

**PROPOSED REGULATION OF THE
BOARD FOR CHILD CARE**

LCB File No. R160-07

December 13, 2007

(This regulation was split out from LCB File No. 112-06; §§4, 8, 9, 16-19, 63, 64 and 78 have been removed from that regulation for separate consideration.)

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1-12 and 14-20, NRS 432A.077; §13, NRS 432A.077 and 432A.177.

A REGULATION relating to children; revising certain provisions concerning the required ratio of staff members to children in a child care facility; making various other changes relating to the standards of operation of a child care facility and providing additional requirements for certain types of child care facilities; and providing other matters properly relating thereto.

Section 1. Chapter 432A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this regulation.

Sec. 2. *“Educational child care institution” means a child care institution that is recognized by the Department of Education as providing educational opportunities primarily for privately placed children of school age.*

Sec. 3. 1. *“Residential child care institution” means a child care institution:*

(a) Which provides care and psychoeducational services to children who are diagnosed as severely emotionally disturbed children; and

(b) In which the treatment goals and length of stay of a child are dependent upon the needs of the child with regard to his physical, social, emotional, moral and educational development.

2. *As used in this section, “emotionally disturbed children” has the meaning ascribed to “child with an emotional disturbance” in NRS 433B.045.*

Sec. 4. 1. *“Shelter child care institution” means a child care institution which provides residential care on a 24-hour basis to children who are in the custody of an agency which provides child welfare services and who are in need of temporary protection and care.*

2. *As used in this section, “agency which provides child welfare services” has the meaning ascribed to it in NRS 432B.030.*

Sec. 5. *A licensee of a child care institution shall have on duty between the hours of 6:30 a.m. and 9:00 p.m. at least the following number of caregivers if the children are 2 years of age or older:*

1. *For 1 to 6 children, inclusive, one caregiver;*
2. *For 7 to 20 children, inclusive, two caregivers;*
3. *For 21 to 35 children, inclusive, three caregivers;*
4. *For 36 to 50 children, inclusive, four caregivers;*
5. *For 51 to 65 children, inclusive, five caregivers;*
6. *For 66 to 80 children, inclusive, six caregivers;*
7. *For 81 to 93 children, inclusive, seven caregivers; and*
8. *If the number of children is greater than 93:*

(a) At a residential child care institution, for every 10 children in excess of 93, one additional caregiver;

(b) At a shelter child care institution, for every 13 children in excess of 93, one additional caregiver; and

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(c) At an educational child care institution, for every 18 children in excess of 93, one additional caregiver.

Sec. 6. 1. *A licensee of a shelter child care institution shall have on duty between the hours of 9:00 p.m. and 6:30 a.m., when children are generally asleep, at least the following number of caregivers:*

- (a) For 1 to 15 children, inclusive, one caregiver;*
- (b) For 16 to 31 children, inclusive, two caregivers;*
- (c) For 32 to 46 children, inclusive, three caregivers;*
- (d) For 47 to 61 children, inclusive, four caregivers; and*
- (e) For every 15 children in excess of 61, one additional caregiver.*

2. *Every member of the staff who is on duty at night shall remain awake during duty hours.*

Sec. 7. 1. *A licensee of an educational child care institution shall have on duty between the hours of 9:00 p.m. and 6:30 a.m., when children are generally asleep, at least the following number of caregivers:*

- (a) For 1 to 25 children, inclusive, one caregiver; and*
- (b) For every 25 children in excess of 25, one additional caregiver plus an additional on-call or back-up person on-site.*

2. *Every member of the staff who is on duty at night shall remain awake during duty hours.*

Sec. 8. 1. *A licensee of a residential child care institution shall have on duty between the hours of 9:00 p.m. and 6:30 a.m., when children are generally asleep, at least the following number of caregivers:*

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- (a) For 1 to 15 children, inclusive, one caregiver;*
- (b) For 16 to 31 children, inclusive, two caregivers;*
- (c) For 32 to 46 children, inclusive, three caregivers;*
- (d) For 47 to 61 children, inclusive, four caregivers; and*
- (e) For every 15 children in excess of 61, one additional caregiver.*

2. Every member of the staff who is on duty at night shall remain awake during duty hours.

Sec. 9. 1. *Portable wading pools must not be used in a facility. Other containers of water for use by one person may be used in a facility if:*

- (a) The depth of the water in the container does not exceed 6 inches; and*
- (b) The container is emptied immediately after its use.*

2. When children cared for in a facility are engaged in a wading activity, other than a swimming lesson which is taught at a public swimming pool or a public body of water, the facility shall ensure that:

- (a) No child is in water with a depth that is higher than the chest of the child;*
- (b) At least one caregiver is within an arm's length of each child who is in the water;*
- (c) The children are not allowed to wade or swim in a moving body of water, including, without limitation, a stream, river, creek or irrigation ditch; and*
- (d) At least one person who is currently certified as a lifeguard or water safety instructor by the American National Red Cross or an equivalent water safety program is supervising the children. A public lifeguard may satisfy the requirement of this paragraph.*

3. *If a water activity is included in a program of a facility, the water activity must be offered as an optional activity and alternative activities must be available for children who do not wish to participate in the water activity.*

4. *When children cared for in a facility are engaged in a wading activity, other than a swimming lesson which is taught at a public swimming pool or a public body of water, and the children are:*

(a) Less than 3 years of age, the ratio of caregivers to children must be one caregiver for each child;

(b) At least 3 years of age but are not old enough to attend kindergarten, the ratio of caregivers to children must be one caregiver for each four children;

(c) Attending kindergarten or a grade higher than that but are not yet old enough to attend fourth grade, the ratio of caregivers to children must be one caregiver for each six children; or

(d) Attending fourth grade or any grade higher than fourth grade, the ratio of caregivers to children must be one caregiver for each eight children.

Sec. 10. NAC 432A.010 is hereby amended to read as follows:

432A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 432A.012 to 432A.165, inclusive, *and sections 2, 3 and 4 of this regulation* have the meanings ascribed to them in those sections.

Sec. 11. NAC 432A.020 is hereby amended to read as follows:

432A.020 ~~["Caretaker" means any]~~ *"Caregiver" means a* natural person ~~[-~~

~~—1.— Who is 16 years of age or older;~~

~~—2.— Who meets the qualifications in this chapter; and~~

~~—3. Whose duties include the direct care, supervision and guidance]~~ *who is responsible for the direct care and education* of children in a facility.

Sec. 12. NAC 432A.070 is hereby amended to read as follows:

432A.070 “Child care institution” ~~[means a facility in which the licensee provides care during the day and night and provides developmental guidance to 16 or more children who do not routinely return to the homes of their parents or guardians.]~~ *has the meaning ascribed to it in NRS 432A.0245.*

Sec. 13. NAC 432A.450 is hereby amended to read as follows:

432A.450 1. Each licensee of an institution shall:

(a) Formulate, in writing, a statement of:

(1) The services and specific programs offered; and

(2) The procedure for admission and the information which must be contained in an application for admission.

(b) Obtain or develop a complete social study of each child not later than 30 days after his admission.

(c) If caring for a child for money, enter into a written agreement with the parent of the child which outlines the duties and responsibilities of each party.

2. Each licensee of an institution shall:

(a) Establish a regular program of activities which has sufficient flexibility to respond to the needs of each child;

(b) Integrate the institutional programs with activities in the community in a manner that allows children to participate in the normal living patterns of the community;

(c) Maintain and develop constructive relationships between the child and his parents, brothers and sisters, other relatives, and members of the staff of the institution;

(d) Make the greatest use of small groups of persons to aid in developing the individuality of the child and helping him to attain a sense of personal identity;

(e) Establish a program of personal hygiene for every child;

(f) Provide every child with his own toiletries, including a toothbrush and comb, and with clean towels and washcloths;

(g) Provide space for individual storage of toiletries; and

(h) Establish policies governing the social, emotional, physical and intellectual development of each child.

3. Each licensee of an institution shall provide supervised work for each child which is appropriate to the age, health and abilities of the child. Work must be assigned for the purpose of training and contributing to the growth of the particular child. Work must not interfere with the child's time for school, his periods of study, play and sleep, his normal relations within the community, or visits with his family.

4. A licensee of an institution shall ~~[differentiate between]~~ *establish a written policy which sets forth:*

(a) *Any* daily chores that ~~[children are generally]~~ *a child is* expected to perform ~~[to prepare them to become independent, specific assignments of work which are available to children as a means of earning money and jobs performed in or out of the institution to gain vocational training. If possible, a licensee of an institution shall, either by gift or for work done, provide every child of school age with an allowance which he is permitted to spend at his own discretion.] ; and~~

(b) Any merit system that will be used by the institution to provide consequences to a child for his conduct.

5. A licensee of an institution shall not use any child to solicit money for the institution in any way which would be harmful or cause embarrassment to the child or his family. The written consent of the parent or legal guardian must be obtained before an institution may use a child's picture or name in any written, visual or oral system of communication.

6. Each licensee of an institution shall have written policies on religious training. The consent of a child's parent must be obtained before a child may attend church or receive religious instruction.

7. Each licensee of an institution is responsible for providing academic or vocational training to each child. The licensee of an institution shall, by using resources in the community, provide specialized training for children who are unable to benefit from a regular school program because of their physical, mental or emotional disabilities.

8. Recreation and programs of activity must be planned as an integral part of the institution's total program.

9. Each licensee of an institution shall have a written, planned program to supervise the children's health and provide medical and dental care.

10. Each licensee of an institution shall provide a statement outlining the policies and procedures concerning the use of isolation or restraints on the children in the institution. The members of the staff of the institution must be trained and certified through a nationally recognized organization concerning the use of restraints. If isolation or restraints are used, a committee established by the institution must evaluate and review the process concerning the use of isolation or restraints within 30 days after isolation or restraints are used to determine:

- (a) Whether safety guidelines were followed by the institution;*
- (b) The effectiveness of the process concerning modifying the behavior of the child; and*
- (c) The institution's compliance with the written policies and procedures of the institution.*

Sec. 14. NAC 432A.460 is hereby amended to read as follows:

432A.460 1. Each licensee of an institution shall maintain an individual record for each child accepted for care. The record is confidential and must be protected from examination by unauthorized persons.

2. Every record must contain the following ~~+~~ *information, if available:*

- (a) The child's full name, birthplace and date of birth;
- (b) The religion of the child and his parents;
- (c) Both parents' full names;
- (d) If the child's parents are deceased, the date, place and cause of death;
- (e) If the child's parents are divorced or separated, the date and place of the divorce or separation;
- (f) The names, addresses and dates of birth of other children in the family;
- (g) The names and addresses of close relatives;
- (h) The name of a person to whom the child may be referred for care;
- (i) The date and reason for placement of the child;
- (j) The financial terms of the placement;
- (k) The report of the original study and investigation of the child, including:
 - (1) All information concerning the educational, economic and cultural background of the child's family; and
 - (2) All personal information about the child, including his:

- (I) History of development and health;
- (II) Personality;
- (III) Placement and adjustment in school;
- (IV) Previous placements in institutions; and
- (V) Relationships with his family;

(l) Any available documents pertaining to the current legal custody of the child;

(m) Every written contract between the licensee of an institution and the child's parents, except an authorization to provide medical care, which must be kept in the records of the health of the child;

(n) Reports and records of schools attended by the child, including his grades, progress and adjustment;

(o) Records or summarized reports of the child's progress and development while under care, the work done with the child's family, and plans for care and supervision of the child after discharge;

(p) If members of the staff of another agency or institution are also working with the child, the licensee of an institution mainly providing care to the child shall periodically provide the staff members of the other agency or institution with summary reports of the services it is providing and shall formulate plans for continuing the services, for maintaining an appropriate staff and for arranging conferences with other agencies and institutions who are also providing care for the child; and

(q) Reports of the staff of the institution concerning the child's adjustment to the institutional setting.

Sec. 15. Section 5 of this regulation is hereby amended to read as follows:

Sec. 5. ~~{A}~~ *Except as otherwise provided in section 9 of this regulation, a* licensee of a child care institution shall have on duty between the hours of 6:30 a.m. and 9:00 p.m. at least the following number of caregivers if the children are 2 years of age or older:

1. For 1 to 6 children, inclusive, one caregiver;
2. For 7 to 20 children, inclusive, two caregivers;
3. For 21 to 35 children, inclusive, three caregivers;
4. For 36 to 50 children, inclusive, four caregivers;
5. For 51 to 65 children, inclusive, five caregivers;
6. For 66 to 80 children, inclusive, six caregivers;
7. For 81 to 93 children, inclusive, seven caregivers; and
8. If the number of children is greater than 93:

(a) At a residential child care institution, for every 10 children in excess of 93, one additional caregiver;

(b) At a shelter child care institution, for every 13 children in excess of 93, one additional caregiver; and

(c) At an educational child care institution, for every 18 children in excess of 93, one additional caregiver.

Sec. 16. Section 15 of this regulation is hereby amended to read as follows:

Sec. 15. Section 5 of this regulation is hereby amended to read as follows:

Sec. 5. Except as otherwise provided in section 9 of this regulation, a licensee of a child care institution shall have on duty between the hours of 6:30 a.m. and 9:00 p.m. at least the following number of caregivers ~~{B}~~:

1. *If* the children are 2 years of age or older:

- ~~[1.]~~ (a) For 1 to 6 children, inclusive, one caregiver;
- ~~[2.]~~ (b) For 7 to 20 children, inclusive, two caregivers;
- ~~[3.]~~ (c) For 21 to 35 children, inclusive, three caregivers;
- ~~[4.]~~ (d) For 36 to 50 children, inclusive, four caregivers;
- ~~[5.]~~ (e) For 51 to 65 children, inclusive, five caregivers;
- ~~[6.]~~ (f) For 66 to 80 children, inclusive, six caregivers;
- ~~[7.]~~ (g) For 81 to 93 children, inclusive, seven caregivers; and
- ~~[8.]~~ (h) If the number of children is greater than 93:

~~[(a)]~~ (1) At a residential child care institution, for every 10 children in excess of 93, one additional caregiver;

~~[(b)]~~ (2) At a shelter child care institution, for every 13 children in excess of 93, one additional caregiver; and

~~[(c)]~~ (3) At an educational child care institution, for every 18 children in excess of 93, one additional caregiver.

2. If the children are less than 2 years of age, the ratio of staff to children and the maximum group size set forth in the table provided in subsection 1 of NAC 432A.524 apply.

Sec. 17. Section 6 of this regulation is hereby amended to read as follows:

Sec. 6. 1. ~~[A]~~ *Except as otherwise provided in section 9 of this regulation, a* licensee of a shelter child care institution shall have on duty between the hours of 9:00 p.m. and 6:30 a.m., when children are generally asleep, at least the following number of caregivers:

- (a) For 1 to 15 children, inclusive, one caregiver;
- (b) For 16 to 31 children, inclusive, two caregivers;

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- (c) For 32 to 46 children, inclusive, three caregivers;
- (d) For 47 to 61 children, inclusive, four caregivers; and
- (e) For every 15 children in excess of 61, one additional caregiver.

2. Every member of the staff who is on duty at night shall remain awake during duty hours.

Sec. 18. Section 7 of this regulation is hereby amended to read as follows:

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Sec. 7. 1. ~~[A]~~ *Except as otherwise provided in section 9 of this regulation, a* licensee of an educational child care institution shall have on duty between the hours of 9:00 p.m. and 6:30 a.m., when children are generally asleep, at least the following number of caregivers:

- (a) For 1 to 25 children, inclusive, one caregiver; and
- (b) For every 25 children in excess of 25, one additional caregiver plus an additional on-call or back-up person on-site.

2. Every member of the staff who is on duty at night shall remain awake during duty hours.

Sec. 19. Section 8 of this regulation is hereby amended to read as follows:

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Sec. 8. 1. ~~[A]~~ *Except as otherwise provided in section 9 of this regulation, a* licensee of a residential child care institution shall have on duty between the hours of 9:00 p.m. and 6:30 a.m., when children are generally asleep, at least the following number of caregivers:

- (a) For 1 to 15 children, inclusive, one caregiver;
- (b) For 16 to 31 children, inclusive, two caregivers;
- (c) For 32 to 46 children, inclusive, three caregivers;
- (d) For 47 to 61 children, inclusive, four caregivers; and

(e) For every 15 children in excess of 61, one additional caregiver.

2. Every member of the staff who is on duty at night shall remain awake during duty hours.

Sec. 20. 1. This section and sections 1 to 8, inclusive, and 10 to 14, inclusive, of this regulation become effective on January 1, 2008, or the date on which the regulation is filed by the Legislative Counsel with the Secretary of State, whichever occurs later.

2. Sections 9, 15, 17, 18 and 19 of this regulation become effective only if LCB File No. R032-07 is adopted by the Board for Child Care and filed by the Legislative Counsel with the Secretary of State. Sections 9, 15, 17, 18 and 19 of this regulation become effective on:

(a) January 1, 2008;

(b) The date on which this regulation is filed by the Legislative Counsel with the Secretary of State; or

(c) The date on which LCB File No. R032-07 is filed by the Legislative Counsel with the Secretary of State,

↳ whichever occurs later.

3. Section 16 of this regulation becomes effective only if LCB File No. R032-07 is adopted by the Board for Child Care and filed by the Legislative Counsel with the Secretary of State.

Section 16 becomes effective on:

(a) January 1, 2010;

(b) The date on which this regulation is filed by the Legislative Counsel with the Secretary of State; or

(c) The date on which LCB File No. R032-07 is filed by the Legislative Counsel with the Secretary of State,

↳ whichever occurs later.