

ANNOUNCEMENT C-20-04 Revised



Pennsylvania Office of Child Development and Early Learning
Bureau of Certification

Reissue Date: 08/20/2020

Effective Date: Immediately

Sunset Date: 09/30/2021

Subject: Suspension of Regulatory Requirements for Certified Child Care Facilities During the COVID-19 Pandemic

To: Certified Child Care Facilities; ELRCs

From: *Tracey Campanini*
Tracey Campanini
Deputy Secretary, Office of Child Development & Early Learning

PURPOSE

To announce that the Department of Human Services (Department) has suspended certain regulations in 55 Pa. Code Chapters 3270, 3280 and 3290 effective March 6, 2020. This communication has been revised and amends the announcement to include additional regulatory suspensions not included in the original communication. **Inclusions to this announcement are in red in the following text.**

The suspension remains in place while the Disaster Proclamation is in effect or such other time as the Department directs.

BACKGROUND

On March 6, 2020, Governor Tom Wolf issued a Proclamation of Disaster Emergency ("Disaster Proclamation") to enable agencies to respond promptly to the COVID-19 pandemic. Because of the impact of COVID-19 mitigation efforts on certified child care facilities and with the Governor's authorization as conferred in the Disaster Proclamation, the Department has temporarily suspended the regulatory provisions in 55 Pa. Code Chapters 3270, 3280, 3290 discussed below.

DISCUSSION

The child care regulations in Chapters 3270, 3280, and 3290 include requirements that the child care provider must document in order to ensure the health and safety of children. The disruptions caused by the COVID-19 pandemic and subsequent mitigation measures have greatly impacted certified child care facility operations and ability to comply with some regulatory requirements. Many of the requirements in Chapters 3270, 3280 and 3290 are dependent on

the availability of other entities such as medical professionals and training institutions, as well as a steady rate of attendance of children and communication with parents. The Office of Child Development and Early Learning (OCDEL) realizes that certified child care facilities cannot demonstrate compliance with certain regulations.

The regulations discussed below have been suspended in whole or in full; and, or in part or limited, as described below:

Age and Training

Under regulations in 55 Pa. Code Chapters 3270.31(e) and 3280.31(e), a staff person is required to obtain an annual minimum of six hours of child care training. Under regulations in 55 Pa. Code Chapter 3290.31(f), a staff person is required to obtain a biennial minimum of twelve hours of child care training. Staff may not have been able to satisfy the hourly requirements because staff were not working, or the facility was closed. Much of the professional development that is typically offered has been suspended because of the COVID-19 pandemic. When professional development is available, child care staff may experience delays in obtaining the required annual training hours because of limited space in face-to-face sessions or the limited availability of appropriate material offered through online training sessions.

For these reasons, the Department has suspended this training requirement on a full basis. Staff whose professional development training was cancelled because of the directives to mitigate the spread of COVID-19 and have not yet met the requirement of six hours annually and twelve hours on a biennial basis of professional development will not be required to meet this requirement until 90 days after Disaster Proclamation is lifted.

The Department has also suspended regulations in 55 Pa. Code Chapters §3270.31(e)(4)(i); §3280.31(e)(4)(i); §3290.31(f)(4)(1); relating to first-aid training, requirements on a full basis. These regulations require demonstrating competence in first-aid by the completion of training by a professional in the field of first-aid. First-aid training must be renewed on or before expiration of certification or every 3 years, as applicable.

It may also be difficult to reschedule a cancelled training because of lack of available training. Due to COVID-19 mitigation efforts, many face-to-face first-aid trainings are not available or have limited space. For a first-aid course to be valid, there must be a face-to-face session for certain components of the training.

For a facility to be considered compliant with this regulation, a copy of the proof of enrollment for the training and a copy of the cancellation must be kept in the staff file of any designated staff person with a certificate that expired due to the cancellation of the training. Staff whose training was cancelled or whose certificate expired as described above, must schedule first-aid training within 90 days after the Disaster Proclamation is lifted.

General Requirements for Facility Persons

Under general requirements for facility persons in regulations in 55 Pa. Code Chapters 3270.33(d) and 3280.32(c), one or more facility persons must be competent in first-aid techniques at the facility when one or more children are in care. Under general requirements for facility persons in regulations in 55 Pa. Code Chapters 3290.32(d), one of more persons competent in first-aid techniques shall be at the facility when day care children are in care. The Department has suspended these regulations on a limited basis because only a portion of the whole regulation pertains to first-aid. Staff whose training was cancelled or whose certificate expired as described above, must schedule first-aid training within 90 days after the Disaster Proclamation is lifted.

Measurement and Use of Indoor Child Care Space

Child care facilities must limit the spread of infection and make accommodations for children who are ill for a short period of time until the parent can pick up the child. The child care facility should not experience any safety risk by using unmeasured space since the children with symptoms are in a separate space and are supervised. In addition, during the COVID-19 pandemic, the number of children enrolled may vary to meet the needs of the community. Child care facilities may need additional child care space.

Pursuant to regulations in 55 Pa. Code 3270.61(e) and 3280.61(e), measured indoor space excludes space occupied by halls, bathrooms, offices, kitchens and locker rooms. The Department has suspended these regulations in full.

Any child who shows symptoms of illness that could potentially be COVID-19 must be isolated from other children in care until the child can be picked up. OCDEL will allow certified child care centers and group homes to use non-measured child care space on the premises to isolate the child as long as the temporary isolation space is free and clear of health and safety hazards and all other regulations can be met regarding required supervision and staff-to-child ratios. Family child care homes need to isolate the child but still maintain supervision until the parent can pick up the child.

Pursuant to regulations in 55 Pa. Code 3270.61(a) and 3280.61(a), a facility is required to provide indoor child care space for individual and group small muscle activity. 55 Pa. Code 3270.61(b) and 3280.61(b) do not allow indoor child care space to be used simultaneously as play space. The Department has suspended these regulatory requirements on a full basis. OCDEL will temporarily allow a certified child care center and group home to convert an indoor play space to child care space, as long as the facility has outdoor play space. The allowable number of children in the converted space can be determined by dividing the total square feet in a space by 40. Child care providers must continue meet staff-to-child ratios.

Agreement

Due to the COVID-19 mitigation efforts impacting child care facilities, such as uneven attendance patterns for children enrolled in child care facilities and the focus on maintaining a healthy and safe environment for children, child care facilities may suspend information-gathering efforts to document a child's growth and development for the child service report. Many children are not attending child care, so providers do not have parental access to review documents such as the child service report.

Pursuant to regulations in 55 Pa. Code Chapters 3270.123(a)(3), 3280.123(a)(3) and 3290.123(a)(3) operators and parents must sign an agreement that includes what services are to be provided to the family and the child, including the Department's approved [form](#) to provide information to the family about the child's growth and development in the context of the services being provided. The operator must complete and update the form and provide a copy to the family every six months.

The Department has suspended the requirement for child care facilities to complete a child care service report (the Department's form) to provide information about the child's growth and development. The time period for completing a child's service report will be within 90 days after the Disaster Proclamation is lifted.

Emergency Contact Information and Individual Records (Child)

Pursuant to regulations in 55 Pa. Code Chapters 3270.124(f), 3280.124(f) and 3290.124(e), a parent must review and update in writing, emergency contact information once in a six-month period or as soon as there is a change in the information. Regulations in Chapters 3270.181(c) and 3280.181(c) also require a parent to review and update the financial agreement at least once every six months or as soon as there is a change in the information. Regulations in Chapters 3270.181(e) and 3280.181(e) further require that if emergency information is updated in a master file, it must also be updated accordingly in other facility records.

The Department has suspended these regulations on a full basis due to the uneven attendance patterns for children enrolled in child care facilities during the COVID-19 pandemic. Some child care facilities which may be operating are focused on following guidelines to keep children and staff healthy (i.e., mitigating the spread of COVID-19), and therefore may not be able to work with parents to update the emergency contact information every six months. However, the parent will be reminded to report any change in the information as soon as possible. In addition, when the operator updates emergency information it does not need to update the master file and any other facility records. The parent shall update emergency contact information within 90 days after the Disaster Proclamation is lifted.

Child Health Information

Pursuant to regulations in 55 Pa. Code Chapters 3270.131(a) and 3280.131(a), the facility operator must require the parent of an enrolled child, including a child, a foster child and a relative of an operator or a facility person, to provide an initial health report no later than 60 days following the first day at the child attends the facility. Chapter 3290 requires the operator to obtain the parent of an enrolled child to provide an initial health report no later than 60 days following the first day of attendance at the facility.

Pursuant to regulations in 55 Pa. Code Chapters 3270.131(b), 3280.131(b), and 3290.131(b) operators shall require a parent to provide an updated health report in accordance with the following schedules:

- (1) At least every six months for an infant or young toddler.
- (2) At least every twelve months for an older toddler or preschool child.

The Department has suspended these regulatory requirements on a full basis when child care facilities are not able to obtain initial or updated medical health report. Due to the COVID-19 pandemic, medical providers may not be available to provide timely examinations for health reports. Parents may not be able to secure timely appointments for their child to have an examination for the initial or the required six-month or twelve-month updated health report. The child care facility must obtain an initial health report within 90 days after the child's first day of attendance. The child care facility must obtain the an updated health report within 90 days after the Disaster Proclamation is lifted

Pick-up and Drop-Off Points

Pursuant to regulations in 55 Pa. Code Chapter 3270.171(a) and 3280.171(a), the operator shall notify local traffic safety authorities annually in writing of the location of the facility and about the program's use of pedestrian and vehicular routes around the day care facility.

The Department has suspended these regulations on a full basis because the provider may be not operating or is operating under limited conditions during the COVID-19 pandemic. The provider has 90 days after the Disaster Proclamation ends or another time directed by the Department, to notify traffic authorities. The availability of staff to complete paperwork, and the uneven child attendance in child care facilities which are open, the staff may not have the opportunity to communicate timely notifications to local traffic safety authorities.

School Age Child Care

Pursuant to regulations in 55 Pa. Code §§ 3270.241(a) and 3280.221(a), if a child is required to be enrolled in public or private school under the Public School Code of 1949 (24 P. S. § § 1-101—27-2702) and if the child is not enrolled and if the child is not exempted from enrollment under the Public School Code, a child day care facility may not admit the child for care during the hours when the child is required by law to attend public or private school.

The Department has suspended these regulations on a partial basis because local school districts and private schools are issuing modified schedules and methods of school attendance during the 2020-2021 school year as a strategy to mitigate the spread of COVID-19. During days when school age children are not required to attend face-to-face instruction at school due to the school entity announcing and the child utilizing Hybrid Learning Model or Online/Remote instruction, a child day care facility may admit a child for care during the hours when the child is engaged in online or remote instruction.

Statements of Policy

Pursuant to the Statements of Policy at 55 Pa. Code §§ 3270.3a(1) and 3280.3a(1) a part-day school-age program is one that operates for fewer than 90 consecutive days per calendar year from the date the program opens to the date the program closes. The Statements of Policy do not apply to a legal entity that has a certificate of compliance to operate a child care center or group child care home and that increases its enrollment to include school-age children in the summer and on school holidays.

The Department has suspended the requirement that **part-day school age programs** can only operate 90 consecutive days in a calendar year. Part-day school-age programs operating for more than 90 days may not operate after September 15, 2020, without obtaining a certificate of compliance or license issued by the Department or having their individual programmatic situation reviewed by OCDEL.

The regulatory suspensions discussed above will remain in place while the proclamation of disaster emergency remains in effect or such other time as the Department directs.

A listing of all suspended regulatory requirements for DHS licensees will be posted to the DHS website after all DHS program offices have provided appropriate notification and guidance to their impacted licensees.

NEXT STEPS

Child care providers must:

1. Read this Announcement and share with appropriate staff
2. Make sure required documentation relating to Age and Training as noted above is on file for an agent of the Department to review at the time of inspection
3. Post a copy of this announcement with the copy of the Child Care Regulations available for families at your facility

Comments and Questions Regarding this Announcement Should be Directed to the Provider's Regional Office of Child Development and Early Learning: Central Region 800-222-2117; Northeast Region 800-222-2108; Southeast North and Southeast South Region 800-346-2929; Western Region 800-222-2149.