

ORDINANCE #04/91, AS AMENDED

**FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA
FAMILY/GROUP CHILD CARE
LICENSING STANDARDS**

Adopted by Resolution #1082/91 as Ordinance #04/91 of the Fond du Lac Reservation Business Committee Adopting the Fond du Lac Day Care Standards and Licensing Procedures dated December 10, 1991.

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101. Authority. This Ordinance is enacted by the Fond du Lac Reservation Business Committee pursuant to the inherent sovereign authority of the Fond du Lac Band of Lake Superior Chippewa, as reserved under the Treaty of LaPointe, 10 Stat. 1109, and as recognized under Section 16 of the Indian Reorganization Act, 25 U.S.C. §476; Article VI of the Revised Constitution of the Minnesota Chippewa Tribe; and under the common law of the United States.
102. Purpose. The purpose of this Ordinance is to assure quality standards in the provision of family group/child care services to all individuals receiving such services on the Fond du Lac Reservation.

103. Definitions. The following definitions shall govern the scope and applicability of all provisions of this Ordinance.
- (a) Adult: a person at least eighteen (18) years of age.
 - (b) Agency: the Human Services Division of the Fond du Lac Band of Lake Superior Chippewa and the duly delegated representative of the Reservation Business Committee for the purposes of implementing this ordinance.
 - (c) Applicant: the person seeking a license to be the primary provider in the residence, present during the hours of operation, and who shall be legally responsible for the operation of the child care residence.
 - (d) Caregiver: the provider, substitute, helper, or another adult giving care in the residence.
 - (e) Certified Child Care Provider: a person who has met the training and experience obligations spelled out in this Ordinance and is available for independent child care positions.
 - (f) Child: a person thirteen years of age or younger or a person who is under age eighteen and under court supervision or is physically or mentally incapable of caring for himself or herself.
 - (g) Child Care: the care of a child in a residence outside the child's own home or when a caregiver comes into the child's residence for gain or otherwise, on a regular basis, for any part of a 24-hour day.
 - (h) Child with disabilities: a child who has been determined by a physician, a school district multi-disciplinary team, or other person licensed to identify disability condition, who have or are at increased risk for a chronic physical, developmental, behavioral, or emotional condition and who also require health and related services of a type or amount beyond that required by children generally.
 - (i) Corporal punishment: the non-accidental infliction of physical pain on a child by a caregiver. Corporal punishment includes, but is not limited to, rough handling, shoving, hair pulling, ear pulling, shaking, slapping, kicking, biting, pinching, hitting, and spanking.
 - (j) Disability: means a functional limitation or health condition that interferes with a child's ability to walk, talk, see, hear, breathe, or learn.
 - (k) Emotional abuse: the infliction of verbal or psychological abuse on a child by a caregiver. Emotional abuse includes, but is not limited to, name calling, ostracism, shaming, derogatory remarks about the child or child's family, and threats when threatened, humiliate, or frighten the child.

- (l) Family Child Care: child care for no more than ten (10) children at one time of which no more than six (6) are under school age. The licensed capacity must include all children of any caregiver when the children are present in the residence.
- (m) Group Family Child Care: child care for no more than fourteen (14) children at any one time with more than one adult. The total number of children includes all children of any caregiver when the children are present in the residence.
- (n) Health and Safety Inspector: the person authorized and designated by the Reservation Business Committee to administer and enforce fire inspections, which shall substantively follow to the Uniform Fire Code, as codified under Minnesota Statute § 299F.011.
- (o) Helper: a person at least thirteen (13) years of age who assists the provider with the care of children.
- (p) Infant: a child who is at least six (6) weeks of age but less than twelve (12) months of age.
- (q) Licensed Capacity: the total number of children thirteen (13) years of age or younger permitted at any one time in the residence. The licensed capacity includes all children of any caregiver when the children are present in the residence.
- (r) Medicine - a prescription or non-prescription substance taken internally or applied externally to prevent or cure disease, heal, or relieve pain.
- (s) Mental Health Disorder: the inability to interpret reality realistically and the impaired function in primary aspects of daily living, such as personal relations, living arrangements, work, and recreation; which is listed in the International Classification of Disease (ICD-9-CM) Ninth Revision (1980), code range 290.0-299.9, or the corresponding code in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM-III) Third Edition (1980), Axes I, II, or III. These publications are incorporated by reference and are not subject to frequent change.
- (t) Mixed occupancy building: a residence in a structure that contains non-residential occupancies or an attached garage.
- (u) Multiple occupancy building: a structure with two or more residential dwelling units such as a duplex, apartment building, or town home.
- (v) Negative licensing actions: denial of application for licensure, revocations, non-renewal, probation, suspension, or immediate suspension of an existing license.
- (w) Newborn: a child between birth and six (6) weeks of age.

- (x) Parent: the adult who has custodial authority over the child in question.
- (y) Preschooler: a child between the ages of three (3) and five (5) years old, or up until their first day of school in the local school. For specialized infant/toddler licenses (classes B1, B2, D) the child is considered preschool until 30 months up to enrollment in the first day of school in the local school district.
- (z) Provider: the license holder and/or primary caregiver.
- (aa) Regularly or Regular Basis: a cumulative total of more than thirty (30) days within any 12-month period.
- (bb) Related: any of the following relationships by marriage, blood, or adoption: parent, grandparent, brother, sister, stepparent, stepsister, stepbrother, uncle, aunt, child, niece, nephew. Related also includes a legally appointed guardian.
- (cc) Reservation Business Committee, or RBC: the governing body of the Fond du Lac Band of Lake Superior Chippewa.
- (dd) Residence: a dwelling unit in which child care is provided and which is occupied as a home.
- (ee) School Age: a child at least five (5) years old or who has started kindergarten.
- (ff) Substitute: an adult at least 18 years of age who assumes the responsibility of the provider.
- (gg) Supervision: a caregiver being within sight or hearing of a child at all times so that the caregiver is capable of intervening to protect the health and safety of the child.
- (hh) Toddler: a child at least twelve (12) months of age but less than thirty-five (35). For specialized infant and toddler licenses (classes B1, B2 and D) a toddler means a child who is at least 12 months old but less than 30 months old.
- (ii) Uniform Fire Code: the Uniform Fire Code as codified under Minnesota Statute Section 299F.011 et seq., except that enforcement shall be exclusively as provided under the terms of this Ordinance and other applicable laws of the Fond du Lac Band of Lake Superior Chippewa.
- (jj) Variance: written permission by the RBC for a provider or applicant to depart from these standards.

104. Licensing of Facilities for Family Child Care and Group Family Child Care Homes and Certified Child Care Providers.

- (a) Purpose. The purpose of this listing is to establish procedures and standards for licensing family child care and group family child care homes, to ensure that minimum levels of care and service are given and the protection, proper care, health, safety, and development of the children are assured.
- (b) Applicability. These standards and procedures are authorized by the RBC and govern the licensing of family child care homes, group family child care homes, and school age child care including drop-in or sick care child care. No person, association, corporation or other entity shall maintain or operate a child care facility on the Fond du Lac Reservation unless licensed by the Reservation Business Committee pursuant to this Ordinance.
- (c) Exclusion from licensure. The following child care situations are excluded from licensure under this Ordinance: (1) child care provided by a relative to only related children; (2) child care provided to children from a single, unrelated family, for any length of time; or (3) child care provided for a cumulative total of less than thirty (30) days in any 12-month period.

105. Licensing Process.

- (a) License application. A license to operate a family or group child care residence within the Fond du Lac service area must be obtained from the RBC.
- (1) The applicant shall be the person who will be the provider of care in the residence, present during hours of operation, and who shall be legally responsible for the operation of the residence.
 - (2) Fond du Lac Human Services Division (“Human Services”) shall supply the applicant with the application form and a copy of the Fond du Lac Reservation Family/Group Child Care Standards. The agency shall stamp and date a signed and completed application form on the date of receipt.
 - (3) An application for licensure is complete when the applicant completes, signs, and submits to the Human Services Division all forms and documents needed for licensure, including all inspections, zoning evaluations, and completion of investigative compliance.
 - (4) All applicants must give written consent to Human Services to conduct any and all investigations into the affairs of the applicant that are directly relevant to the standards prescribed by this ordinance. The Human Services Advisory Board reviews all applications and makes recommendations to the RBC for final approval or disapproval.
- (b) Licensing study. The applicant shall give the designated Human Services workers access to the residence for a licensing study to determine compliance with this ordinance.
- (1) The residence must comply with any applicable local and tribal ordinances. If the Licensor or agency has reasonable cause to believe a hazardous condition may be present and requests an inspection by a fire marshal, building official, or health and safety inspector, then any condition cited by a fire marshal, building official, or health and safety inspector as hazardous and creating an immediate danger of fire, or threat to human life and safety, must be corrected or a variance approved in accordance with all written standards.
 - (2) An initial inspection of the residence by a fire marshal or health and safety inspector to determine compliance with the standards established by the Uniform Fire Code and compliance with orders issued are conditions of licensure for:
 - (i) all residences with freestanding solid fuel heating appliances;
 - (ii) manufactured (mobile) homes;
 - (iii) new applicants for licensure with a licensed capacity of more than ten (10);

- (iv) child care residences which use a basement for child care;
- (v) residences in mixed or multiple occupancy buildings.

In addition, permission from owner or landlord is required to license in any nonresidential facility or multiple occupancy building not owned by the applicant.

- (3) Prior to licensure or at any time during the licensed term of child care, the licensing representative or the Human Services Advisory Board may require a physical, mental health, or chemical use assessment of any caregiver or person living in the residence or present during the hours children are in care. The licensing representative must have reasonable cause to believe that any of the disqualification factors in this ordinance are present, or that the provider is not physically or mentally able to care for the children, in order to require an assessment.
- (4) **Background Screening.** All child care providers (in addition to any individual age eighteen (18) and older, or a minor over age twelve (12) if allowed under State law and if a registry/database includes minors, residing in a family child care home) should undergo a complete initial background screening and at least once every five (5) years thereafter. Screening should be conducted as expeditiously as possible and should be completed prior to caring for children. Substitutes or Helpers must be supervised when they have access to children until all screening has been completed. Consent to the background investigation is a requirement for licensure. The comprehensive background screening includes the following:
 - (i) a search of the Minnesota criminal and sex offender registry or repository, as well as a search of the registry for each state where the staff member has resided during the preceding five (5) years;
 - (ii) a search of state-based child abuse and neglect registries and databases in the state where the child care staff member resides, and each state where such staff member has resided in the preceding five (5) years; and
 - (iii) a Federal Bureau of Investigation fingerprint check using Fond du Lac Band-approved agency.
- (c) **Licensing agency.** The Fond du Lac Social Services/Child Care Licensor shall accept and process applications for licensure based upon the standards of this ordinance.
 - (1) The Child Care Licensor shall conduct the initial licensing study of the residence, the investigation of caregiver qualifications, and the annual relicensing study.

- (2) The Human Services Advisory Board shall evaluate and recommend an application for approval or denial of licensure to the RBC within thirty (30) days after the agency has in its possession all completed and signed forms, reports, evaluations, information, and documentation required from the applicant and all inspection, zoning, and investigative reports required to verify compliance with established standards.
 - (3) If a recommendation cannot be made by the agency within thirty (30) days after all information, documentation, and evaluations necessary to verify compliance with the rule parts has been received, the Human Services Coordinator must inform the applicant in writing why a recommendation cannot be made.
- (d) Issuance. The Reservation Business Committee shall issue a license to an applicant which it deems to be qualified under the provisions of this Ordinance, based on the recommendation of the Child Care Licensor and the Human Services Advisory Board. Each license issued may be limited or conditioned in whatever manner deemed appropriate by the Child Care Licensor and the Human Services Advisory Board consistent with the standards and purposes of this ordinance. Each licensee shall be informed in writing by the Child Care Licensor of any limitation or condition so imposed.
- (e) Period of licensure: non-transfer. All licenses must be issued by the department for up to one year when the provider fully complies with established standards and licensing procedures. The license is not transferable to another provider or substitute provider.
- (f) Provisional license. An applicant for initial licensure may be granted a provisional license for up to one year if all laws and rules cannot be met immediately and do not threaten the health, rights, or safety of the children. A provisional license requires all findings to be corrected within the time specified by the Child Care Licensor, not to exceed one year. Failure to correct deviations within the stated time shall be cause for denial, probation, revocation, suspension, or non-renewal.
- (g) Unlicensed facilities. When the agency becomes aware that a facility required to be licensed is not licensed, facility must provide verification of license status to the Child Care Licensor within ten (10) days).
- (1) If the Child Care Licensor finds that the facility is not licensed, the Child Care Licensor shall contact the person giving care in the facility and inform them of the licensing requirements and the procedures for obtaining a license.
 - (2) If the person providing care in an unlicensed facility has made no attempt to obtain a license within thirty (30) days, then the attorney with the jurisdiction to bring charges for misdemeanors shall be notified immediately and legal action may be pursued. The operator of a residence

required to be licensed, which is operating without a license, is subject to misdemeanor prosecution and injunction.

(h) Criminal history investigations and prohibitions

(1) Criminal history and background investigations. Each applicant and provider under this Ordinance, and in compliance with the Adam Walsh Child Protection and Safety Act of 2006, and all persons within the household who are age 13 or older, shall submit to a criminal history and background investigation to meet the requirements of this section, and the application and receipt of licensure under this Ordinance shall constitute consent to such investigation by the applicant or provider.

(i) Every background investigation shall review:

- (A) Records of substantiated perpetrators of maltreatment of vulnerable adults;
- (B) Records relating to maltreatment of minors in licensed programs;
- (C) Information from juvenile courts, the Bureau of Criminal Apprehension, and the National Crime Information Center;
- (D) The child abuse neglect registry for any State in which the applicant has resided during the past ten (10) years; and
- (E) Information from national crime information databases for any individual age eighteen (18) or older.
- (F) Maltreatment records by county social services and county sheriff's department; and
- (G) Finger-print records on file with the Federal Bureau of Investigation.

(2) Criminal prohibitions. If the criminal history or background investigation respecting any applicant or provider under this Ordinance indicates a record of a conviction or plea of no contest or guilty to any crimes specified under this subsection in a federal, state or tribal court, that applicant or provider shall be denied licensure of a family foster home under this Ordinance for the period indicated:

(i) Permanent disqualification:

- (A) Murder;
- (B) Manslaughter;
- (C) Felony domestic assault;
- (D) Felony assault;
- (E) Violation of predatory offender registration laws;
- (F) Great bodily harm caused by distribution of drugs;
- (G) Aggravated robbery;
- (H) Kidnapping;

- (I) Solicitation, inducement, or promotion of prostitution;
- (J) Receiving profit from prostitution;
- (K) Felony of malicious punishment of a child;
- (L) Felony neglect or endangerment of a child;
- (M) First degree arson;
- (N) Felony drive-by shooting;
- (O) Felony stalking;
- (P) Criminal sexual conduct;
- (Q) Criminal sexual predatory conduct;
- (R) Solicitation of children to engage in sexual conduct;
- (S) Indecent exposure involving a minor;
- (T) Incest;
- (U) Use of minors in a sexual performance;
- (V) Possession of pictorial representation of a minor; or
- (W) Aiding and abetting, attempt, or conspiracy to commit any of (A) – (V) above.

(ii) Disqualification for a period of at least 10 years post-discharge by order of the court following a stay of sentence or stay of execution of sentence, or 10 years past expiration of sentence:

- (A) Wrongfully obtaining welfare or childcare assistance, food stamps, or unemployment benefits;
- (B) Insurance fraud;
- (C) Criminal vehicular homicide or injury;
- (D) Aiding suicide or aiding attempted suicide;
- (E) Assault in the first, second, third or fourth degree;
- (F) Great bodily harm caused by distribution of drugs;
- (G) Felony drug possession, manufacture, or sale;
- (H) Crime committed for the benefit of a gang;
- (I) Criminal abuse or financial exploitation of a vulnerable adult;
- (J) Mistreatment of confined persons;
- (K) Mistreatment of residents or patients;
- (L) Simple robbery;
- (M) False imprisonment;
- (N) Abduction;
- (O) Assault of an unborn child in the first, second or third degree;
- (P) Injury or death of an unborn child in the commission of a crime;
- (Q) Use of drugs to injure or facilitate crime;
- (R) Felony-level conviction involving alcohol or a controlled substance;
- (S) Unlawful coercion;
- (T) Aiding a criminal offender;
- (U) Tampering with a witness;
- (V) Identity theft;

- (W) Forgery;
 - (X) Gross misdemeanor offense of malicious punishment of a child;
 - (Y) Neglect or endangerment of a child;
 - (Z) Arson in the first or second degree;
 - (AA) Burglary in the first or second degree;
 - (BB) Setting a spring gun;
 - (CC) Reckless use of a gun or dangerous weapon, or intentionally pointing a gun at or towards a human being;
 - (DD) Unlawfully owning, possessing or operating a machine gun or short-barreled shotgun;
 - (EE) Riot;
 - (FF) Terroristic threats;
 - (GG) Violation of domestic abuse order for protection; or
 - (HH) Disseminating or displaying harmful material to minors.
- (iii) Disqualification for a period of at least 5 years post-discharge by order of the court following stay of sentence or stay of execution of sentence, or 5 years past expiration of sentence:
- (A) Assault in the fifth degree;
 - (B) Issuance of a criminal domestic abuse no contact order;
 - (C) Disorderly house;
 - (D) Arson in the third degree;
 - (E) Burglary in the third or fourth degree;
 - (F) Interference with privacy;
 - (G) Obscene or harassing phone calls;
 - (H) Indecent exposure not involving a minor;
 - (I) Obscene materials or performance not involving a minor;
 - (J) Indecent literature distribution; or
 - (K) Gross misdemeanor conviction for drugs.
- (iv) Other crimes of a similar nature to those under subsections (i) through (iii) or as have been determined by the RBC to indicate unsuitability for child care licensure.
- (3) Background prohibitions. No applicant or provider shall be licensed under this Ordinance where the Reservation Business Committee has determined that the individual's reputation, habits or associations raise a substantial concern as to that individual's suitability or fitness to provide foster care services in the manner required under this Ordinance.
- (4) Drug screening. All applicants and providers shall be subject to drug screening upon application, re-licensure, and upon suspicion or reasonable belief of illegal drug use.
- (i) Prohibited substances. Applicants and providers shall be prohibited from the use of any drug not lawfully prescribed by a physician, or

the misuse of a lawfully prescribed controlled substance. Any drug test required under this ordinance will test for the presence of any of the following substances:

- (A) Amphetamine (AMP);
- (B) Benzodiazepine (BZO);
- (C) Cocaine (COC);
- (D) 2-ethylidene-1,5-dimethyl-3,3-diphenylpyrrolidine (EDDP);
- (E) Marijuana (THC);
- (F) Methadone (MTD);
- (G) Methamphetamine (MET);
- (H) Opiates (OPI); and
- (I) Oxycodone (OXY).

(ii) Positive test. An applicant or provider with a positive test will not be licensed, or will have their license revoked. They may re-apply eighteen (18) months after a positive test, but under no circumstances will they be licensed until they are able to provide a clean test.

(iii) Refusal to submit. Any applicant or provider has the right to refuse drug testing; Fond du Lac has the right to refuse licensure or revoke licensure to anyone who refuses drug testing. Refusal to submit to the requested testing will result in immediate revocation of any current foster care license. Refusal to test/submit includes the following:

- (A) failure to provide a specimen;
- (B) failure to cooperate with the testing process;
- (C) failure to report to the collection site in a timely manner;
- (D) failure to provide adequate specimen without legitimate reason preventing adequate urination; or
- (E) submitting an adulterated or substituted specimen.

(iv) Collection. Applicants or providers will be tested in-house at the Tribal Center using an oral fluid test or be transported to the Raiter Clinic in Cloquet, the Cloquet Memorial Hospital, or Workright Duluth Clinic for a urine screen. Drug screening may use a urine or an oral fluid test.

(v) Testing – Lab and Methodology. All urine and oral fluid specimens to be tested for the presence of drugs will be analyzed by a laboratory certified by Health and Human Services (HHS) under the National Laboratory Certification Program as meeting the minimum standards of subpart C of the HHS Mandatory Guidelines for Workplace Drug Testing Programs.

Every specimen is required to undergo an initial screen followed by conformation of all positive screen results. Any urine or oral fluid specimens identified as positive on the initial test screen will be confirmed by the use of gas chromatography/mass spectrometry testing. When appropriate, the laboratory will also analyze the specimen for the presence of adulterants. The laboratory shall report to the Medical Review Officer (MRO) any presence of adulterants.

(vi) Results.

(A) Negative results will be forwarded to the FDL contact person who will in turn notify the donor by mail of the results.

(B) When the initial result is positive, the MRO will contact the donor to first review any prescription medication that the applicant/provider may be taking which could alter the result. After conducting the interview with the donor, the MRO will rule the sample either positive or negative. If the donor has a legitimate prescription for the drug found in the positive result, the sample will be ruled a negative and will be routed back through the negative process.

(C) If the sample is confirmed positive, it will be reported to the FDL contact person, who shall either revoke or refuse the applicant/provider's license.

(5) Persons excluded from the reservation. No applicant or provider shall be licensed under this Ordinance if they are currently on the Band's exclusion list.

(i) License suspension or probation. A license shall be suspended or may be probationary if the provider, or any other person living in the child care residence or is present during the hours children are in care or working with children, is awaiting trial for a crime for which they would be disqualified from licensure if convicted.

(1) A license may be suspended or placed on probationary status if applicant or helper has been charged with a misdemeanor related to DWI/DUI, theft, or wrongfully obtaining financial assistance. Determination of suspension or probation is at the discretion of the Human Services Advisory Board.

(j) Variance standard. An applicant or provider may request a variance from compliance. When reviewing a variance request, the Child Care Licensor shall assess whether alternative methods are identified by the applicant or provider to ensure the health, safety, and protection of children in care. A variance may be granted only if:

- (1) The applicant complies with all applicable laws, ordinances, and regulations;
 - (2) Specific equivalent measures are identified by the applicant or provider to ensure the health, safety, and protection of the children in care;
 - (3) Any variance to the safety provisions which relate to the Uniform Fire Code, or such other similar code as may be established by the Fond du Lac Reservation Business Committee, and is approved by a fire marshal or Health and Safety Inspector and alternative measures are identified to ensure the safety of children in care;
 - (4) Any variance of the provisions relating to sanitation and health and on water, food, and nutrition are approved by the health and safety inspector and alternative measures are identified to ensure the safety of children in care;
 - (5) Any variance of the provision relating to stairways, decks, and sewer disposal which relate to a Building Code, are approved by a health and safety inspector and alternative measures are identified to ensure the health and safety of children in care; and
 - (6) Any variance regarding disqualification factors must have clear and convincing evidence presented by the applicant or provider that no threat or harm whatsoever will result to the children in care due to the granting of the variance. The department shall consider the nature of the crime committed and the amount of time which has elapsed without a repeat of the crime.
- (k) Variance procedure. Request for a variance must comply with and be handled according to the following procedures:
- (1) An applicant or provider must submit to the agency a written request for variance. The request must include the following information:
 - (i) the sections with which the applicant or provider cannot comply;
 - (ii) the reason why the applicant or provider needs to depart from the specified sections;
 - (iii) the period of time for which the applicant or provider requests a variance; and
 - (iv) the specific equivalent alternative measures which the applicant or provider will provide so the health, safety, and protection of children in care are ensured if the variance is granted.

- (2) When an applicant or provider requests a variance of the health and fire safety provisions of physical environment, they must submit to the agency written approval or recommendation from the initial licensing inspection from a fire marshal or Health and Safety Inspector. They must also provide written alternative measures to ensure the safety of children in care. These are means of escape, occupancy separations, vertical separations, heating and venting systems, locks and latches, interior walls and ceilings, extinguishers, smoke detection systems, electrical services, stairways, decks, sewage disposal, and child/adult ratios.
 - (3) An applicant or provider must submit to the agency written approval from the child care licensor of a variance request and the alternative measures identified to ensure the safety of children in care when a variance of food, health, or nutrition is requested.
- (l) Agency variance role. The agency may request a variance this ordinance or Human Services policies regarding licensed capacity, child/adult ratios, and age distribution restrictions if the need for the variance is to cover short overlaps of time when children are entering or leaving the residence, or emergencies for a short period of time if the total of all variances to the standards does not exceed thirty (30) days in any twelve (12)-month period of licensure. The applicant or provider must verify in writing that the totals have not been and will not be exceeded for this period of time. A variance of any part of the day shall constitute a variance for the entire day.
- (1) An agency's request must be made in writing and include a procedure for processing variances along with the name of the persons designated by the agency to review variance requests. If the proposed procedure is fair, efficient, and conforms to the procedures and standard specified in this part, at least once a year, the agency shall evaluate whether the department is complying with its procedures and the standards in this subpart.
 - (2) The Human Services Advisory Board has the authority to rule on requests for variances. The agency shall also mail a copy of its recommendation to the applicant or provider. The Human Services Advisory Board shall grant or deny a request for a variance within thirty (30) days after receiving the request from the Child Care Licensor. If the Board denies request, the applicant or provider may appeal the decision to RBC. The applicant or provider shall be informed the right to appeal at the time of denial.
- (m) Frequency of Inspections for Family/Group Child Care Homes. Licensing Inspectors will make on-site inspections to measure program compliance with health, safety, and fire standards prior to issuing an initial license and no less than one (1) unannounced inspection will take place each year thereafter to ensure compliance with regulations. Additional inspections will take place if needed for the program to achieve satisfactory compliance or if the program is closed at any time. The number of inspections does not include those inspections conducted for

the purpose of investigating complaints. Complaints will be investigated promptly, based on the severity of the complaint (but no later than fourteen (14) days within the time the complaint is received). Licensor will keep the results of the licensing inspections, including complaints, and other licensing information in a file at the Human Services Office for parent/guardian and public review. Parents and guardians are to have easy access to licensing rules and are to be informed of how to report complaints to the licensing agency as stated in the Provider's Parent Handbook.

- (n) License terms. The license, whether regular or provisional, must indicate:
 - (1) the number and age groupings of children who may receive care at any one time;
 - (2) the expiration date of the license and location of the residence;
 - (3) the name and address of the provider; and
 - (4) that the provider is licensed under the Fond du Lac Family/Group Child Care Standards.
- (o) Posting license. The provider shall post the license in the residence in a prominent place at all times that they are providing child care.
- (p) Change in license terms. The following shall apply to changes in the terms of a license.
 - (1) A new licensing application form must be submitted by the provider and a full licensing study must be completed when the provider wants to move the child care operation to a new residence or the provider wants to change from Family Child Care to Group Family Child Care.
 - (2) A new licensing application form must indicate the proposed changes in the ages and numbers of children in care.
 - (3) A licensing study pursuant to the Fond du Lac Reservation Family/Group Child Care Standards shall be completed when there is an addition to any adult or child over the age of thirteen (13) years who is or will be regularly present in the residence.
- (q) Number of licenses. No provider shall be issued a license to operate more than one child care residence.
- (r) Access to residence. The provider shall give authorized Fond du Lac Human Service Department employees, authorized by the Human Services Director, access to the residence during the hours of operation to determine whether the residence complies with the Fond du Lac Reservation Family/Group Child Care Standards. Access shall include:

- (1) the residence to be occupied by children in care;
 - (2) any adjoining land or buildings owned or operated by the applicant or provider in conjunction with the provision of child care and designed for use by the children in care;
 - (3) non-interference in interviewing all caregivers and household members present in the residence on a regular basis and present during the hours of operation; and
 - (4) the right to view and electronically reproduce the records and documents pertaining to child placements.
- (s) License renewal. The following provisions must be followed by the agency when receiving a license for renewal.
- (1) The agency must conduct a monitoring visit of the provider and residence to determine continued compliance with the Fond du Lac Reservation Family/Group Child Care Standards once every twelve (12) months for as long as the provider maintains a license.
 - (2) The agency must solicit two or more parent evaluations of a provider's care, the residence, and program prior to renewal of a license. The evaluations and all complaints received during the period of licensure must be considered by the agency in determining continued compliance with Fond du Lac Reservation Family/Group Child Care Standards.
- (t) Return of license. When a provider stops providing care, or if a license is revoked, suspended, or not renewed, the provider shall return the license to the Fond du Lac Human Services Department, stop all advertising, and refrain from providing care to children.

106. Negative Licensing Actions.

- (a) Complaints. Every complaint, including anonymous ones, concerning violations of the Fond du Lac Reservation Family/Group Child Care Standards, shall be investigated by the agency within fourteen (14) days. All complaints substantiated by the agency shall be recorded in the agency file on that provider and will be available to the public upon request (all confidential information will be redacted from the report given to the public).
- (b) Procedures. In accordance with the Fond du Lac Reservation Family/Group Child Care Standards, failure to comply with the terms of licensure is grounds for a negative licensing action. If the Human Services Advisory Board recommends a negative licensing action, the Licensor shall notify the RBC and the RBC shall determine if the standards of licensure have been violated. If the grounds are sufficient, the Licensor shall notify the applicant or provider by certified mail. The notice must be addressed to name and location shown on the application or license and contain a statement of, and the reasons for, the proposed action. The notice must inform the applicant or provider of the right to appeal the decision within ten (10) days of receipt of letter. The applicant or provider shall have an opportunity for a hearing in accordance with Fond du Lac Reservation Family/Group Child Care Standards appeal procedures.
- (c) Denial. If the RBC denies an application for licensure, the applicant must be informed of the right to appeal the decision within ten (10) days.
- (d) Revocation. If the RBC proposes to revoke a license, the provider must be informed of the right to appeal the decision within ten (10) days.
- (e) Non-renewal. If the RBC refuses to renew a license, the provider must be informed of the right to appeal the decision within ten (10) days.
- (f) Probation. If the RBC proposes to make a license probationary, the provider must be informed of the right to appeal the decision within ten (10) days.
- (g) Suspension If the RBC proposes to suspend a license, the provider must be informed of the right to appeal the decision within ten (10) days.
- (h) Immediate suspension. If the RBC finds that the health, safety, or rights of the children in care in imminent danger, the RBC shall immediately suspend the license. The provider shall be informed by personal service and informed of the right to appeal the decision within five (5) days. The appeal does not stay the decision of the RBC to suspend the license.
- (i) Correction orders. If the RBC finds that the residence or provider does not comply with the provisions of the Fond du Lac Reservation Family/Group Child Care Standards, a correction order will be issued.

- (j) Notice to parents of negative action. Upon receiving a recommendation from the Human Services Advisory Board for revocation, suspension, probation, or immediate suspension, a notice of the circumstances for the action shall be sent by the agency to the parents of children in care. The identity of children will be redacted and only pertinent information regarding the circumstance for action will be shared with the parents whose children are in the provider's care. When the license is suspended or revoked, the provider may appeal the decision of the RBC, however children will not be allowed in the home until after the appeal has been processed.

- (k) Reapplication after revocation or non-renewal. A provider whose license has been revoked or not renewed because of noncompliance with applicable laws or rules shall not be granted a new license for five (5) years following revocation or non-renewal. When the RBC initiates a negative licensing action against a provider on any grounds, the provider may not voluntarily withdraw his or her license without written assurance from the provider that he or she is voluntarily accepting revocation and will not reapply for two (2) years.

107. Appealing Licensing Decisions.

Should a provider wish to appeal a licensing decision, the provider may ask the RBC to reconsider its decision not less than ten (10) working days after the decision in question but not more than twenty (20) working days after. Only one appeal on each issue is allowed. The Human Services Advisory Board shall make a recommendation on the appeal to the RBC. The decision of the RBC on such appeal shall be final.

108. Agency Records.

- (a) Agency records. The Fond du Lac Social Services Department shall maintain the following records for each provider:
- (1) Completed licensing application signed by the applicant and the agency.
 - (2) The physical health reports on any adult giving care in the residence on a regular basis.
 - (3) Health and Safety Inspection and any written reports from the fire or health and safety inspector.
 - (4) The agency's annual/relicensing evaluation of the provider along with any comments the provider has about the evaluation by the agency.
 - (5) If the applicant has been licensed through another jurisdiction, the agency shall request and keep a reference from the licensing authority in that jurisdiction.
 - (6) Annual water testing reports.
 - (7) Documentation of any variances.
 - (8) Criminal background components that include FBI Criminal Fingerprint Search, National Crime Information Center, National Sex Offender Registry Search, State Sex Offender Registry or Repositor check Requirement (in the State where the individual currently resides and in any other state where the individual has resided in the past five (5) years, and signed release form(s) for any person living or working in the child care residence.
 - (9) Provider Evaluation/Annual Quality Surveys.
 - (10) Equipment List provided in the application packet.
 - (11) Reference letters.
 - (12) Training documentation form listing required pre-service training hours, orientation, and ongoing training indicating a minimum of thirty-two (32) training hours per year.
 - (13) Copy of Child Care Provider Parent Contract/Handbook.
 - (14) Emergency preparedness plan.
 - (15) A copy of the license.

- (b) Data Privacy. The Social Services Coordinator of the Fond du Lac Human Services Department and the Child Care Licensor shall have access to provider records on children in care to determine compliance. The provider shall not disclose any records on children in care to any persons other than the parents/guardians of the child, the Fond du Lac Human Services Department assigned employees, and medical or public safety persons if information is necessary to protect the health and safety of the child.

109. Caregiver Qualifications.

- (a) Age. An applicant for family child care or group family child care shall be an adult (at least eighteen (18) years of age) at the time of licensure.
- (b) Health. An adult caregiver shall be physically and mentally stable to care for children.
 - (1) The applicant shall supply documentation to the agency with the license application (and annual renewal application) that the applicant has had a physical examination from a licensed physician within twelve (12) months prior to initial licensure and is physically able to care for children.
 - (2) The applicant shall supply documentation to the agency with the license application that all adult caregivers who are assisting with care on a regular basis have had a physical examination from a licensed physician within twelve (12) months prior to employment within the residence and are physically and mentally stable to care for children.
 - (3) Supervision and use of substitutes: a licensed provider must be the primary provider of care in the residence. Children in care must be supervised by a caregiver. The use of a substitute caregiver must be limited to a cumulative total of not more than thirty (30) days in any twelve (12)-month period. The agency and parents/guardians must be informed of when a substitute caregiver(s) is being used. Substitute caregivers must meet licensing qualifications of obtaining a physical, CPR and First Aid training, and criminal background checks. Substitutes must be adults.
- (c) Group family child care. Group family child care applicants shall meet all the requirements listed in subparts 1 and 2 for group/family child care.
 - (1) Participate in an accredited competency-based (CDA, for example) or family child care training. Diploma, certificate offered by an accredited institute or participation in the state's Quality Rating System (Parent Aware);
 - (2) The provider must:
 - (i) Understand cognitive, social and emotional, physical, and creative development and how development and learning are integrated.
 - (ii) Understand the development of infants and toddlers and the effects of infant and toddler development on the learning and development of young children.

- (iii) Understand how to establish and maintain physically and psychologically safe and healthy learning environments for young children.
 - (iv) Understand the influence of the physical setting, schedule, routines, and transitions on children and use these experiences to promote children's development and learning.
 - (v) Understand the developmental consequences of stress and trauma, protective factors and resilience and the development of mental health and the importance of supportive relationships.
 - (vi) Understand basic health, nutrition, and safety management practices for young children, including procedures regarding childhood illness and communicable diseases (see also Health, Safety, and Nutrition).
 - (vii) Use appropriate health appraisal procedures and understand how to recommend referrals to appropriate community health and social services when necessary (see also Health, Safety, and Nutrition).
 - (viii) Recognize signs of emotional distress, child abuse, and neglect in young children and know responsibility and procedures for reporting known or suspected abuse or neglect to appropriate authorities.
 - (ix) Understand how to plan and implement appropriate curriculum and instructional practices based on developmental knowledge of individual young children, the community, and the curriculum goals and content, including how to use them.
 - (x) Use developmentally appropriate methods that include play, small group projects, open-ended questioning, group discussion, problem-solving, cooperative learning, and inquiry experiences to help children develop curiosity, solve problems, and make decisions.
- (d) Accredited. For the purpose of this part "accredited" means to have completed a certification by a qualified post- secondary institution or area vocational-technical institution recognized and listed by a regional, state, or national group approved. To be approved, an accredited institution must:
- (1) be capable of conducting site visits to evaluate the facilities used by the program;
 - (2) be capable of evaluating the quality of the program and its facility;

- (3) have standards which ensure that persons who complete the program have the knowledge and training to work as group family child care providers; and
- (4) not be affiliated with any individual program, post- secondary institution, or vocational-technical institution.
- (e) Child care insurance coverage. Before initial licensure a provider shall have a certificate of insurance for the residence for general liability coverage for bodily injury in the amount of at least \$100,000 per person and \$250,000 per occurrence. If the provider has liability coverage of lesser limits or no liability coverage the provider shall
 - (1) give written notice of the level of liability coverage to parents of all children in care prior to admission or when there is a change in the amount of insurance coverage; and
 - (2) maintain copies of the notice, signed by the parents to indicate they have read and understood it, in the providers records on the residence.

110. Licensed Capacity.

- (a) Capacity limits. Family child care and group family child care providers shall comply with stated license capacity limits. License capacity is the total number of preschoolers, toddlers, infants, and school-age children who may be in care at any one time, and provides for the number of adults who are required to be present according to each age group.
 - (1) Providers shall be licensed for the total number of children, ten (10) years of age or younger, who will be present in the residence at any one time. The licensed capacity must include all children of any caregiver when the caregiver's children are present in the residence.
 - (2) Within the licensed capacity, the age distribution restrictions specify the maximum number of children who may be in care at any one time.
- (b) Specialized infant and toddler group family child care. In specialized infant and toddler group family child care, the helper must be 16 years or older. Helpers may never be left alone with children.
- (c) Newborn care. When a newborn is in care and only one adult caregiver is present, the newborn shall be the only child under twelve (12) months of age and the provider shall not care for more than two (2) other children at the same time unless another adult caregiver is also present or the newborn is the provider's child.
- (d) Helpers. A helper may be used in place of a second adult caregiver when there is no more than one (1) infant or toddler present. Helpers must be at least sixteen (16) years of age, pass a juvenile background check, be certified in CPR/Basic First Aid, and attend other trainings whenever possible. Helpers can never be left alone with children and must be supervised at all times.

111. Child/Adult Ratios: Age Distribution Restrictions.

The ration of age distribution for family child care places limits on the number of infants and toddlers that can be cared for depending on overall mix of children in care. Of the total number of children allowed in care, there are limits on the number of under-school-age children and the number of infants and toddlers. The table below indicates the capacity, ratio, and age restriction standards that must be followed as outlined in the Fond du Lac Family/Group Child Care Standards.

Family Child Care Ratios and Group Sizes

Setting	Class	Capacity	Adults	Children Under School-Age	Infant and Toddler Restrictions
Family Child Care	A	10	1	6	Of the under school-age children, 3 may be infants and toddlers, with a maximum of 2 infants.
Specialized Infant and Toddler Family Child Care	B1	5	1	3	Maximum of 3 infants.
	B2	6	1	4	Maximum of 2 infants.
Group Family Child Care	C1	10	1	8	Of the under school-age children, 3 may be infants and toddlers with a maximum of 2 infants.
	C2	12	1	10	Of the under school-age children, 2 may be infants and toddlers with a maximum of 1 infant.
	C3	14	2	10	Of the under school-age children, 4 may be infants and toddlers with a maximum of 3 infants.
Specialized Infant and Toddler Group Family Child Care	D	9	2	7	Maximum of 4 infants.

112. Reporting to Agency.

(a) Abuse, neglect reporting. All caregivers shall report any suspected physical abuse, sexual abuse, or neglect of a child to the police or Human Services. If a caregiver has reasonable cause to believe a child has died as a result of physical or sexual abuse or neglect, the caregiver shall report this information to the county medical examiner or coroner.

- (1) An oral report shall be made immediately by phone or otherwise.
- (2) An oral report made by a person shall be followed within seventy-two (72) hours, exclusive of weekends and holidays, by a report in writing to the appropriate law enforcement agency, the agency responsible for assessing or investigating the report, or the local welfare agency, unless the appropriate agency has informed the reporter that the oral information does not constitute a report.

Any report shall be of sufficient content to identify the child, any person believed to be responsible for the abuse or neglect of the child if the person is known, the nature and extent of the abuse or neglect, and the name and address of the reporter.

(b) Other reporting. The provider shall inform the agency:

- (1) within thirty (30) days of any change in any members of the household within the child care residence or the addition of an employee who will regularly be providing care; parents must also be notified;
- (2) immediately of any suspected case of physical or sexual abuse or neglect;
- (3) within 48 hours after the occurrence of a fire that requires the service of a fire department so the agency may determine continued substantial compliance with regulations;
- (4) immediately after the occurrence of any serious injury or death of a child within the child care residence. A serious injury is one that is treated by a physician.

113. Child Care Training.

- (a) Agency training role. The agency shall ensure that:
 - (1) the provider complies with the initial and ongoing training specified in this part;
 - (2) the training specified is offered at times with consideration to child care provider availability; and
 - (3) training information is distributed to each provider as training occurs or is planned on a regular basis.

- (b) Initial child care training. Before initial licensure all providers must complete:
 - (1) Pre-service training/orientation training:
 - (i) six (6) to nine (9) hours of training for caregivers, helpers, and substitutes in a combined course of child-related First Aid and cardiopulmonary resuscitation (CPR) provided by or approved by the American Red Cross, American Heart Association, or provided by a licensed physician or a registered or practical nurse trained to provide instruction in CPR and First Aid. The training must be completed within ninety (90) days of the date of initial licensure. Current certification in CPR and First Aid by the American Red Cross or American Heart Association may be substituted for the initial CPR and First Aid training specified.
 - (ii) orientation training must be taken within two (2) weeks of licensure and also include safe sleep practices, including risk reduction of SIDS/SUID; poison prevention; shaken baby syndrome/abusive head trauma; emergency preparedness; nutrition and age-appropriate feeding; medication; and special needs.
 - (iii) hours of training in child development and child care related issues must be taken and approved by the agency within one (1) year of, or one (1) year prior to, initial licensure.

- (c) Professional Development/Ongoing training. Training subjects shall be selected from the following areas and must add up to at least thirty-two (32) hours annually:
 - (1) child development as part of a Human Services-approved training;
 - (2) recognition and reporting of child abuse and neglect (caregivers should be educated on child abuse and neglect to establish child abuse and neglect prevention and recognition strategies for children, caregivers, and

parents/guardians. The education should address physical, sexual, and psychological or emotional abuse and neglect. Caregivers should be trained in compliance Minnesota child abuse reporting laws);

- (3) prevention and control of infectious diseases, including immunizations;
- (4) parent and provider relationships (programs should implement relationship-based policies and program practices that promote consistency and continuity of care, especially for infants and toddlers. Early care and education programs should provide opportunities for each child to build emotionally secure relationships with a limited number of caregivers. Children with special health care needs may require additional specialists to promote health and safety and to support learning);
- (5) communication skills;
- (6) community services and resources for children;
- (7) methods guiding behavior or discipline;
- (8) home and fire safety and child injury prevention;
- (9) learning activities;
- (10) observation and assessment of children's needs;
- (11) care of bilingual or non-English speaking children;
- (12) care of special needs or gifted children;
- (13) prevention of sudden infant death syndrome and the use of safe-sleep practices;
- (14) administration of medication, consistent with standards for parental consent;
- (15) prevention and response to emergencies due to food and allergic reactions;
- (16) building and physical premises safety, including the identification of and protections from hazards, bodies of water, and vehicular traffic;
- (17) prevention of shaken baby syndrome, abusive head trauma, and child maltreatment;
- (18) emergency preparedness and response planning for emergencies resulting from a natural disaster or a human-caused event;

- (19) handling and storage of hazardous materials and the appropriate disposal of bio-contaminants;
 - (20) appropriate precautions in transporting children (if applicable);
 - (21) pediatric first aid and CPR;
 - (22) culture/language training;
 - (23) monitoring children's development/obtaining consent for screening;
 - (24) business management.
- (d) Adult caregiver and helper training. Each adult caregiver, other than the provider, who is employed in the residence on a regular basis, must participate in a minimum of six (6) hours of training in a subject area specified above within two (2) weeks after the date of initial employment, and a minimum of six (6) hours of training every year after that as long as the adult is employed. Helpers who assist with care on a regular basis must complete six (6) hours of training within two (2) weeks after the date of initial employment.

114. Behavior Guidance.

- (a) Methods. Caregivers shall give each child guidance which helps the child acquire a positive self-concept, self-control, and teaches acceptable behavior.
- (1) The provider shall discuss methods of behavior guidance with parents at the time of admission and the parent's standards shall be considered by the provider within the context of this part when guiding the behavior of a child.
 - (2) Behavior guidance used by caregivers must be constructive, positive, and suited to age of the child. Methods of intervention, guidance, and redirection must be used.
 - (3) Programs should have a process in place for age-appropriate developmental and behavioral screenings for all children at the beginning of a child's enrollment in the program, at least yearly thereafter, and as developmental concerns become apparent to staff or parents/guardians. Providers may choose to conduct screenings themselves, partner with a local agency/health care provider/specialist to conduct the screening, or work with parents to connect them to resources to ensure that screening occurs. This process should consist of parental/guardian education, consent, and participation as well as connection to resources and support, including the primary health care provider, as needed. Results of screenings should be documented in child records.
- (b) Standards. The following shall apply to all caregivers when guiding behavior in children. The following behaviors should be prohibited in all early care and education settings:
- (1) No child shall be subject to corporal punishment or emotional abuse.
 - (2) Food, light, warmth, clothing, and medical care shall not be withheld.
 - (3) Discipline and punishment shall not be delegated to another child.
 - (4) The separation of a child from a group to guide behavior must be appropriate to the age of the child and circumstances requiring the separation.
 - (5) An infant shall not be separated from the group for disciplinary reasons or placed in a crib/playpen for a time-out or disciplinary reasons.
 - (6) A child shall not be separated from the group for a period longer than ten (10) minutes.

- (7) A child separated from the group must be placed in an area or separate room that is well-lit, free from hazards, ventilated, and open to the view of caregivers.
 - (8) No child shall be placed in a locked room to separate the child from the group.
 - (9) Physical activity/outdoor time shall not be taken away as a punishment.
- (c) Toilet training. If toilet training is undertaken, the provider and parent shall cooperatively develop a plan for the timing and method of training.
- (1) No child shall be punished for toilet accidents.
 - (2) A child shall be offered opportunity for toileting.
 - (3) Toilet training methods that punish, demean, or humiliate a child shall not be used.

115. Admissions: Provider Records - Reporting.

- (a) Cooperating with parents. When admitting a child to child care, the provider and parents shall discuss child rearing, sleeping, feeding, and behavior guidance practices essential for the care of the child.
- (b) Rule summary for parents. The provider must inform each parent that they can find the Fond du Lac Reservation Family/Group Child Care Standards on the Fond du Lac Band of Lake Superior Chippewa's website at <http://fdlrez.com/government/ords/04-91ord.pdf>, on file at the Human Services Department and available upon request.
- (c) Provider policies. The provider shall have the following written in contract form available for discussion and signature of parent(s) and providers with a copy placed in their file with Human Services – Child Care Licensing:
 - (1) the ages and number of children in care in the residence;
 - (2) the hours and days of operation;
 - (3) meals and snacks to be served;
 - (4) labeling requirements for food brought from the child's home;
 - (5) sleeping and rest arrangements;
 - (6) non-discrimination practices to comply with subpart 6;
 - (7) policies for the care of ill children, disease notification procedures, immunizations, and medicine permission policies;
 - (8) emergency, fire, and storm plans, the Band's Emergency Operations Plan, and monthly fire drill log;
 - (9) seat belt and transportation plans and field trip and transportation permission requirements;
 - (10) fees;
 - (11) discipline policies;
 - (12) absent and vacation policies
 - (13) termination and notice procedures;
 - (14) plans for a helper and substitute for emergencies, vacations, or holidays;

- (15) with the presence of pets in the residence, provider must provide documentation of pet immunizations to be kept on file with licensing agency;
 - (16) a current copy of the Fond du Lac Family/Group Child Care Standards;
 - (17) insurance coverage;
 - (18) non-smoking policy; and
 - (19) absent child policies.
- (d) Records for each child. The provider shall obtain the information required by items A to D from parents prior to admission of a child. The provider shall keep this information confidential, in one central on-site location, immediately available, and up-to-date in a file for each child. The signed and completed admission and arrangements form of the department must be on file in the provider's home and contain the following information:
- (1) Name and birthday of the child.
 - (2) Full name of parents/guardians.
 - (3) Home address, work address, email, and telephone numbers where parents may be reached.
 - (4) Name, address, and telephone numbers of persons to be notified in case of emergencies when parents/guardians cannot be reached.
 - (5) Names of all persons authorized to remove the child from the residence.
 - (6) Enrollment date.
 - (7) Financial arrangements; signed agreement.
 - (8) Insurance notification specified in agreement.
 - (9) Health history completed by the parent/guardian at admission.
 - (10) Medication record.
 - (11) Immunization records, which must be kept in accordance with Minn. Stat. §125A.15. The provider shall request, update, and keep on file the dates of immunizations received by a child in regular attendance at the residence. Parents/guardians who choose not to vaccinate their child(ren) must provide a signed letter stating they do not vaccinate due to religious or medical reasons on file.

- (12) Results of developmental and behavioral screenings.
- (13) Written informed consent forms signed by the parent/guardian that include:
 - (i) Permission to share child(ren)'s health records with other service providers.
 - (ii) Special instructions about toilet training, eating, sleeping or napping, allergies, and any health problems.
 - (iii) Authorization form for emergency medical care that will be used if the parent/guardian cannot be reached or is delayed in arriving.
 - (iv) Authorization to pick up a child with names of all persons authorized to remove the child from the residence. A provider shall release a child from care only to a parent/guardian or to a person authorized by the parent. Children may only be released to adults authorized by parents/guardians whose identity has been verified by photo identification. Names, addresses, and telephone numbers of persons authorized to pick up children should be obtained during the enrollment process and regularly reviewed, along with clarification and documentation of any custody order issues or court orders. The legal guardian(s) of the children should be established and documented at this time.
 - (v) Permission to transport children if the provider will be transporting a child.
- (e) Children with disabilities. For children requiring special therapy, programs, or behavior guidance, the parents/guardians, physician, or therapist shall provide and the provider shall follow written instructions for any special needs.
- (f) Non-discrimination. No caregiver shall discriminate in relation to admissions on a basis of race, creed, color, national origin, religion, sex, or gender identity.
- (g) Preventing expulsions, suspensions, and other limitations in services. Programs should have a comprehensive discipline policy that includes developmentally appropriate social-emotional and behavioral health promotion practices as well as discipline and intervention procedures that provide specific guidance on what caregivers and programs should do to prevent and respond to challenging behaviors. Practices and procedures should be clearly communicated to all staff, families, and community partners, and implemented consistently and without bias or discrimination. Preventative and discipline practices should be used as learning opportunities to guide children's appropriate behavioral development. Programs should establish policies that eliminate or severely limit expulsion, suspension, or other exclusionary discipline (including limiting services); these exclusionary

measures should be used only in extraordinary circumstances where there are serious safety concerns that cannot otherwise be reduced or eliminated by the provision of reasonable modifications.

- (h) Inclusion/exclusion/dismissal of children. The program should notify parents/guardians when children develop new signs or symptoms of illness. Parent/guardian notification should be immediate for emergency or urgent issues. Staff should notify parents/guardians of children who have symptoms that require exclusion, and parents/guardians should remove children from the child care setting as soon as possible. For children whose symptoms do not require exclusion, verbal or written notification to the parent/guardian at the end of the day is acceptable. Most conditions that require exclusion do not require a primary health care provider visit before re-entering care. When a child becomes ill by does not require immediate medical attention, a determination should be made regarding whether the child should be sent home. The caregiver should determine if the illness:
- (1) Prevents the child from comfortably participating in activities;
 - (2) Results in a need for care that is greater than the staff can provide without compromising the health and safety of the other children;
 - (3) Poses a risk of spread of harmful diseases to others; or
 - (4) Causes a fever and behavior change or other signs and symptoms such as sore throat, rash, vomiting, or diarrhea.
 - (i) An unexplained temperature above 100 degrees F (37.8 degrees C) in a child younger than six (6) months should be medically evaluated.
 - (ii) Any infant younger than two (2) months of age with a fever should get immediate medical attention.

If any of the above criteria are met, the child should be removed from direct contact with other children and monitored and supervised by a staff member known to the child until dismissed to the care of a parent/guardian, primary health care provider, or other person designated by the parent. The medical director at Fond du Lac Human Services will be able to provide specific guidelines for exclusion.

116. Activities and Equipment.

- (a) General Activities. Child care activities must provide for the physical, oral, mental, nutritional, social, and emotional health that support the development of children that include physical activity and safety. The environment must facilitate the implementation of the activities. Activities must:
- (1) be scheduled indoors and outdoors, weather permitting;
 - (2) be appropriate to the developmental stage and age of the child;
 - (3) include active and quiet activity; and
 - (4) contain provider-directed and child-initiated activity.

Opportunities for learning for children ages three (3) to five (5) years old should provide children a balance of guided and self-initiated play and learning indoors and outdoors. These should include opportunities to observe, explore, order and reorder, to make mistakes and find solutions, and to move from the concrete to the abstract in learning. RATIONALE: The most meaningful learning has its source in a child's self-initiated activities. The learning environment that supports individual differences, learning styles, abilities, and cultural values fosters confidence and curiosity in children.

Child care providers should implement program activities that promote healthy development by having a process in place for age-appropriate developmental and behavioral screenings for all children at the beginning of a child's enrollment in the program, at least yearly thereafter, and as developmental concerns become apparent to staff or parents/guardians. Child care providers may choose to conduct screenings themselves; partner with a local agency/health care provider/specialist who would conduct the screening; or work with parents in connecting them to resources to ensure that screening occurs. This process should consist of parental/guardian education, consent, and participation as well as connecting to resources and support, including the primary health care provider, as needed. Results of screenings should be documented in child records.

Child care providers should implement relationship-based policies and program practices that promote consistency and continuity of care, especially for infants and toddlers. Child care providers are encouraged to provide opportunities for each child to build emotionally secure relationships with a limited number of adults. Children with special health care needs may require additional specialists to promote health and safety and to support learning.

- (b) Equipment. The provider must have the equipment specified in this part in adequate quantities for the number and ages of children in care and to carry out the activities specified in this part. Equipment may be new, used, commercial, or homemade, as long as it is appropriate for the ages of the children and activities

for which it will be used, safe, and in good repair. Equipment and materials should not only be safe, but also provide large and small motor experiences and skill building. It is recommended that the provider have at least forty (40) items from the following list of categories:

- (1) Dramatic and housekeeping play
- (2) Manipulative
- (3) Cultural/language
- (4) Creative arts
- (5) Library/language
- (6) Large muscle (inside and outside)
- (7) Construction, blocks, transportation
- (8) Music/rhythm
- (9) Science/sensory
- (10) Outdoor equipment
- (11) Sleeping
- (12) Tables/chairs
- (13) Shelving/storage
- (14) Infant/toddler equipment (push/pull, balls, large muscle, blocks, stacking toys or other manipulative toys, literacy/cloth or plastic-coated books)

Child Care Programs should provide a safe and clean learning environment, both indoors and outdoors. Colorful materials and equipment should be arranged to support learning to lessen the child's anxiety and help the child adapt to reality and resolve conflicts; enable the child to explore and experience the natural world; help the child practice resolving conflicts; use symbols (words, numbers, etc.); manipulate objects; exercise physical skills; encourage language development; foster self-expression; strengthen the child's identity as a member of a family and a cultural community and promote sensory exploration.

Limiting Infant/Toddler Time in Crib, High Chair, Car Seat. A child should not sit in a high chair or other equipment that constrains his/her movement (indoors or outdoors) for longer than fifteen minutes, other than at meals or snack time. Children should never be left out of the view and attention of adult caregivers/teachers while in these types of equipment/furniture. A least restrictive environment should be encouraged at all times. Children should not be left to sleep in equipment, such as car seats, swings, or infant seats that does not meet ASTM International (ASTM) product safety standards for sleep equipment.

Screen Time/Digital Media Use. For the purposes of this standard "screen time/ digital media" refers to media content viewed on mobile phone, tablet, computer, television (TV), video, film, and DVD. It does not include video-chatting with family. Screen time/digital media should not be used with children ages two (2) and younger in early care and education settings. For children ages two (2) to five (5) years old, total exposure to digital media should be limited to one (1) hour per day of high-quality programming (in early care and education and at home combined) and viewed with an adult who can help them apply what they are learning to the world around them. Children ages five (5) and older may need to use digital media in early care and education to complete

homework. However, caregivers/teachers should ensure that entertainment media time does not displace healthy activities such as exercise, refreshing sleep, and family time, including meals.

For children of all ages, digital media and devices should not be used during meal or snack time, or during nap/rest times and in bed. Devices should be turned off at least one hour before bedtime. When offered, digital media should be free of advertising and brand placement, violence, and sounds that tempt children to overuse the product. Caregivers/teachers should communicate with parents/ guardians about their guidelines for home media use. Caregivers/teachers should take this information into consideration when planning the amount of media use at the child care program to help in meeting daily recommendations. Programs should prioritize physical activity and increased personal social interactions and engagement during the program day. It is important for young children to have active social interactions with adults and children. Media use can distract children (and adults), limit conversations and play, and reduce healthy physical activity, increasing the risk for overweight and obesity. Media should be turned off when not in use since background media can be distracting, and reduce social engagement and learning. Overuse of media can also be associated with problems with behavior, limit-setting, and emotional and behavioral self-regulation; therefore, caregivers/teachers should avoid using media to calm a child down. Note: The guidance above should not limit digital media use for children with special health care needs who require and consistently use assistive and adaptive computer technology. However, the same guidelines apply for entertainment media use. Consultation with an expert in assistive communication may be necessary.

(c) Newborn or infant activities. Caregivers/teachers should provide consistent, continuous, and inviting opportunities to talk, listen to, and otherwise interact with young infants throughout the day (indoors and outdoors) including feeding, changing, playing with, and cuddling them. The provider shall:

- (1) Hold the infant or newborn during bottle feedings until the child can hold their own bottle. Bottles must not be propped.
- (2) Respond to the infant or newborn's attempts to communicate.
- (3) Provide freedom of movement to the infant or newborn during a large part of the waking day to the extent that safety and weather permits. The non-creeping child shall spend part of each day out of a crib or infant seat. The creeping infant or newborn shall have freedom to explore outside of the crib or infant seat.
- (4) Give the infant or newborn opportunity to stimulate the senses by providing a variety of activities and objects to see, touch, feel, smell, hear, and taste.
- (5) Provide activities for the infant or newborn that develop the child's manipulative and fine motor skills, self-awareness, and social responsiveness.

(d) Toddler activities. The provider shall:

- (1) Provide the toddler with freedom of movement and freedom to explore outside the crib or playpen.
- (2) Talk to, listen to, and interact with toddler to encourage language development.
- (3) Provide the toddler with large muscle activities and activities which develop the child's small muscles and manipulative skills.
- (4) Develop and stimulate learning by reading stories to the child or looking at picture books together.
- (5) Give the toddler opportunities to stimulate the senses by providing a variety of age-appropriate activities and objects to see, touch, feel, smell, hear, and taste.

(e) Preschooler activities. The provider shall:

- (1) Encourage conversation between the child and other children and adults.
- (2) Provide opportunity to play near and with other children; provide time and space for individual and group play; allow for quiet times to talk or rest; allow for unplanned time and individual play time.
- (3) Foster understanding of personal and peer feelings and actions and allow for the constructive release of feelings and anger through discussion or play.
- (4) Give assistance in toileting and provide time to carry out self-help skills and provide opportunity to be responsible for activities like putting away play equipment and helping around the house.
- (5) Provide opportunity for each child to make decisions about daily activities and to take credit for the consequences of decisions.
- (6) Provide time and areas for age appropriate large muscle play.
- (7) Provide learning, small muscle, manipulative, creative or sensory activities.
- (8) Read stories, look at books together, and talk about new words and ideas with the child.

- (f) School-age activities. The provider shall:
- (1) provide opportunities for individual discussion about the happenings of the day and planning for activities.
 - (2) provide space and opportunity for games, activities, or sports using the whole body, outdoors, weather permitting.
 - (3) provide space and opportunity for individual rest and quiet time;
 - (4) allow increased freedom as the child demonstrates increased responsibility;
 - (5) provide opportunities for group experiences with other children;
 - (6) provide opportunities to develop or expand self-help skills or real-life experiences;
 - (7) provide opportunities for creative and dramatic activity, arts and crafts, or field trips.
 - (8) promote good oral hygiene through learning activities including the habit of regular tooth brushing.
 - (9) obtain written permission from the parent/guardian to allow a school-age child in care to participate in activities away from the residence.
- (g) Newborn/infant/toddler equipment – restrictive infant equipment requirements. Restrictive infant equipment such as swings, stationary activity centers (e.g., exersaucers), infant seats (e.g., bouncers), molded seats, etc., if used, should only be used for short periods of time (a maximum of fifteen minutes twice a day). Infants should not be placed in equipment until they are developmentally ready. Infants should be supervised when using equipment. Safety straps should be used if provided by the manufacturer of the equipment. Equipment should not be placed on elevated surfaces, uneven surfaces, near the top of stairs, or within reach of safety hazards. Stationary activity centers should be used with the stabilizing legs down in a locked position. Infants should not be allowed to sleep in equipment that was not manufactured as infant rest/sleep equipment. The use of jumpers (attached to a door frame or ceiling) and infant walkers is prohibited. The following minimum equipment is required for each infant/ newborn/toddler:
- (1) an infant seat, high chair, or for older toddlers non-folding child-size chair
 - (2) a crib, portable, crib, or playpen with waterproof mattress or pad which meets the requirements stated above
 - (3) low open shelves or bookcase

- (4) diaper pail with liners
 - (5) diaper changing table or mat
 - (6) facial tissues
 - (7) liquid hand soap
 - (8) diapers
 - (9) single use towels
- (h) Preschooler equipment. Each preschooler shall be provided with:
- (1) a mat, bed, cot, sofa, or sleeping bag
 - (2) a table
 - (3) non-folding child-size chairs
 - (4) low open shelves or bookcase.

117. Physical Environment.

- (a) Indoor space. The licensed capacity of the child care residence must be limited by the amount of usable indoor space available to children. A minimum of thirty-five (35) square feet of usable indoor space is required per child.
- (1) Bathrooms, closets, space occupied by major appliances, and other space not used by children may not be counted as usable space. Space occupied by adult furniture, if it is used by children, may be counted as usable indoor space.
 - (2) Usable indoor space may include a basement if it has been inspected by a fire marshal, is free of hazard, and meets the minimum exiting standards specified in occupancy separations below.
- (b) Outdoor play space. There must be an outdoor play space of at least fifty (50) square feet per child in attendance, and, if applicable, public space that is adjacent to the residence, for regular use, or a park, playground, or play space within 1,500 feet of the residence. On-site supervision must be provided by a caregiver for children of less than school age when play is not adjacent to the residence. Enclosure may be required by the agency to provide protection from rail, traffic, water, or machinery hazard. The area must be free of litter, rubbish, toxic materials, water hazards, machinery, unlocked vehicles, human or animal wastes, and sewage contaminants. Developmentally appropriate child-to-staff ratios should be met during all hours of operation, and safety precautions for specific areas and equipment should be followed. Children under the age of six (6) should never be inside or outside by themselves.
- (c) Water hazards. Swimming and wading pools, beaches, or other bodies of water on or adjacent to the site of the residence must be inaccessible to children except during periods of supervised use. Wading pools must be kept clean. When children use a swimming pool or beach, an attendant trained in first aid and resuscitation shall be present. Constant and active supervision should be maintained when any child is in or around water. During swimming or bathing where an infant or toddler is present, the ratio should always be one adult to one infant/toddler. During wading or water play activities, the supervising adult should be within arm's length providing "touch supervision." Programs should ensure that all pools have drain covers that are used in compliance with Virginia Graeme Baker Pool and Spa Safety Act, 15 U.S.C. §8003.
- (d) Means of escape. From each room of the residence used by children, there must be two means of escape. One means of escape must be a stairway or door leading to the floor of exit discharge. The other must be a door or window leading directly outside. The window must be openable without special knowledge. It must have a clear opening of not less than 5.7 square feet and have a minimum clear opening dimension of 20 inches wide and 24 inches high. The window must be within 48 inches from the floor.

- (e) Occupancy separation. Child care residences with an attached garage must have a self-closing, tight-fitting solid wood bonded core door at least 1 and 3/8 inch thick, or door with a fire protection rating of 20 minutes or greater and a separation wall consisting of 5.8 inch thick gypsum wallboard or its equivalent on the garage side between the residence and garage.
- (f) Vertical separations. For group family child care homes with a licensed capacity of more than 10 children, a 1 and 3/4 inch solid wood core door or a door and frame with at least a 20 minute fire protection rating, must be provided whenever more than two floors of the residence are connected. These doors must be equipped with self-closing devices.
- (g) Heating and venting systems. The following heating and venting guidelines must be met:
 - (1) Stove and heater locations must not block escape in case of a fire.
 - (2) Gas, coal, wood, kerosene, or oil heaters must be vented to the outside in accordance with the standards established by the Minnesota Building Code.
 - (3) Combustible items must not be located within 36 inches of the furnace or other heating sources.
 - (4) Whenever in use, fireplaces, wood burning stoves, solid fuel appliances, space heaters, steam radiators, and other potentially hot surfaces, such as steam pipes, must be protected by guards to prevent burns. All fireplaces, wood burning stoves, space heaters, steam radiators, and furnaces must be installed according to the Minnesota Building Code.
 - (5) The furnace, hot water heater, and workshop areas must be inaccessible to children. Separation may be a door, partition, or gate. There must be allowance for air circulation to the furnace.
 - (6) Ventilation of usable space must meet the requirements of the Minnesota Building Code. Outside doors and window used for ventilation in summer months must be screened when biting insects are prevalent.
- (h) Temperature. A minimum temperature of 62 degrees Fahrenheit must be maintained in indoor areas used by children.
- (i) Infant and newborn sleeping space. There must be a safe, comfortable sleeping space for each infant and newborn. A crib, portable crib, or playpen with waterproof mattress or pad must be provided for each infant or newborn in care. The equipment must be of safe and sturdy construction that conforms to 16 C.F.R. §§1508 and 1509, or have a bar or rail pattern such that a 2-3/8 inch diameter

sphere cannot pass through playpens with mesh sidings must not be used for the care or sleeping of infants or newborns.

- (j) Cribs and play yards. Before purchase and use, cribs and play yards should be in compliance with current CPSC and ASTM International safety standards that include ASTM F1169-10a Standard Consumer Safety Specification for Full-Size Baby Cribs, ASTM F406-13, Standard Consumer Safety Specification for Non-Full-Size Baby Cribs/Play Yards, or the CPSC 16 C.F.R. §§1219. 1220, and 1500 – Safety Standards for Full-Size Baby Cribs and Non-Full-Size Baby Cribs; Final Rule. Programs should only use cribs for sleep purposes and ensure that each crib is a safe sleep environment as defined by the American Academy of Pediatrics. Each crib should be labeled and used for the infant’s exclusive use. Cribs and mattresses should be thoroughly cleaned and sanitized before assignment for use by another child. Infants should not be placed in the cribs with items that could pose a strangulation or suffocation risk. Cribs should be placed away from window blinds or draperies.

- (k) Stairways. All stairways must meet the following conditions:
 - (1) Stairways of three or more steps must have handrails.
 - (2) Any open area between the handrail and stair tread must be enclosed with a protective guardrail as specified in the Minnesota Building Code. The back of the stair risers must be enclosed.
 - (3) Gates or barriers must be used when children between the ages of three (3) months and at least thirty-six (36) months are in care.
 - (4) Stairways must be well-lighted, in good repair, and free of clutter and obstructions.
 - (5) Guardrails and protective barriers guardrails or protective barriers, such as baby gates, should be provided at open sides of stairs, ramps, and other walking surfaces (e.g., landings, balconies, porches) from which there is more than a 30-inch vertical distance to fall.

- (l) Decks. Decks, balconies, or lofts used by children more than thirty (30) inches above the ground or floor must be surrounded by a protective guardrail and be constructed in accordance with the standards established in the Minnesota Building Code. Wooden decks must be free of splinters and coated with wood preservative, paint, or constructed with treated wood.

- (m) Locks and latches. Doors locks and latches must meet the following guidelines:
 - (1) a closet door latch must be made so that children can open the door from inside the closet;

- (2) every bathroom door lock must permit open of the locked door from the outside and the opening device must be readily accessible to all caregivers; and
 - (3) double cylinder (key required on both sides) locks on exit doors are prohibited.
- (n) Sewage. Child care residences must have toilet facilities and sewage disposal systems that conform to the standards established in the Minnesota Building Code or local septic system ordinances. The toilets must flush thoroughly. Outdoor toilets are permissible when local ordinances allow.
 - (o) Construction, remodeling. During construction or remodeling, children shall not have access to dangerous construction or remodeling areas within or around the residence.
 - (p) Interior walls and ceilings. The interior walls and ceilings within the residence, as well as corridors, stairways, and lobbies must have a flame spread rating of 200 or less.
 - (q) Extinguishers. A portable, operational, multi-purpose, dry chemical fire extinguisher with a minimum of 2 A 10 BC rating must be maintained in the kitchen and cooking areas of the residence at all times. All caregivers shall know how to use the fire extinguisher.
 - (r) Smoke detection systems. Smoke detectors that have been listed by the Underwriter Laboratory must be properly installed and maintained on all levels.
 - (s) Carbon monoxide detectors. Programs should meet state or local laws regarding carbon monoxide detectors, including circumstances when detectors are necessary. Detectors should be tested monthly, and testing should be documented. Batteries should be changed at least yearly. Detectors should be replaced according to the manufacturer's instructions.
 - (t) Safety of equipment, materials, and furnishings. Equipment, materials, furnishings, and play areas should be sturdy, safe, in good repair, and meet the recommendations of the CPSC. Programs should attend to, including but not limited to, the following safety hazards:
 - (1) openings that could entrap a child's head or limbs;
 - (2) elevated surfaces that are inadequately guarded;
 - (3) lack of specified surfacing and fall zones around climbable equipment;
 - (4) mismatched size and design of equipment for the intended users;
 - (5) insufficient spacing between equipment;

- (6) tripping hazards;
 - (7) components that can pinch, shear, or crush body tissues;
 - (8) equipment that is known to be of a hazardous type;
 - (9) sharp points or corners;
 - (10) splinters;
 - (11) protruding nails, bolts, or other parts that could entangle clothing or snag skin;
 - (12) loose, rusty parts;
 - (13) hazardous small parts that may become detached during normal use or reasonably foreseeable abuse of the equipment and that present a choking, aspiration, or ingestion hazard to a child;
 - (14) strangulation hazards (e.g., straps, strings, window coverings/blinds, etc.);
 - (15) flaking paint;
 - (16) paint that contains lead or other hazardous materials;
 - (17) tip-over hazards, such as chests, bookshelves, and televisions; and
 - (18) plastic bags that are large enough to pose a suffocation risk as well as matches, candles, and lighters.
- (u) Availability and Use of a Telephone or Wireless Communication Device. The facility should provide, at all times, at least one working non-pay telephone or wireless communication device for general and emergency use on the premises of the child care program, in each vehicle used when transporting children, and on field trips. While transporting children, drivers should not operate a motor vehicle while using a mobile telephone or wireless communications device when the vehicle is in motion or traffic.
- (v) Electrical services. The following electrical guidelines must be met:
- (1) Safety covers and shock protection devices for electrical outlets: all accessible electrical outlets should be “tamper-resistant electrical outlets” that contain internal shutter mechanisms to prevent children from sticking objects into receptacles. In settings that do not have “tamper-resistant electrical outlets,” outlets should have “safety covers” that are attached to the electrical outlet by a screw or other means to prevent easy removal by a child. “Safety plugs” may also be used if they cannot be easily removed from outlets by children and do not pose a choking risk.

- (2) All major electrical appliances must be properly installed, grounded in accordance with the Minnesota Electric Code, and in good working order.
- (3) Extension cords shall not be used as a substitute for permanent wiring; extension cords and flexible cords shall not be affixed to structures, extended through walls, ceilings, floors, under doors or floor coverings, or be subject to environmental damage or physical impact.
- (4) Electrical wiring must be sized to provide for the load and be in good repair.
- (5) No electrical device or apparatus accessible to children should be located so it could be plugged into an electrical outlet while a person is in contact with a water source, such as a sink, tub, shower area, water table, or swimming pool.

118. Sanitation and Health.

- (a) Sanitation and cleanliness. The residence must be free from accumulations of dirt, rubbish, or peeling paint.
- (b) Pest control. Effective measures must be taken to protect the home against vermin and insects. Chemicals for insect and rodent control must not be applied in areas accessible to children when children are present. Programs should adopt an integrated pest management program to ensure long-term, environmentally sound pest suppression through a range of practices including pest exclusion, sanitation and clutter control, and elimination of conditions that are conducive to pest infestations.
- (c) Rubbish. Indoor and outdoor garbage and rubbish containers must not be accessible to infants and toddlers.
- (d) Toxic substances. All medicines, chemicals, detergents, poisonous plants, alcoholic beverages, and other toxic substances must be inaccessible to children. They must be stored away from food products. All toxic substances should be inaccessible to children and should not be used when children are present. Toxic substances should be used as recommended by the manufacturer and stored in the original labeled containers. The telephone number for the poison control center should be posted and readily accessible in emergency situations. Equipment or toys which are mouthed or may be chewed must be free of lead-based paint. Toys and equipment with chipped, cracked, or peeling paint must be tested to verify the absence of lead or be replaced.
- (e) Firearms. All firearms must be unloaded and inaccessible to children. Ammunition and firearms must be stored in separate locked areas. If firearms are present in a family/group child care home, parents/guardians should be notified and these items should be unloaded, equipped with child protective devices, and kept in a locked container or room with the ammunition locked separately in areas inaccessible to the children. Parents/guardians should be informed of this policy.
- (f) Hazardous activity material. Knives, matches, plastic bags, and other potential hazards must be kept out of the reach of infants, toddlers, and preschoolers. The use of potentially hazardous materials and tools must be supervised. Strings and cords long enough to encircle a child's neck, such as those on toys and window coverings, must not be accessible to children.
- (g) First aid and emergency supplies. The facility should maintain up-to-date first aid and emergency supplies in each location where children are cared for. The first aid kit or supplies should be kept in a closed container, cabinet, or drawer that is labeled and stored in a location known to all staff, accessible to staff at all times, but locked or otherwise inaccessible to children. When children leave the facility for a walk or to be transported, a designated staff member should bring a transportable first aid kit. In addition, a transportable first aid kit should be in each

vehicle that is used to transport children to and from the program. First aid kits or supplies should be restocked after each use.

- (h) Infectious disease outbreak control. During the course of an identified outbreak of any reportable illness at the program, a child or staff member should be excluded if the local health department official or primary health care provider suspects that the child or staff member is contributing to the transmission of the illness, is not adequately immunized when there is an outbreak of vaccine-preventable disease, or the circulating pathogen poses an increased risk to the individual. The child or staff member should be readmitted when the health department official or primary health care provider who made the initial determination decides that the risk of transmission is no longer present. Parents/guardians should be notified of any determination.

- (i) Emergencies. The provider shall be prepared for emergencies:
 - (1) An operable telephone must be located within the residence.
 - (2) Emergency phone numbers must be posted by the telephone, or in a place easily found and accessible at all times. The numbers must be those of the local fire department, police department, emergency transportation, and poison control center.
 - (3) The emergency phone numbers of the parents and child's physician and dentist must be readily available within the residence and taken on field trips.
 - (4) Prior arrangements must be made for a substitute to provide care during emergencies.
 - (5) For severe storms and tornadoes, the provider shall have a designated area within the residence that children shall go to for cover, and an operable flashlight and portable radio or TV available.
 - (6) The provider should have a written plan for reporting and managing any incident or unusual occurrence that is threatening to the health, safety, or welfare of the children, staff, or volunteers. Caregiver/teacher and staff training procedures should be included in the plan. The management, documentation, and reporting of the following types of incidents should be addressed in the plan:
 - (i) lost or missing child;
 - (ii) suspected maltreatment of a child (also see state's mandates for reporting);

- (iii) suspected sexual, physical, or emotional abuse of staff, volunteers, or family members occurring while they are on the premises of the program;
 - (iv) injuries to children requiring medical or dental care;
 - (v) illness or injuries requiring hospitalization or emergency treatment;
 - (vi) mental health emergencies;
 - (vii) health and safety emergencies involving parents/guardians and visitors to the program;
 - (viii) death of a child or staff member, including a death that was the result of serious illness or injury that occurred on the premises of the child care facility, even if the death occurred outside of child care hours;
 - (ix) the presence of a threatening individual who attempts or succeeds in gaining entrance to the facility.
- (7) The provider shall have a written fire escape plan and log of monthly fire and storm drills on file in the residence. The plan must be approved by the agency and specify:
- (i) emergency phone numbers;
 - (ii) a place to meet outdoors for roll call;
 - (iii) smoke detector and fire;
 - (iv) plans for monthly fire and tornado drill sessions; and
 - (v) escape routes to the outside from all levels used by children. In buildings with three or more dwelling units, enclosed exit stairs must be indicated.
- (j) All licensed child care programs must follow the Fond du Lac Reservation Emergency Operations Plan. Child Care providers must prepare for and respond to emergency situations or natural disasters that may require evacuation, lock-down, or shelter in-place and have written plans, accordingly. Written plans must be posted in each classroom and areas used by children. The following topics should be addressed, including but not limited to:
- (1) regularly scheduled practice drills
 - (2) procedures for notifying and updating parents

- (3) the use of the daily class roster(s) to check attendance of children and staff during an emergency or drill when gathered in a safe space after exit and upon return to the program. All drills/exercises should be recorded.
- (k) Transportation of children. When transportation is given to children in a motor vehicle other than a bus or school bus operated by a common carrier, the following provisions for their safety must be made:
- (1) A child may be transported only if the child is fastened in a safety seat, seat belt, or harness appropriate to the child's weight and the restraint is installed and used in accordance with the manufacturer's instructions. Provider must obtain car-seat safety training by a certified instructor.
 - (2) A child under the age of four may be transported only if the child is securely fastened in a child passenger restraint system which meets the federal motor vehicle safety standards contained in 49 C.F.R. §571.213 et seq.
 - (3) Any vehicle operated by the provider for the transportation of children must be licensed in accordance with the laws of Minnesota and the driver shall hold a current, valid driver's license.
 - (4) Written permission to transport children must be obtained from parents.
 - (5) While transporting children in a motor vehicle, drivers should not use a mobile telephone or wireless communications device if the vehicle is in motion or traffic.
 - (6) No child is permitted to remain unattended in any vehicle. In addition, child care workers should:
 - (i) Always check the back seat and make sure all children are out of the car before locking it and walking away.
 - (ii) Avoid distractions while driving, especially cell phone use.
 - (iii) Be extra alert when there is a change in their routine, such as when someone is driving or the worker takes a different route than their normal routine.
 - (iv) Call the parent/guardian if child is more than ten (10) minutes late.
 - (v) Put cell phone, bag, or purse in the back seat so that it is necessary to check the back seat upon arrival to any destination.
 - (vi) Keep all vehicles locked when parked to prevent children from entering when no one around.
 - (vii) Store car key's out of reach of children.

- (viii) Teach children that cars are not safe places to play.
 - (ix) Keep rear fold-down seats closed to prevent a child from crawling into the trunk from inside the car.
 - (x) Remind children that cars, especially car trunk, should not be used for games like hide-and-seek.
- (l) Separation of personal articles. Separate towels, wash cloths, drinking cups, combs, and other personal articles must be used for each child.
- (m) Bedding. Clean, separate bedding must be provided for each child in care.
- (n) Pets All pets housed within the residence shall be maintained in good health and limited to dogs, cats, fish, guinea pigs, gerbils, rabbits, hamsters, rats, mice, and birds if the birds are clear of *chamdiapsittaci*. The provider shall ensure that:
- (1) parents are notified prior to admission or presence of pets in the residence;
 - (2) children handle animals only with supervision;
 - (3) rabies shots and tags are current for all dogs and cats;
 - (4) pet cages are located and cleaned away from any food preparation, storage, or serving areas;
 - (5) play areas are free of animal excrement not confined to pet cages;
 - (6) parents of a child whose skin is broken by an animal bite or scratch are notified of the injury on the day the injury occurs; and
 - (7) the health officer is immediately notified whenever a child in care is bitten by an animal, the notifications shall be given before any steps are taken to destroy the animal, and the provider shall take responsible steps to confine the animal.
- (o) Diapers. Children in diapers shall be kept clean and dry. The following sanitary procedures must be used to reduce the spread of communicable disease.
- (1) Diaper changing procedure. The following diaper changing procedure should be posted in the changing area and followed to protect the health and safety of children and staff:
 - Step 1: Before bringing the child to the diaper changing area, perform hand hygiene and bring supplies to the diaper changing area.
 - Step 2: Carry/bring the child to the changing table/surface, keeping soiled clothing away from you and any surfaces you cannot easily clean and sanitize after the change. Always keep a hand on the child.
 - Step 3: Clean the child's diaper area.

Step 4: Remove the soiled diaper and clothing without contaminating any surface not already in contact with stool or urine.

Step 5: Put on a clean diaper and dress the child.

Step 6: Wash the child's hands and return the child to a supervised area.

Step 7: Clean and disinfect the diaper-changing surface. Dispose of the disposable paper liner if used on the diaper changing surface in a plastic-lined, hands-free, covered can. If clothing was soiled, securely tie the plastic bag used to store the clothing and send home.

Step 8: Perform hand hygiene and record the diaper change, diaper contents, and/or any problems. Caregivers/teachers should never leave a child unattended on a table or countertop. A safety strap or harness should not be used on the diaper changing table/surface.

- (2) An adequate supply of clean diapers must be available for each child and stored in a clean place inaccessible to children. If cloth diapers are used, parents must provide a change of the outer plastic pants for each fecally-soiled diaper change. Cloth diapers, except those supplied by a commercial diaper service, and plastic pants, if supplied by parents, must be labeled with each child's name.
 - (3) Diapers and clothing must be changed when wet or soiled.
 - (4) For disposable diapers, a covered diaper disposal container must be located in the diaper changing area and lined with a disposable plastic bag. The container must be emptied when full, and at least daily.
 - (5) Diapering must not take place in a food preparation area. The diaper changing area must be covered with a smooth, non-absorbent surface. If the surface is not disposable and is wet or soiled, it must be washed with soap and water to remove debris and then disinfected with a solution of at least two teaspoons of chlorine bleach to one quart water. If the surface is not soiled with feces or urine, then it must be disinfected with the solution of chlorine bleach and water after each diapering.
 - (6) Single service disposable wipes or freshly laundered cloths must be used for washing a soiled child. A child who has soiled or wet must be washed with a disposable wipe or a freshly laundered cloth before re-diapering.
 - (7) Cloth diapers, except those supplied by a commercial diaper service, plastic pants, and soiled clothing must be placed in the plastic bag after removal and sent home with the parent daily.
- (p) Toilet training chairs. Toilet training chairs, chairs, stools, and seats must be washed with soap and water when soiled, and at least daily.
- (q) Hand washing. A child's hands must be washed with soap and water when soiled, after use of a toilet or toilet training chair, and before eating a meal or snack. The provider shall monitor and assist any child who needs help. Situations that require

hand hygiene, all staff, volunteers, and children should abide by the following procedures for hand washing:

- (1) Upon arrival for the day, after breaks, or when moving from one group to another.
 - (2) Before and after: preparing food or beverages; eating, handling food, or feeding a child; brushing or helping a child brush teeth; giving medication or applying a medical ointment or cream in which a break in the skin (e.g. sores, cuts, or scrapes) may be encountered; playing in water (including swimming) that is used by more than one person; and diapering.
 - (3) After: using the toilet or helping a child use a toilet; handling bodily fluid (mucus, blood, vomit); handling animals or cleaning up animal waste; playing in sand, on wooden play sets, and outdoors; and cleaning or handling garbage.
 - (4) Post all situations or times that children and staff should perform hand hygiene in all food preparation, diapering, and toileting areas.
 - (5) In sinks and tubs accessible to children, the water temperature must not exceed 120 degrees Fahrenheit to prevent children from scalding themselves while washing.
 - (6) Caregivers shall wash their hands with soap and water after each diaper change, after assisting a child on the toilet, after washing the diapering surface, and before food preparation. Hands must be dried on a single use towel.
 - (7) Routine Cleaning, Sanitizing, and Disinfecting Programs should follow a routine schedule of cleaning, sanitizing, and disinfecting. Cleaning, sanitizing, and disinfecting products should not be used in close proximity to children, and adequate ventilation should be maintained during use. Prevention of Exposure to Blood and Body Fluids Early care and education programs should adopt the use of Standard Precautions, developed by the Centers for Disease Control and Prevention (CDC), to handle potential exposure to blood and other potentially infectious fluids. Caregivers and teachers are required to be educated regarding Standard Precautions before beginning to work in the program and annually thereafter. For center-based care, training should comply with requirements of the Occupational Safety and Health Administration (OSHA).
- (r) Care of ill children. medicine administration. The following provisions must be followed for the care of ill children and the administration of medicine:

- (1) The provider shall notify the parent immediately when a child in care develops any of the following symptoms with the understanding that the child's parent needs to remove the child from the child care home:
 - (i) underarm temperature of 100 degrees Fahrenheit or over, or an oral temperature of 101 degrees Fahrenheit or over;
 - (ii) vomiting;
 - (iii) diarrhea;
 - (iv) rash, other than mild diaper or heat-related rash; or
 - (v) lice, ringworm, or scabies that is untreated and contagious to others.
- (2) The provider shall follow written instructions from a health officer or the physician on an ill child placed in the provider's care if the child has any of the illnesses specified in item E.
- (3) The provider shall require that the child's parent notify the provider within twenty-four (24) hours of the diagnosis of a serious contagious illness or parasitic infestation listed in item E so the provider may notify the parents of other children in care.
- (4) The provider shall inform a parent of each exposed child the same day the provider is notified a positive diagnosis has been made of any of the illness or parasitic infestations in item E.
- (5) The provider shall notify the health officer or Minnesota Department of Health of any suspected case of reportable disease.
- (6) The following govern the administration of medicine by the provider to children in care:
 - (i) The provider shall obtain written permission from the child's parent prior to administering medicine, diapering products, sunscreen lotions, and insect repellents. Non-prescription medicines, diapering products, sunscreen lotions, and insect repellents must be administered according to the manufacturer instructions unless there are written instructions for their use by a licensed physician or dentist.
 - (ii) The provider shall obtain and follow written instructions from a licensed physician or dentist prior to administering each prescription medicine. Medicine with the child's name and current prescription information on the label constitutes instructions.

- (7) Use of Tobacco, Alcohol, and Illegal Drugs: directors, caregivers, volunteers, and staff should not be impaired due to the use of alcohol, illegal drugs or prescription medication during program hours. Tobacco, alcohol, and illegal drug use should be prohibited on the premises (both indoor and outdoor environments) and in any vehicles used by the program at all times. In family child care settings, tobacco and alcohol should be inaccessible to children.

- (8) Sun safety including sunscreen: caregivers and should ensure sun safety for themselves and children under their supervision by keeping infants younger than six months out of direct sunlight, limiting sun exposure when ultraviolet rays are strongest and applying sunscreen with written permission of parents/guardians. Manufacturer instructions should be followed.

119. Water, Food, and Nutrition.

- (a) Water. There must be a safe water supply in the residence.
 - (1) Water from privately-owned wells must be tested annually by a Minnesota Health Department certified laboratory for coliform bacteria and nitrate nitrogens to verify safety. The provider shall file a record of the test results with the agency. Retesting and corrective measures may be required by the agency if results exceed Minnesota drinking water standards or where the supply may be subject to off-site contamination.
 - (2) Drinking water must be available to children and offered at frequent intervals in separate or single service drinking cups or bottles with the child's name on it. Clean, sanitary drinking water should be readily accessible in indoor and outdoor areas, throughout the day. On hot days, infants receiving human milk in a bottle may be given additional human milk, and those receiving formula mixed with water may be given additional formula mixed with water. Infants should not be given water, especially in the first six months of life.
- (b) Milk. Milk served to children in care must be pasteurized (with the exception of human milk).
- (c) Preparing, Feeding, and Storing Human Milk. Programs should develop and follow procedures for the preparation and storage of expressed human milk that ensures the health and safety of all infants, as outlined by the Academy of Breastfeeding Medicine Protocol #8; Revision 2010, and prohibits the use of infant formula for a breastfed infant without parental consent. The bottle or container should be properly labeled with the infant's full name and date; and should only be given to the specified child. Unused breast milk should be returned to parent in the bottle or container.
- (d) Preparing, Feeding, and Storing Infant Formula. Programs should develop and follow procedures for the preparation and storage of infant formula that ensures the health and safety of all infants. Formula provided by parents/guardians or programs should come in sealed containers. The caregiver/teacher should always follow the parent or manufacturer's instructions for mixing and storing of any formula preparation. If instructions are not readily available, caregivers/teachers should obtain information from the World Health Organization's Safe Preparation, Storage and Handling of Powdered Infant Formula Guidelines. Bottles of prepared or ready-to-feed formula should be labeled with the child's full name, time, and date of preparation. Prepared formula should be discarded daily if not use.
- (e) Warming Bottles and Infant Foods. Bottles and infant foods can be served cold from the refrigerator and do not have to be warmed. If a caregiver/teacher chooses to warm them, or a parent requests they be warmed, bottles should be warmed

under running, warm tap water; using a commercial bottle warmer, stove top warming methods, or slow-cooking device; or by placing them in container of warm water. Bottles should never be warmed in microwaves. Warming devices should not be accessible to children.

- (f) Meals and snacks. Well-balanced meals and snacks must be offered daily.
- (1) Food served during the day must include servings from each of the basic food groups as defined by 7 C.F.R. §226.20.
 - (2) The provider shall follow written instructions obtained from the parents, at the time of enrollment, on each child's special diet or food needs. Parents shall be consulted about special food preferences.
 - (3) Flexible feeding schedules must be provided for infants and toddlers, and the infant or toddler's usual diet and feeding schedule must be followed.
 - (4) Food, lunches and bottles brought from home must be labeled with the child's name and refrigerated when necessary. Bottles must be washed after use.
 - (5) Caregivers/Teachers should not offer foods that are associated with young children's choking incidents to children under 4 years of age. Food for infants should be cut into pieces $\frac{1}{4}$ inch or smaller, food for toddlers should be cut into pieces $\frac{1}{2}$ inch or smaller to prevent choking. Children should be supervised while eating, to monitor the size of food and that they are eating appropriately.
 - (6) Access to areas where hot food is prepared should only be permitted when children are supervised by adults who are qualified to follow sanitation and safety procedures.
 - (7) The program should conform to applicable portions of the U.S. Food and Drug Administration (FDA) Food Code and all applicable state and local food service rules and regulations for centers and family child care homes regarding safe food protection and sanitation practices.
- (g) Food safety. Food must be handled and stored properly to prevent contamination and spoilage. Access to areas where hot food is prepared should only be permitted when children are supervised by adults who are qualified to follow sanitation and safety procedures.
- (1) All food and cooking utensils must be stored to protect them from dust, vermin, pipe leakage, or other contamination.
 - (2) Food requiring refrigeration must be maintained at no more than 40 degrees Fahrenheit. Food requiring heating must be maintained at no less

than 150 degrees Fahrenheit until ready to serve. Frozen food must be maintained in a solid state until used.

- (3) Appliances used in food storage and preparation must be safe and clean.
 - (4) No hermetically sealed (canned), non-acid or low-acid food which has been processed in a place other than a commercial food-processing establishment shall be served to children in care. Low-acid food includes meats, fish, and poultry and most vegetables and is required to be steam-pressure canned by the United States Department of Agriculture in Bulletin number 8, "Home Canning of Fruits and Vegetables", 1983 Edition. Fresh and frozen foods, properly canned tomatoes, pickled foods, and canned fruits such as apples, berries, peaches, apricots, jams and jellies may be served to children in care. The USDA "Home Canning of Fruits and Vegetables", Home and Garden Bulletin number 8, 1983 Edition, is incorporated by reference. It is not subject to frequent change and is available through Minitgex inter-library loan system, or by writing the Superintendent of Documents, U.S. Government Printing Office, Washington D.C., 20402.
- (h) Children with Food Allergies. Each child's food allergies should be posted prominently in the classroom and wherever food is served with permission of the parent/guardian. Based on the child's care plan, and prior to caring for the child, caregivers and teachers should receive training for, demonstrate competence in, and implement measures for:
- (1) Preventing exposure to the specific food(s) to which the child is allergic;
 - (2) Recognizing the symptoms of an allergic reaction;
 - (3) Each child with a food allergy should have a written care plan that includes:
 - (i) Instructions regarding the food(s) to which the child is allergic and steps to be taken to avoid that food;
 - (ii) A detailed treatment plan to be implemented in the event of an allergic reaction, including the names, doses, and methods of prompt administration of any medications.
 - (iii) Specific symptoms that would indicate the need to administer one or more medications.
 - (4) The written child care plan, a mobile phone, and the proper medications for appropriate treatment if the child develops an acute allergic reaction should be routinely carried on field trips or transport out of the early care and education setting.

- (5) The program should notify the parents/guardians immediately of any suspected allergic reactions, as well as the ingestion of or contact with the problem food even if a reaction did not occur.
- (6) The program should contact the emergency medical services system immediately whenever epinephrine has been administered.

120. Amendments.

The Reservation Business Committee may amend this Ordinance as it deems necessary to protect the public health, safety and welfare of the Fond du Lac Reservation. The provisions of this Ordinance may be amended by resolution of the Reservation Business Committee.

CERTIFICATION

We do hereby certify that the foregoing Ordinance #04/91 was duly amended by Ordinance #01/20, adopted by Resolution #1323/20 by a vote of 4 for, 0 against, 0 silent, with a quorum of 5 being present at a Special Meeting of the Fond du Lac Reservation Business Committee held on July 8, 2020, on the Fond du Lac Reservation.



Kevin R. Dupuis, Sr., Chairman



Ferdinand Martineau, Jr., Sec./Treas.