the original overpayment amount, a decrease in the overpayment amount, or an increase in the overpayment amount.

(C) The results of the administrative review shall be final.

(3) Collection and Repayment.

(A) Once the assessment of the overpayment is final, the department may utilize any and all procedures in law and equity to collect the overpayment.

(B) The department and child care provider may enter into a voluntary repayment plan as follows:

1. The department and the child care provider shall negotiate a repayment plan within forty-five (45) days from the date the overpayment becomes final;

2. The repayment plan may include:

A. A single lump-sum payment;

B. Equal, monthly installment payments over a specified period of time not to exceed one (1) year; or

C. Recoupment from future child care provider subsidy payments;

3. The department shall provide the negotiated repayment plan in writing to the child care provider. Every repayment plan that includes monthly installment payments or recoupment from future child care provider subsidy payments shall also include a promissory note executed by the child care provider in favor of the department. The child care provider shall sign the repayment plan and promissory note, as applicable, and shall return the original, signed copy to the department. The child care provider shall then make payments as directed in the repayment plan or promissory note, as applicable.

(4) Default.

(A) An overpayment account shall be in default if—

1. The child care provider fails to timely negotiate a mutually agreeable repayment plan and promissory note;

2. The child care provider fails to timely sign or return the repayment plan and/or promissory note;

3. The account is not subject to a repayment plan, and the full amount is not repaid within ninety (90) days from the date of notice of overpayment or date of the results of

the administrative review, whichever is later; or

4. The account is subject to a repayment plan, and an installment payment or lump-sum payment is not received within thirty (30) days of the installment or lump-sum due date.

(B) If an overpayment is in default, the balance of the overpayment shall be immediately due and payable.

(C) The department may take appropriate actions to recover default accounts, which may include, but are not limited to:

1. Recoup the overpayment from future child care provider subsidy payments due to the child care provider by the department;

2. File a claim for debt off-set with the Director of Revenue to recover the overpayment from any refunds due to the child care provider by the Department of Revenue pursuant to section 143.781, RSMo;

3. File a cause of action in a court of competent jurisdiction; or

4. Other action as allowed by state or federal law as deemed appropriate by the department.

*AUTHORITY: sections 207.020, 210.025, and 210.027, RSMo 2016,\* 42 U.S.C. section 9858, et. seq., Executive Order 03-03. This rule originally filed as 13 CSR 35-32.110. Original rule filed Jan. 3, 2017, effective Aug. 30, 2017. Moved to 5 CSR 25-200.110, effective Aug. 28, 2021.*

*\*Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986, 1993, 2014; 210.025, RSMo 1999, amended 2004; and 210.027, RSMo 1999, amended 2014.*

**5 CSR 25-200.120 Regulatory and Contractual Violations of Registered Child Care Providers**

*PURPOSE: This rule sets forth the investigation of complaints made on registered child care providers.*

(1) Investigation.

(A) Any member of the public may notify the division of a regulatory or contractual violation of a registered child care provider. The division or designee shall investigate regulatory or contractual violations.

(B) Any member of the public wishing to notify the division of child abuse or neglect shall do so in accordance with section 210.145, RSMo.

(C) Registered child care providers shall fully cooperate with any investigation conducted by the division or designee. This includes, but is not limited to, providing information or documentation requested by

the division or designee.

(D) Upon conclusion of an investigation, the division or designee shall notify the child care provider in writing. The notification shall include—

1. A description of the complaint;

2. Whether the division has substantiated the complaint; and

3. If substantiated, the child care provider's right to an administrative review.

(2) Administrative Review.

(A) The child care provider may request an administrative review of the decision to substantiate the violation by providing a written request for an administrative review within ten (10) days of the notification. The child care provider may submit additional documentation for consideration with the request for an administrative review. The division may, but is not required to, review documentation received after the request for administrative review.

(B) The child care provider may request the opportunity to present additional information by telephone conference call by making such a request in writing with the request for administrative review. If the child care provider timely requests a telephone conference, the division shall notify the child care provider in writing of the date, time, and telephone number at which the child care provider may present evidence. In such circumstances, the child care provider is responsible for ensuring that he/she is able to present information via telephone on the date/time provided, and that he/she has a working telephone and stable connection. The division shall not be responsible for any technical difficulties the child care provider may experience.

(C) If a child care provider makes a timely request for administrative review, the division will not include the provider in the list described in section (3) until the administrative review process is complete and a final decision has been made.

(D) The division shall—

1. Review the investigation of the violation and any written materials timely provided by the child care provider;

2. Conduct a telephone conference, if timely requested by the child care provider; and

3. Upon completion of the administrative review, notify the child care provider of the results of the administrative review in writing. The results of the administrative review may uphold or overturn the substantiated complaint.

(E) The results of the administrative review shall be final.



## (3) Public Access.

(A) The division shall maintain a record of final, substantiated regulatory violations of registered child care providers and compliance actions taken against child care providers. Such record shall include the name of the child care provider, date of the violation, a description of the substantiated contractual or regulatory violation, and any corrective action taken.

(B) The division shall maintain a record of the date and results of any on-site inspection of a registered child care provider, including any regulatory violations found during the on-site inspection.

(C) The division shall make its records available for public viewing on the division's website.

*AUTHORITY: sections 207.020, 210.025, and 210.027, RSMo 2016,\* 42 U.S.C. section 9858, et. seq., Executive Order 03-03. This rule originally filed as 13 CSR 35-32.120. Original rule filed Jan. 3, 2017, effective Aug. 30, 2017. Moved to 5 CSR 25-200.120, effective Aug. 28, 2021.*

*\*Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986, 1993, 2014; 210.025, RSMo 1999, amended 2004; and 210.027, RSMo 1999, amended 2014.*

**5 CSR 25-200.130 Recordkeeping**

*PURPOSE: This rule sets forth the records, documents, and reports which a child care provider shall maintain and, upon request, submit to the division.*

(1) Notwithstanding any other provision of law, all registered and licensed child care providers shall maintain accurate, auditable records as described below.

(2) Child Information Register. The child care provider shall maintain an accurate register of all children who receive care from the provider. At a minimum, the register shall contain the following information for each child served under contract with the department:

(A) The child's full name and date of birth;

(B) The name, address, e-mail address, phone number, and other necessary contact information of each person legally responsible for each child;

(C) Allergies to food, medications, insects, or other materials;

(D) Daily medications, including dosage, time of administering, and route for administering;

(E) Listing of persons authorized to pick-up and drop-off child as approved by person

legally responsible for the child; and

(F) For infants, feeding times and amount of breast milk or formula per feeding.

(3) Time and Attendance Register. The child care provider shall maintain a time and attendance register of all children who receive care from the provider. At a minimum, the time and attendance register shall contain the following information for each child served under a subsidized child care contract with the department:

(A) The actual dates and times that the child received subsidized child care services, showing for each day of service the date that the child arrived and the time that the child was picked up;

(B) The name of the person who dropped off the child and the name of the person who picked up the child; and

(C) The child care provider shall record the required information at the time the transaction took place.

(4) Billing Records. The child care provider shall maintain copies of all invoices submitted to the division for payment. The child care provider shall ensure all invoices, bills, and data are true, accurate, and complete at the time of submission to the division.

(5) The child care provider shall provide copies of all records to the division upon request.

(6) The child care provider shall maintain all registers and records listed in this regulation for all children no less than five (5) years after the date of the last day that subsidized child care services are provided for the child. The child care provider shall, in addition, keep the records for such additional time periods that the department may request for audit or litigation purposes.

*AUTHORITY: sections 207.020, 210.025, and 210.027, RSMo 2016,\* 42 U.S.C. section 9858, et. seq., Executive Order 03-03. This rule originally filed as 13 CSR 35-32.130. Original rule filed Jan. 3, 2017, effective Aug. 30, 2017. Moved to 5 CSR 25-200.130, effective Aug. 28, 2021.*

*\*Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986, 1993, 2014; 210.025, RSMo 1999, amended 2004; and 210.027, RSMo 1999, amended 2014.*