

FREQUENTLY ASKED QUESTIONS REGARDING
CHILD CARE FACILITY REGULATIONS
EFFECTIVE SEPTEMBER 22, 2008

Introduction:

On May 24, 2008, the Department of Public Welfare published amendments to the regulations for child care centers, group child care homes and family child care homes. The regulatory amendments were effective on September 22, 2008.

From August through October, staff from the office of child Development and Early Learning conducted information sessions for child care providers to discuss the regulation amendments. At each of the session, OCDEL staff recorded questions from providers. We gathered those questions and additional questions received from other sources into this document. Please note that this document should be read in conjunction with the regulations and is not a substitute for reading the regulations.

Child Care Regulations Online:

The child care facility regulations can be accessed on the internet as follows:

- Child Care Centers, 55 Pa. Code Chapter 3270:
<http://www.pacode.com/secure/data/055/chapter3270/chap3270toc.html>
- Group Child Care Homes, 55 Pa. Code Chapter 3280:
<http://www.pacode.com/secure/data/055/chapter3280/chap3280toc.html>
- Family Child Care Homes, 55 Pa. Code Chapter 3290:
<http://www.pacode.com/secure/data/055/chapter3290/chap3290toc.html>

Organization of the Document:

The information in this document is organized as follows:

- Section I: Questions relating to Chapter 3270, Child Care Centers and corresponding requirements in Chapter 3280, Group Child Care Homes and Chapter 3290 Family Child Care Homes
- Section II. Questions specific to Chapter 3290, Family Child Care Homes.

The questions are arranged in numerical order by regulation citation and are grouped according to the section headings in each chapter. The specific regulatory citation is provided for reference.

SECTION I

QUESTIONS RELATING TO CHAPTER 3270, CHILD CARE CENTERS AND CORRESPONDING REQUIREMENTS IN CHAPTER 3280, GROUP CHILD CARE HOMES AND CHAPTER 3290 FAMILY CHILD CARE HOMES

GENERAL PROVISIONS

§3270.4, §3280.4 and §3290.4 - Definitions

Question: What age is kindergarten?

Response: Kindergarten is the year of school before first grade. A child is considered to be a kindergarten child on the date that child enters kindergarten in a public or private school system.

Question: If a child is 36 months of age is the child considered an older toddler until the child is 37 months of age?

Response: Please refer to the definitions for young toddler and preschool child. A young toddler is a child from 2 years to 3 years of age. A preschool child is a child from 3 years of age to the date the child enters kindergarten in a public or private school system. A child 36 months of age on the child's 3rd birthday and therefore is a preschool.

Question: Children in care can receive services until the age of 13. Does this age apply to children who are biologically at the maximum age but they are mentally challenged and do not meet 13 as a chronological age i.e., the child is not able to be left alone at home without supervision due to the child's special needs?

Response: This question is combining the regulations relating to operation of a child care facility with the regulations relating to child care subsidy. It therefore requires two separate responses:

- Regarding the regulations relating to operation of a child care facility: The Public Welfare Code defines child day care to mean "care in lieu of parental care given for part of the twenty-four hour day to children **under sixteen years of age**, away from their own homes..." (emphasis added). Please review the definition of an older school age child at §3270.4, §3280.4 and §3290.4. The definition of the older school age child is a child who attends the 4th grade of a public or private school system through 15 years of age.
- Regarding the regulations relating to child care subsidy: Subsidized child care is available to an otherwise eligible child who is under the age of 13. In addition, subsidized child care is available to an otherwise eligible child who is 13 years of age or older but under 19 years of age and who is incapable of

caring for himself. To be eligible for child care beyond the age of 13, the parent must provide acceptable verification of the child's incapacity of caring for himself. This documentation must be from a licensed physician or psychologist. The question seems to be asking about a child who is 13 years of age, but has a developmental age of less than 13. A developmental age has less to do with "qualifying" for child care beyond the age of 13, as it does with payment. For the purposes of child care subsidy, the provider is paid at the rate indicated by the child's developmental age, not chronological age.

§3270.11(b), §3280.11(b) and §3290.11(c) - Application for and issuance of a certificate of compliance/ registration

Question: Does the requirement for attending an orientation session apply when a facility is just moving to a new location? A center rents and is going to build, will that affect them? What if we have been operating for over 10 years?

Response: If the legal entity is opening a new facility or moving, the legal entity or a representative of the legal entity must attend an orientation session if one has not been attended in the past 12 months.

Question: Are new child care center directors required to attend orientation?

Response: No. The requirement for orientation states that a legal entity or legal entity representative must attend orientation within 12 months prior to starting operation of a child care facility. A new director may request to attend an orientation, but it is not a regulatory requirement.

Question: If a new legal entity takes over operation of an existing child care facility, is the new legal entity or representative of the new legal entity required to attend an orientation session?

Response: Yes. The new legal entity or representative must provide proof of attendance at an orientation session within the 12 months preceding operation of the child care facility.

§3270.15, §3280.15 and §3290.14 - Building codes

Question: What are the building codes and what do they mean?

Response: As of April 2004, the law changed to require all child care facilities to have a Certificate of Occupancy from their local municipality or the Pennsylvania Department of Labor and Industry noting compliance with the Uniform

Construction Code (UCC). The Certificate of Occupancy is proof that the building has been determined safe for use as a child care facility.

The Labor and Industry regulation relating to building codes may be viewed using the following link:

<http://www.pacode.com/secure/data/034/chapter403/s403.23.html>

Question: Do currently certified and registered child care facilities that followed the codes in effect when the facility was first opened have to follow the newer codes and get a new certificate?

Response: A new certificate of occupancy is not required. If the building is renovated, a new certificate of occupancy may be required. Check with your local municipality regarding the requirements.

§3270.17, §3280.16 and §3290.15 - Service to a child with special needs

Question: Is a child with special needs exempt from the behavioral guidelines set by the facility? Can the facility terminate the child's enrollment for breaking these guidelines?

Response: The US Department of Justice advises the following:

“The first thing the provider should do is try to work with the parents to see if there are reasonable ways of curbing the child's bad behavior.... The Americans with Disabilities Act (ADA) does not require providers to take any action that would pose a *direct threat* -- a substantial risk of serious harm -- to the health or safety of others. Centers should not make assumptions, however, about how a child with a disability is likely to behave based on their past experiences with other children with disabilities. Each situation must be considered individually.”¹

The facility operator should contact his or her legal counsel for advice regarding applying the ADA requirements to a specific situation.

Question: When a child with special needs is receiving services from the service provider who comes onsite at the child care facility, under whose supervision is the child?

Response: When the child is receiving services from a service provider at the facility, most times, the services will occur within the context of the services provided for all children. As long as the child is in the child care space, facility staff are responsible for supervision of the child. If the service provider wants to remove the child from the child care space in order to provide services and the parent has

¹ Information obtained from US Department of Justice website, “Commonly Asked Questions About Child Care Centers and the Americans With Disabilities Act”, <http://www.ada.gov/childq&a.htm>.

agreed in writing that the child can participate in the service, the facility staff are not responsible for supervision of the child.

Question: Will the definition of reasonable accommodation be case specific or can one standard be generated to be applied uniformly?

Response: The ADA requires that providers may not discriminate against persons simply because they have disabilities. Instead, providers are to make a case-by-case assessment of what the person with the disability requires to be fully integrated into the program. Once the provider knows what is needed to serve the person with special needs, the provider must assess whether reasonable accommodations can be made to allow this to happen.²

If you need legal advice regarding reasonable accommodation, please contact your legal counsel for further clarification as each situation is unique and case specific.

Question: Is a child diagnosed with ADHD considered to be a child with special needs?

Response: Please refer to the definition of special needs in §3270.4, §3280.4 or §3290.4. A child who is diagnosed with ADHD is a child with special needs if the child has one or more of the following:

- A disability or developmental delay identified on an IEP, an IFSP or a service agreement.
- A written behavioral plan that has been determined by a licensed physician, licensed psychologist or certified behavior analyst.
- A chronic health condition diagnosed by a licensed physician, physician's assistant or CRNP that requires health and related services of a type or amount beyond that required by children generally.

Question: Will the provider be cited for noncompliance if an outside service provider not employed by the facility restrains a child, whether or not the restraint is part of the child's service plan?

Response: The provider will not be cited if a service provider who is not employed by the facility performs the restraint.

Question: Is the center required to provide a one-on-one aide for a child with special needs?

² Information obtained from "Questions & Answers about the Americans with Disabilities Act: A Quick Reference (Information for Child Care Providers)", Child Care Law Center, San Francisco, California and available online at <http://www.childcarelaw.org/docs/qanda-ada.pdf>.

Response: Reasonable accommodation is variable depending on the needs of the child. There are two resources available online for child care providers that may assist you in understanding the Federal requirements relating to caring for a child with special needs:

- “Questions & Answers about the Americans with Disabilities Act: A Quick Reference (Information for Child Care Providers)”, Child Care Law Center, San Francisco, California and available online at <http://www.childcarelaw.org/docs/qanda-ada.pdf>.
- US Department of Justice website, “Commonly Asked Questions About Child Care Centers and the Americans With Disabilities Act”, <http://www.ada.gov/childq&a.htm>

These resources are meant to provide general information. Please consult with your legal counsel if you have questions regarding compliance with the requirement for reasonable accommodations in a specific situation.

§3270.25, §3280.24 and §3290.22 - Availability of certificate of compliance and applicable regulations

Question: Is the facility required to post the inspection summary (LIS) if there are no areas of noncompliance?

Response: Please refer to §3270.25(b), §3280.24(b) or §3290.22(b). The operator shall post a copy of each inspection summary issued by the Department next to the facility’s certificate of registration in a conspicuous location used by parents until a certification representative verifies that each noncompliance item noted on the inspection summary has been corrected. If there are no areas of noncompliance, the LIS would not have to be posted; however, the facility is not precluded from posting the LIS and may wish to do so if no areas of noncompliance were cited.

FACILITY PERSONS

§3270.31, §3280.31, and §3290.31 - Age and training

Question: Are 9 credit hours equal to CDA?

Response: The equivalency stated is for the purposes of determining how the CDA may be used in assessing qualifications for staff positions defined in the regulation i.e., the CDA credential is equivalent to 9 credit hours from an accredited college or university in early childhood education or child development. The regulation does not mean that an individual who has 9 credit hours has a CDA.

§3270.32, §3280.32 and §3290.32 - Suitability of persons in the facility

Question: Do you need FBI check if you already have criminal check and child abuse check on file? Who must have FBI checks and when?

Response: For child care centers and group child care homes, the requirements of the Child Protective Services Law, which was amended effective July 1, 2008 to include FBI clearances, the following persons must submit FBI clearances:

- An individual hired to work in the facility after July 1, 2008.
- A person seeking to operate a child care center or group child home for the first time after July 1, 2008.

An employees hired prior to July 1, 2008 is not required to submit an FBI clearance to maintain current employment. A person who had a certificate of compliance prior to July 1, 2008 is not required to submit an FBI clearance to maintain the certificate.

Question: Does the facility need to have copies of clearances on site for each service provider that comes into the facility?

Response: The child care facility regulations do not require the operator to obtain clearances from service providers who are not child care facility employees.

Question: Must a facility have two FBI clearances for a staff person if the staff person works in two areas of the center- one which falls under the jurisdiction of the Department of Public Welfare (DPW), the other under the Pennsylvania Department of Education (PDE)?

Response: A child care facility may accept an FBI clearance obtained through the PDE contract with Cogent if the clearance shows a clean criminal history. The FBI clearance must have been obtained within the one year period prior to hiring, the same time frame that is already in the Child Protective Services Law (CPSL) for accepting child abuse and Pennsylvania State Police criminal history clearances.

An FBI clearance obtained through the PDE contract with Cogent that shows out of state criminal convictions includes only an individual's rap sheet listing the out-of-state convictions. The PDE clearance does not include an interpretation or crosswalk to the Pennsylvania Crimes Code or information regarding whether any of the convictions prohibit hiring under the provisions of the CPSL. In this situation, the FBI clearance along with the rap sheet should be mailed to ChildLine to be reviewed under the provisions of the CPSL in order to determine whether any of the convictions prohibit hiring in Pennsylvania. To request a ChildLine review, mail the original FBI clearance, the rap sheet and a request for interpretation under the CPSL to:

Commonwealth of Pennsylvania
Department of Public Welfare
Criminal Verification Unit
PO Box 8053
Harrisburg, PA 17105-2675
Attention: Kevin Fisher

Please include the applicant's home address, date of birth and Social Security Number in the request for review. The applicant's date of birth and Social Security Number should appear on the FBI clearance. If the facility is requesting the ChildLine letter regarding the results of the review be sent to the facility, please also include that information when requesting the review.

Question: Student teachers and college work study students are unpaid volunteers working in a child care facility. Are they require to obtain an FBI clearance?

Response: The Child Protective Services Law does not require clearances for persons who are unpaid volunteers.

STAFF-CHILD RATIO

§3270.52 and §3280.52 – Mixed age level

Question: What defines a group? Does the space define a group or does a teacher define a group?

Response: The regulations for child care centers and group child care homes define "group" as follows: "Children assigned to the care of one or two staff persons. A group occupies a space or a defined part of a space." (see §§3270.4 and §3280.4). If you have specific questions about applying the regulation in your facility, please consult with your certification representative.

Question: Is one staff person permitted to be alone with children in a room as long as the staff:child ratio is met?

Response: Yes, if the ratio for the age group is met, the staff person is qualified at a minimum as an assistant group supervisor and the staff person has all required CPSL clearances on file at the facility i.e., is not working in provisional hire status.

Question: If you put an infant in a one year old class, do both teachers have to run with a 1:4 ratio or can one be 1:4 and the other be 1:5?

Response: The answer depends on the grouping of the children. If the children are grouped into two separate groups, it is possible to have one group in which the infant is

cared for have a ratio of 1:4 and the other group of young toddlers to have a ratio of 1:5. In this situation, the two groups must remain separate and distinct with regard to the staff person in charge of each group. Please consult with your certification representative regarding your specific situation.

Question: We have a large classroom which is separated by a large kitchen tile divider. How can we separate the groups into two groups and what is the ratio?

Response: Please contact your certification representative in order to discuss as he or she knows the individual circumstances of your facility.

Question: If preschool children and older toddlers are outside together are they considered two different groups or a mixed age group?

Response: It depends on the outside play area, where the children are placed in that area and how staff are assigned. If you have specific questions about applying the regulation in your facility, please consult with your certification representative.

PHYSICAL SITE

§3270.61(i) – Maximum capacity

Question: If a child care center has a licensed maximum capacity of 24 and 34 children are enrolled at the facility, may all 34 children simultaneously go on a facility field trip under the supervision of facility staff?

Response: Please refer to §3270.61(i). The regulation states that the total number of children receiving child care services at the facility at any one time cannot exceed the facility's maximum capacity. If the capacity is 24 children then that is the total number of children in care cannot exceed 24 children, even for the field trip. The rationale behind this is that in the event of the need to care for all 34 children at the facility, the maximum capacity would be exceeded.

§3270.70, §3280.70 and §3290.68 - Indoor temperature.

Question: Our child care center is in a school building which does not have air conditioning. We use fans, but I am concerned that the temperature may exceed 82° F even with the mechanical fans. What options do I have?

Response: The regulation requires that if the indoor temperature exceeds 82° F in a child care space, a means of mechanical air circulation must be operating. The regulation does not require that the temperature must be lowered to 82° F and does not require air conditioning.

Question: If, due to equipment, the temperature at the facility rises above 82° F, must we send children home?

Response: The regulation requires that if the indoor temperature exceeds 82° F in a child care space, a means of mechanical air circulation must be operating. The regulation does not require that the temperature must be lowered to 82° F. Children do not have to be sent home if the temperature rises about 82° F; however, a means of mechanical air circulation must be operating if the temperature in the child care space exceeds 82° F

Question: Are old facilities without air conditioning grandfathered?

Response: No facilities are grandfathered. The temperature can exceed 82° F as long as a means of mechanical air circulation is provided. The regulation does not require air conditioning.

Question: Must a temperature of 82° F be maintained in the hallways as well as the child care spaces? We have air conditioners in the rooms but not in the hallways.

Response: The regulation requires that if the indoor temperature exceeds 82° F **in a child care space**, a means of mechanical air circulation must be operating. The regulation does not require that the temperature must be lowered to 82° F. Measured indoor child care space excludes space occupied by halls (see §3270.61(e)).

§3270.75, §3280.75 and §3290.73 - First-aid kit

Question: May soap and water be combined in a first aid kit?

Response: The regulations at §§3270.75(c), 3280.75(c) and 3290.73(c) require soap in a first aid kit. The regulations at §§3270.75(d), 3280.75(d) and 3290.73(d) state that each first aid kit taken on an excursion must also contain a bottle of water. This is so a wound that occurs on an excursion can be appropriately cleaned with soap and water. The soap and water are two separate items.

Question: If a first aid kit has liquid soap or hand sanitizer may this replace soap and water?

Response: The regulations at §§3270.75(c), 3280.75(c) and 3290.73(c) require soap in a first aid kit. The soap may be liquid soap. Hand sanitizer is not soap and is not a substitute for soap.

The regulations at §§3270.75(d), 3280.75(d) and 3290.73(d) state that each first aid kit taken on an excursion must also contain a bottle of water. This is so a

wound that occurs on an excursion can be appropriately cleaned with soap and water.

§3270.82 - Toilet areas

Question: What does the staff person have to do to assure that he or she is meeting the requirement for supervision of children who need to use the bathroom?

Response: The regulation at §3270.82(f) no longer permits some children to go to the restroom unaccompanied. Please refer to regulation §3270.4 for the definition of supervision and §3270.113(a) which indicate that the children must be supervised at all times.

When a child is using the toilet, staff must determine the extent of supervision needed based on the individual child, the age of the child and the child's history in the facility. The staff person must know where the child is at all times. For some children, particularly school-age children, supervision while toileting may be met by stationing a staff person outside the toilet area. Please discuss the question regarding your specific facility with your certification representative.

§3270.102(c), §3280.102(c) and §3290.102(c) - Condition of play equipment

Question: What is the new regulation for the playground surfacing if the requirement is no longer 6 inches of mulch?

Response: For a child care center and for a group child care home not located in a residence, the requirement for playground protective surface covering at §3270.102(c) and §3280.102(c) means that the protective surfacing material must be safe and shock absorbing for a fall from the highest designated play surface on a piece of equipment as specified in the United States Consumer Public Safety Commission's Public Playground Safety Handbook, Publication 325. This publication is available on the internet at <http://www.cpsc.gov/cpsc/pub/pubs/325.pdf> or by calling the Consumer Public Safety Commission at 1-800-638-2772.

For a family child care home or a group child care home located in a residence, the requirement for playground protective surface covering at §§3280.102(c) and 3290(c) means that the protective surfacing material must be safe and shock absorbing for a fall from the highest designated play surface on a piece of equipment as specified in the United States Consumer Public Safety Commission's Outdoor Home Playground Safety Handbook, Publication 324. This publication is available on the internet at <http://www.cpsc.gov/cpsc/pub/pubs/324.pdf> or by calling the Consumer Public Safety Commission at 1-800-638-2772.

Question: Are wood chips, sand, shredded material or mulch still considered protective surface covering?

Response: Yes; wood chips, sand, shredded tires and mulch may be used as protective surfacing. The depth of material needed will vary based on the fall height of the equipment and the type of material. Please refer to the response above for locating the appropriate Consumer Product Safety Commission publications and recommendations.

Question: Does the requirement for protective surfacing apply only to embedded equipment? May our playground surface be only grass if our equipment is not tall or embedded?

Response: The regulation refers to protective surfacing under outdoor equipment that requires embedded mounting.

Question: Is pea gravel only prohibited in use in areas where infants and toddlers receive care?

Response: Currently the regulation at §3270.102(e) indicates that pea gravel is prohibited for infant and toddlers. This regulation has not changed. However §3270.233 (a) indicates that “ a facility lawfully operating as of September 22, 2008 has until September 22, 2010 to comply with the protective surface requirement described in §3270.102(c), relating to the condition of play equipment.

Question: Does an indoor play space in a child care center need to have protective flooring also?

Response: Please refer to the regulation at §3270.102 (f) which states that indoor play equipment for climbing shall be installed or used over a protective surface covering which does not interfere with the stability of the equipment.

§3270.102(g), §3280.102(f) and §3290.102(f) - Children's toys and equipment

Question: How will the Department monitor compliance with the regulation regarding recalled products?

Response: For a child care center or a group child care home, at the time of initial and renewal inspections the operator will sign an affirmation statement that the facility is in compliance with the requirement prohibiting the use or presence of recalled toys and equipment.

For a family child care home, the operator will self-certify compliance with the regulation at time of registration application or renewal by signing the statement certifying compliance with all family child care home regulation.

For further information about this requirement, please access the Department's website at: www.dpw.state.pa.us/PartnersProviders/ChildCareEarlyEd/ Click on the link labeled [C-08 #07 Compliance with Regulations Relating to Recalled Toys and Equipment](#).

§3270.106(j), §3280.105(j) and §3290.105(j) - Rest Equipment

Question: Are crib “toys” attached to crib side permitted?

Response: The regulation states that toys may not be present inside the crib when the infant is sleeping in the crib. This includes toys attached to the inside of the crib slats.

Question: Are pacifiers prohibited?

Response: No, pacifiers are not toys.

Question: Are stuffed animals considered toys?

Response: Yes.

Question: Does the prohibition against having toys, pillows or bumper pads in the crib also prohibit the use of “boppie” pillows or wedge pillows in a crib?

Response: All types of pillows are prohibited from being used in a crib when an infant is sleeping in the crib.

Question: Is a parent waiver acceptable for sleep position and rest equipment?

Response: No, the regulation does not allow exception or waiver by the parent. A physician's statement is the only exception to the requirement relating to infant sleep position.

Question: Are mobiles, bar crib centers, musical toys included in toys for the crib?

Response: A mobile or musical toy is not prohibited if it is above the crib.

Question: Are children 13 months to 24 months allowed to sleep with a pillow?

Response: Yes. The prohibition against toys, pillows and bumper pads in cribs applies to infants, i.e. children from birth to 1 year of age.

Question: Is a blanket with attached stuffed animal considered a toy?

Response: Yes.

Question: Is a blanket, a tag blanket or a miracle blanket considered a toy?

Response: A tag blanket is a toy and the regulation prohibits toys in a crib when an infant is sleeping in the crib.

A blanket may be used in the crib. The regulation does not address or prohibit the use of blankets. A miracle blanket is a swaddling blanket and may be used in a crib.

For more information about additional steps child care providers can take to prevent SIDS, including recommendations regarding the use of blankets, please see the American Academy of Pediatrics' publication, "A Child Care Provider's guide to Safe Sleep", available online at:
<http://www.healthychildcare.org/pdf/SIDSchildcaresafesleep.pdf>

§3270.113(a), §3280.113(a) and §3290.113(a) - Supervision of children

Question: Should child care facility staff allow TSS workers to take children out of the staff's direct supervision?

Response: A child who has a TSS worker while at the facility is still receiving child care services at the facility. The child must be supervised at all times by facility staff. The TSS worker is there to provide the child with extra assistance within the context of participating in child care activities. When the child is receiving a service from a TSS worker, the facility staff, the parent and the TSS worker should have an understanding of the services to be provided by the TSS worker. If the TSS worker is to work alone with the child during the time the child is in care, this should be clearly stated as part of the child care facility agreement and understood by the facility staff, parent, TSS worker and also the child, as appropriate.

§3270.113(e), §3280.113(e) and §3290.113(e) - Supervision of children: restraints

Question: Do restraints include safety straps used at feeding times in high chairs and infant seats?

Response: Please refer to §3270.113(e), §3280.113(e) and §3290.113(e).The regulation states that a “ facility person may not restrain a child using bonds, ties or straps to restrict a child’s movement or by enclosing the child in a confined space , closet or locked room.” If the facility is using the safety straps in a high chair at feeding time or in an infant seat, the straps are being used for the child’s safety and appropriate use for safety purposes is not considered a violation of the regulation.

Question: If it is prohibited to restrain children, what methods are suggested when a child’s behavior is going to harm the child or others? For example can you put a child who bites in a playpen?

Response: Wherever possible, the staff should redirect the child in order to encourage more positive behavior. Suggestions on behavioral techniques are too numerous to include in this question and answer document. Staff experiencing problems with behavior management should contact their Regional Key for professional development opportunities. Additionally, you may contact your [Regional Key](#) and ask to speak with an Early Childhood Mental Health Consultant for assistance in helping a child with behavioral issues.

§3270.117, §3280.117 and §3290.116 - Release of children

Question: The mother brings to the child care facility a Protection from Abuse (PFA) Order which indicates that the child’s father is not to go near the child. The next day the mother comes back and asks that the facility ignore the PFA. What should the facility do?

Response: The center should follow the provisions of the PFA order.

Question: What should facility staff do when they are not sure whether to release a child to a person who says that he is the child’s father and the facility does not know him or the enrolling parent did not put the other parent on the enrollment form?

Response: If you are not sure that person is the child’s father, ask for identification. If you are not satisfied that the person is the child’s father, contact the enrolling parent to determine if the person is the father.

Question: How do the requirements regarding release of children apply to children in foster families?

Response: The foster parent is considered the parent as long as the foster parent can document that he or she is the foster parent as designated by the local County Children and Youth Agency. The facility may ask for documentation of the foster

care arrangement and can ask additional questions regarding who may pick up the child.

Question: Must a facility release a preschool age child to a sibling who is a minor i.e., 13-17 years of age? If the answer is yes, how young can that minor be?

Response: Please refer to §3270.117(a), §3280.117(a) or §3290.116(a). The regulation states that the child can be released to the child's parent or to an individual designated in writing by the enrolling parent. If the sibling is designated as a release person, the facility should release the child. The facility staff may discuss concerns with the parent.

§3270.119, §3280.119 and §3290.118 - Infant Sleep Position

Question: Is the child sleeping position (on back) required for infants of all ages?

Response: The regulations states that infants shall be placed in the sleeping position recommended by the American Academy of Pediatrics (on their backs), The age of an infant is a child from birth to 1 year of age as defined by regulation.

Question: May an infant who rolls onto his/her stomach be permitted to remain in that position or must a provider turn the child onto his/her back?

Response: Yes, a child may reposition himself/herself while sleeping and the provider is not required to change the child's position.

Question: What if the facility receives a medical note from a pediatrician recommending a child sleep on his side?

Response: According to the regulation, infants shall be placed in the sleeping position recommended by the American Academy of Pediatrics unless there is a medical reason an infant should not sleep in this position. The medical reason shall be documented in a statement signed by a physician, physician's assistant or CRNP and placed in the child's record at the facility. If the medical note is received in accordance with the regulation, the facility should follow the instructions in the medical note.

Question: What should the facility staff do if parents or guardians want children to sleep in car seats, swings, etc. so they are not flat?

Response: As per the regulation, if the child is an infant, then the parent shall provide written documentation from a physician, physician's assistant or CRNP stating that there

is a medical reason that the child should not be placed on his back. If the child is not an infant the regulation does not apply.

PROCEDURES FOR ADMISSION

§3270.123(a)(3), §3280.123(a)(3) and §3290.123(a)(3) and School Age Programs §3270.241(b)(9) and §3280.221(b)(9) - Agreement; Child Service Report

Question: Must the completion of the child service report correspond with contact updates, the date of the agreement or just every six months? Is this done as part of assessments/conferences?

Response: The regulation refers to the Child Service Report as part of the agreement. If you read the regulation in its entirety, it says:

“An agreement signed by the operator and the parent must specify ... The services to be provided to the family and the child, including the Department’s approved form (Note: Child Service Report or acceptable substitute) to provide information to the family about the child’s growth and development in the context of the services being provided. The operator shall complete and update the form and provide a copy to the family in accordance with the updates regarding emergency contact information in § 3270.124(f) (relating to emergency contact information).”

The Child Service Report must be updated every six months at minimum. The timing may be dependent on the child’s situation. The method for discussing the Child Service Report with the parent is not prescribed by regulation.

Question: Can we use our own screening and assessment forms, NAEYC forms or other forms such as Ages and Stages?

Response: The Department issued Announcement C -08 #6 which describes those documents which can be used in place of the Child Service Report. The announcement is available online at:

<http://www.dpw.state.pa.us/Resources/Documents/Pdf/Publications/Regulations/C-08-06ApprovedChildServiceRprtForm.pdf>

Question: What are the other approved forms that the provider can use in place of the Child Service Report?

Response: The approved forms are as follows:

1. The Child Service Report is the Department of Public Welfare form developed to meet the requirement.

2. Keystone STARS 3 or 4 programs using an assessment summary as part of the STARS requirement may use that assessment summary in place of the Child Service Report.
3. Summaries prepared in accordance with widely-accepted, published tools may be used in place of the Child Service Report. Examples include High Scope's Child Observation Record (COR) and Creative Curriculum's Developmental Continuum. If you have questions about whether the summary you want to use is acceptable under this of the Child Service Report you must contact your Certification Representative for a determination.
4. Work Sampling System and /or Ounce Summary Reports may be used in place of the Child Service Report.

Please refer to Announcement C -08 #6 which describes those documents which can be used in place of the Child Service Report. The announcement is available online at:

<http://www.dpw.state.pa.us/Resources/Documents/Pdf/Publications/Regulations/C-08-06ApprovedChildServiceRprtForm.pdf>

Question: Does the Child Service Report replace the annual developmental evaluation?

Response: The Department's regulations do not require an annual developmental evaluation for a child. If a provider is completing an annual developmental evaluation on each child, in addition to the Child Service Report, that is the provider's choice.

Question: Does a child service report have to be completed for a school-age child if the only time the child attends the program for more than 15 hours is during the summer when school is not in session?

Response: The exemption applies only when a school-age child attends the program for 15 hours or less per week. If a child is at the program for more than 15 hours per week, a Child Service Report must be completed.

Question: What if the facility has completed the assessment required by Keystone STARS at a different time than our agreement schedule so that it does not coincide with the emergency contact information updates?

Response: The provider may want to explore adjusting the agreement/emergency contact update schedule to coincide with the assessments. It is always acceptable to update information within a time period shorter than six months.

Question: Will the Child Service Report be available thru the form warehouse where we order Emergency Contact Forms and Agreements?

Response: Currently you can access the Child Service Report form via the DPW website: <http://www.dpw.state.pa.us/PartnersProviders/ChildCareEarlyEd/>:

Question: Does only the operator and/or director complete the Child Service Report?

Response: The operator, the director or that staff person that knows the child best can complete the form. The operator must assure that it is completed timely and correctly as required by regulation.

Question: What if a parent does not sign form or refuses the review?

Response: If the parent will not sign the Child Service Report, the provider should note this on the Child Service Report.

Question: What will the exact effective date of the requirement for completing a Child Service Report?

Response: The effective date of the requirement for the Child Service Report is September 22, 2008. That means that any six month emergency contact or agreement update that the parent completes, starting September 23, 2008, must include the Child Service Report or its acceptable alternative as described in regulation.

Question: How long should the Child Service Report remain in the child's record?

Response: The Child Service Report is part of the agreement. The requirements relating to the content of children's records states that a child's record must contain a copy of the initial agreement and subsequent written agreements between the parent and the operator (see §§3270.182(8), 3280.182(8) and 3290.182(8)). This means that each Child Service Report should be retained in the child's record during the entire time the child attends the facility.

Question: Can the child service report be done at the time of parent conferences two times per year or can it be done before the six month period is over?

Response: The Child Service Report may be completed according to time schedules of less than six months. By tying completion of the Child Service Report to the emergency contact information updates, important information is updated simultaneously during a planned exchange with the parent.

Question: If the child care provider is also the holder of the IEP, will IEP progress reports be acceptable as a Child Service Report?

Response: The provider must complete the Child Service Report or an acceptable alternative as described earlier in this section.

Question: Is a Child Service Reports required for children of all ages?

Response: The Child Service Report is required for children of all ages. The Child Service Report is not required for a school-age child when the school-age child attends the facility for 15 hours or less per week.

Question: If you don't have a Star 2 or higher, can you use the Work Sampling System report in place of the Child Service Report?

Response: Please refer to Announcement C-08# 6 for a description of acceptable forms other than the Child Service Report. The announcement is available online at:
<http://www.dpw.state.pa.us/Resources/Documents/Pdf/Publications/Regulations/C-08-06ApprovedChildServiceRprtForm.pdf>

Question: If the children are enrolled by September 1, 2008, when is the service report to be filed? Could it be done earlier? We have parent conferences in October and March?

Response: The Child Service Report or other acceptable document must be completed every six months at the same time of emergency contact information update for each child. It is acceptable to update the document more frequently than every six months.

Question: School-age children who attend the facility 15 hours or less per week are not required to have a Child Service Report on file. Is this true for all children, infants and toddlers and preschoolers as well?

Response; The only exception for completing a Child Service Report is when a school-age child attends the facility for 15 or fewer hours per week. This exception does not apply to infants, young toddlers, older toddlers or preschool children.

CHILD HEALTH

§3270.131(a) and (b), §3280.131(a) and (b) and §3290.131(a) and (b) - Health Information; Health Report

Question: Do Child Health Assessments still have to be yearly for children 12 months and older?

Response: The child health report must be completed every six months for an infant or young toddler, every twelve months for an older toddler and preschool child. A school-age child is required to have health examinations in order to attend school and the school health reports are acceptable as documentation of child health.

Question: Is it permissible for doctors only to add new health information on health assessment forms?

Response: Yes, the doctor must sign and date the health report form when he or she updates any new information and give it to the parent to provide to the facility.

Question: Parents often withdraw and re-enroll children. If an infant, for example, has an assessment done 2 months prior to his first attendance then withdraws and re-enrolls 1½ months later, would he need a new assessment upon re-enrollment or 6 months from the original assessment?

Response: The regulations at §3271.131(a)(1), §3280.131(a)(1) and §3290.131(a)(1) state that the initial health report for an infant must be dated no more than three months prior to the first day of attendance at the facility. Since the time period listed in the question exceeds three months when the child attends the second time, the child would need a new health report.

Question: Does the new child health report only record new shots?

Response: The health professional can update the form with any new data, initial it and give it to the parent to take to the child care facility. There may be other information that is new other than shots for the child.

§3270.131(e)(2), §3280.131(e)(2) and §3290.131(e)(2) - Exemption from Immunization

Question: When a parent says that he or she has a strong personal belief or religious belief against immunization, how do we know it's true?

Response: The provider is not required to discern whether that assertion is true. The provider should follow the regulation which indicates that exemption from immunization for religious belief or strong personal objection equated to a religious belief shall be documented by a written, signed and dated statement from the child's parent or guardian. The statement shall be kept in the child's record.

Question: What if the only reason that a parent does not want his child to have the MMR immunization is because the parent is afraid that the shot can cause autism?

Response: The exemption from immunization is for a religious belief or a strong personal objection equated to a religious belief. The fact that the parent is fearful the shot can cause autism is neither. The parent should then pursue an exemption based on medical need from the child's physician, physician's assistant or CRNP. The statement then goes in the child's record.

Question: Are children who are not immunized allowed to be enrolled in the program?
Please clarify any exemption.

Response: The child care facility regulations reference the requirements in the Department of Health regulation at 28 Pa. Code §27.77, relating to immunization requirements for children in child care group settings. The Department of Health regulation states that a child who does not have the required immunizations must have on file at the facility a statement of religious exemption or medical exemption. If the child does not have the immunization due a **temporary** medical condition, the parent must provide a statement regarding the temporary medical condition signed by the child's health professional, the Department of Health or local health department. Within 30 days, the child must either receive the immunization or the parent must produce another statement of temporary medical exemption. If the child is not immunized and the temporary medical exemption statement is not provided, the child must be excluded from care until the parent provides either proof of immunization or the statement of a temporary medical condition.

Question: Is there an acceptable form for the exemption from immunization? A parent's written information not to immunize their child is acceptable? Does it have to be notarized?

Response: The Department has no exemption form. The regulation requires the following:

- Exemption from immunization for religious belief or strong personal objection equated to a religious belief must be documented by a written, signed and dated statement from the child's parent or guardian. The statement shall be kept in the child's record.
- Exemption from immunization for reasons of medical need shall be documented by a written, signed and dated statement from the child's physician, physician's assistant or CRNP. The statement shall be kept in the child's record.

There is not requirement for either statement to be notarized.

Question: How long does the parent have to get the child immunized before we exclude them?

Response: The child care facility regulations reference the requirements in the Department of Health regulation at 28 Pa. Code §27.77, relating to immunization requirements for children in child care group settings. The Department of Health regulation states that a child who does not have the required immunizations must have on file at the facility a statement of religious exemption or medical exemption. If the child does not have the immunization due a **temporary** medical condition, the parent must provide a statement regarding the temporary medical condition signed by the child's health professional, the Department of Health or local health

department. Within 30 days, the child must either receive the immunization or the parent must produce another statement of temporary medical exemption. If the child is not immunized and the temporary medical exemption statement is not provided, the child must be excluded from care until the parent provides either proof of immunization or the statement of a temporary medical condition.

§3270.131(e)(3), §3280.131(e)(3) and §3290.131(e)(3) - Dismissal Policies for Immunization

Question: Can a facility still go above and beyond the health and safety regulations by not accepting children even with parental statements if they are not immunized due to liability and safety?

Response: The facility operator should consult with his or her legal counsel before making a blanket exclusion to ensure that such exclusion does not violate any Federal or State law relating to serving persons with disabilities or civil rights

Question: According to Head Start requirements, providers cannot exclude a child based on failure to have immunizations. How do we work with both Head Start and DPW regulations?

Response: Children who are enrolled in child care facilities must have the immunizations required by the department of Public Welfare regulation. This includes a Head Start child, who also receives child care services in the same facility as the child receives Head Start Services,.

Question: Do we need to exclude children who are under immunized?

Response: The regulation at §3270.131(e)(1), §3280.131.(e)(1) and §3290.131.(e)(1) indicates that the facility shall require the parent to provide updated written verification from a physician, physician's assistant, CRNP, the Department of health or a local health department of ongoing vaccines administered to an infant, toddler, preschool child in accordance with the schedule recommended by the ACIP.

The child care facility regulations reference the requirements in the Department of Health regulation at 28 Pa. Code §27.77, relating to immunization requirements for children in child care group settings. The Department of Health regulation states that a child who does not have the required immunizations must have on file at the facility a statement of religious exemption or medical exemption. If the child does not have the immunization due a **temporary** medical condition, the parent must provide a statement regarding the temporary medical condition signed by the child's health professional, the Department of Health or local health department. Within 30 days, the child must either receive the immunization or the parent must produce another statement of temporary medical exemption. If the child is not immunized and the temporary medical exemption statement is not

provided, the child must be excluded from care until the parent provides either proof of immunization or the statement of a temporary medical condition.

Question: If a child has started immunizations late and therefore not up to date, must they be excluded even if they are now starting to comply?

Response: No, the child does not have to be excluded. Children may be receiving immunizations on a catch-up basis for many reasons. The ACIP publishes a catch-up immunization schedule for children whose immunizations were delayed. The schedule is available on the internet at:

<http://www.cdc.gov/vaccines/recs/schedules/child-schedule.htm#printable>

The parent should produce information from the health professional regarding the fact that the child is on a catch-up schedule.

Question: What if a child doesn't have all immunizations due to neglect from parents, but child is now with another family member?

Response: The family member must present a child's health report no later than 60 days following the first day of attendance at a child care facility (see §3270.131(a), §3280.131(a) or §3290.131(a)). The child may be receiving immunizations on a catch-up basis. The ACIP publishes a catch-up immunization schedule for children whose immunizations were delayed. The schedule is available on the internet at:

<http://www.cdc.gov/vaccines/recs/schedules/child-schedule.htm#printable>

Question: How do you exclude a child that his/her immunization is not current due to religious belief or strong personal objection?

Response: If you wish to exclude a child from care based on a statement of exemption, please consult legal counsel regarding to ensure that such exclusion does not violate any Federal or State law relating to serving persons with disabilities or civil rights

Question: If a doctor states there is not enough of a vaccine so they didn't give the recommended dose, will a facility be cited for noncompliance?

Response: The parent must present a signed child health report from a physician, a physician's assistant or CRNP. The health report must be signed and the doctor must document the reason why the recommended dose was not given. The provider should ask for documentation of the medical reason the child did not receive the immunization as required at Department of Health regulation at 28 Pa. Code §27.77, relating to immunization requirements for children in child care group settings.

§3270.131(e)(4), §3280.131(e)(4) and §3290.131(e)(4) - Annual Immunizations Report

Question: How does a facility file the Department of Health annual immunization report?

Response The Department of Health (DOH) will send a form to the provider along with information regarding completing and returning the report. An address is included regarding where to send the immunization report.

Question: Is the immunization report to be completed at time of annual certification visit?

Response: On an annual basis, the Department of Health mails to child care providers information regarding completion of the immunization report. To date, this mailing has been sent only to child care centers and group child care homes. Typically the mailing occurs early in the calendar year. The reports are not distributed according to certification dates.

When the provider receives the mailing from the Department of Health, the provider needs to complete the annual immunization report as per instructions included with the form. If the provider does not complete the report form and return it, the Department of Health notifies the Department of Welfare. The certification representative can cite the provider for noncompliance at the time the certification representative is advised that the provider did not file the report.

Question: Does a provider send a copy of the annual immunization report to the Regional Office or keep a copy of the report on file?

Response : The provider sends the annual immunization report to the Department of Health. If a completed immunization report form is not received, the Department of Health will notify the Department of Public Welfare.

Question: The Department of Health loses immunization reports. Is someone going to regulate the reports more closely with the Department of Health? Can the reports be submitted to the Department of Public Welfare also to decrease confusion?

Response: The Department of Public Welfare does not monitor the Department of Health reporting system. A provider may choose to keep a copy of the report that is sent to the Department of Health.

§3270.133, §3280.133 and §3290.133 - Child medication and Special Diets

Question: Our child care facility does not administer medication. Are we still required to administer medication to a child with special needs?

Response: The operator must make reasonable accommodation in accordance with applicable Federal and State laws to facilitate the administration of medication or a special diet that is prescribed by a physical, physician's assistant or a CRNP as treatment related to the child's special needs (see §§3270.133, 3280.133 or 3290.133). Please note this is only applicable to medication required due to the child's special need. Please consult with your legal counsel if you have questions regarding compliance with the requirement for reasonable accommodations in a specific situation.

Question: Please specify what type of special needs are you talking about to administer medication?

Response: The child with special needs is defined in §3270.4, §3280.4 and §3290.4

Question: Do you need training for medication administration?

Response: The regulation does not require training to administer medication. Professional development opportunities are available for those who would like training regarding medication administration. Please contact your Regional Key for more information.

Question: If a request is made to feed a child using a feeding tube or administer a catheter; is this required as reasonable accommodation?

Response: The provider must determine if facility can make reasonable accommodation to provide the feeding tube or administer a catheter. The provider should consult with his or her legal counsel.

Question: Is ADD, ADHD, and ODD considered a special need when administering medication is required?

Response: Please refer to §3270.4, §3280.4 or §3290.4 for the definition of a child with special needs. The operator is required to make reasonable accommodation in accordance with applicable Federal and State laws to facilitate administration of medication or a special diet that is prescribed by a physician, physician's assistant or CRNP as treatment related to the child's special needs.

Question: The medication does not come with an up-to-date prescription or is not the correct dosage, can it then be refused?

Response: The provider should contact the parent immediately, give the medication back to the parent and ask him or her to get the correct prescribed medication.

Question: Are we required to administer shots to a diabetic child? If so what is the best practice? What training do staff members need?

Response: Please refer to regulation §3270.133, §3280.133 or §3290.133. The regulation states that the operator shall make reasonable accommodation in accordance with applicable Federal and State laws to facilitate administration of medication or a special diet that is prescribed by a physician, physician's assistant or CRNP as treatment related to the child's special needs. The definition of a child with special needs is found at §3270.4, §3280.4 or §3290.4. If you have questions regarding reasonable accommodation, please consult your legal counsel.

§3270.135(e), §3280.135(e) and §3290.135(e) - Diapering Requirements

Question: For soiled diapers can you use a small bag to put the soiled diapers in if you want to? Then we place it in a lined trash can? What is the appropriate procedure?

Response: Please refer to the regulation at §3270.135(e), §3280.135(e) and §3290.135(e) for the proper disposal of diapers. The regulation states a soiled diaper shall be discarded by immediately placing the diaper into a plastic-lined, hands-free covered can. The regulation does not provide for individual bags as the regulation did prior to September 22, 2008. The new regulation eliminates double bagging diapers. This is consistent with the national health and safety standards in Caring for Our Children.

Question: Does the checking diapers requirement have to be written on child care daily reports?

Response: The provider should indicate the diapering checking requirement in staff procedures and should be able to show the certification representative how the procedure is communicated to staff. The use of a child daily report for checking diapers is the provider's choice.

Question: Must diapers be checked while a child sleeps?

Response: Please refer to the regulation at §3270.135(e), §3280.135(e) and §3290.135(e). Staff should not wake a sleeping child for the purpose of checking a soiled diaper. The staff shall check the diaper immediately after the child awakes. If the diaper is soiled, the diaper should be changed.

Question: NAEYC accreditation requires diapers be placed in tied bags. Will a facility be cited if individual bags are used for disposable diapers?

Response: We reviewed the NAEYC health standards at 5A.08. The NAEYC accreditation standards do not require double bagging of disposable diapers. The regulation does not contradict the accreditations standards. The facility should comply with the regulation.

Question: Can diaper pails be used for disposing of diapers? Diaper genies?

Response: The container for disposing diapers must be plastic-lined, hands-free lidded can.

Question: Please explain further how not putting diapers in individual bags will reduce risk of contamination?

Response: Previously a soiled diaper had to be put into an individual tied bag and then placed into a lined outdoor trash can. The new regulation eliminates the requirement of double bagging of a diaper and permits a soiled diaper to be placed in a plastic-lined, hands-free covered can. The diaper does not have to be handled multiple times by placing it in an individual bag as previously required. This change is the result of direct input from ECELS and reflects national health and safety standards in Caring for Our Children, Standard 3.014, Diaper Change procedure.

ADULT HEALTH

§3270.151, §3280.151 and §3290.151 - Adult Health Assessment

Question: Do staff only need TB testing once at the time of initial hiring if they are not considered a high risk?

Response: Yes. There is no further TB testing needed for staff health assessment updates unless required by a physician, physician's assistant, CRNP, the Department of Health or a local health department..

Question: Can you please explain who is required to have an adult health assessment?

Response: Any facility person who comes in direct contact with children must have health assessment completed by a physician within 12 months prior to the start of employment. An updated health assessment must be completed every 24 months afterward.

Question: If the TB results were obtained more than 12 months prior to employment at a new facility are the results acceptable?

Response: No.

Question: How current does a TB test have to be for a person who comes to apply for a job?

Response: The TB test results must have been obtained within the previous 12 month period.

§3270.175, §3280.175 and §3290.173 - Safety Restraints

Question: What should a provider do if the parent arrives to pick up a child and does not have the appropriate type of child safety seat in the vehicle?

Response: The regulation at §3270.175 indicates that children 4 years of age or younger shall be transported in accordance with the requirements parents and guardians as stated in 75Pa.C.S. 4581. This regulation sets the requirements for the child care provider. The regulation does not mean that the provider must enforce the requirement with the parent. If the provider feels strongly that the child may be harmed because the parent does not have the appropriate restraint, then the provider should notify the police.

Question: The local state police told me as a provider I cannot refuse to release a child to the parent if the parent does not have a proper restraint. What shall I do?

Response: The provider should follow the directive of the local police. The provider is not required by §3270.175 to assure that the parent uses the appropriate restraint. Please see the above question and response.

Question: Isn't the age for using safety seats in a vehicle 8 years of age, not 7 years?

Response: Pennsylvania law requires safety seats for children up to age 8. The regulation for child care programs states that "a child 7 years of age or younger shall be transported in accordance with the requirements for parents and guardians as set forth in 75 Pa.C.S. §4581 (relating to restraint systems)." This reflects Pennsylvania law.

Question: Are restraints just referring to seat belts?

Response: No. A child restraint system can be a booster seat, a car bed or a built-in child restraint system. The definition of a child restraint system is found at the Federal Transportation regulation at 49 CFR 571.213. Pennsylvania's Department of

Transportation regulation , 75 Pa.C.S. 4581, is based on the Federal Transportation Regulation.

§3270.176, §3280.176 and §3290.174 -Vehicles

Question: Will existing 11-15 passengers vans be grandfathered?

Response: No vans are grandfathered. The Motor Vehicle has prohibited the use of 11-15 passenger vans for transporting school children, including children in child care facilities, since March of 1003.

Question: What is the definition of an appropriate vehicle for center use since an 11- 15 passenger van is prohibited?

Response: The regulation at §3270.175, §3280.175 and §3290.174 indicates that children who are transported must be in compliance with the Department of Transportation regulation at 75 Pa.C.S. 4581. The facility should check with the Department of Transportation regarding the appropriate vehicle.

Question: We rent a school bus with no seat belts for preschool field trips, is this permitted?

Response Please refer to §3270.175(d) or §3280.175(d). The regulation states that a school bus with a seating capacity of 16 or more children used in transporting preschool or school-age children is exempt from the requirements established under subsections (a)-(c).

Question: Are school buses allowed to transport children 7 years of age or younger?

Response: Please refer to §3270.175(d) or §3280.175(d). Children starting at preschool age can be transported with a school bus. There are exemptions depending on the size of the school bus.

Question: Our center is located on a college campus. We have to change our emergency plan to address if we had to get the children off campus due to an emergency situation we would use passenger vans owned by the college. If we do this, does this meet the requirement at §3270.176?

Response: If your facility's emergency plan is revised to exclude 11-15 passenger vans, you will meet the regulation at §3270.176.

ADULT RECORDS

§§3270.191 - 193, 3280.192 - 193 and 3290.192- 193 – Adult Records

Question: Are electronic records permissible?

Response: The Office of Child Development will accept submission of electronic staff records subject to the following constraints:

- There can be no delays in affording the Department’s agent access to staff records;
- The Department’s agent must be assured of the authenticity of staff record information; and
- The records must be kept confidential and stored in compliance with regulation.

Question: How long must the facility keep staff records?

Response: The Department of Public Welfare regulation does not address the retention of staff records when a staff person leaves employment.

NIGHT CARE DELETED

NOTE: The regulatory requirements relating to night care were deleted

§3270.201-210 and §3280.201-209(deleted) - Night Care

Question: Are centers required to have bathing facilities in order to be in operation for 24 hours?

Response: The Department does not have a requirement for a center to have bathing facilities regardless of the operating hours.

Question: How will overnight care be monitored/enforced?

Response: The provider must meet all of the regulations in either §3270, §3280 or §3290. The provider must have the copies of the regulations posted in a conspicuous place for parents to review. If the Department receives a complaint that the provider may be violating the regulation, the Department will investigate the complaint.

SPECIAL EXCEPTIONS

§3270.233 (a), §3280.215(a) and §3290.212(a) - Play Surfaces

Question: Will there be any grants available to help providers get the appropriate protective surface material?

Response: At this time, there are no grants available for this requirement.

Question: Will providers be grandfathered in when it comes to outdoor surface coverings?

Response: A facility lawfully operating as of September 22, 2008, has until September 22, 2010, to comply with the protective surface requirement

Question: If my facility is now in the process of getting new protective surface covering do we have two years to meet the requirement?

Response: No, if you are changing the protective surface covering now, you must meet the requirement at §3270.102 (c) at this time.

SECTION II

QUESTIONS SPECIFIC TO CHAPTER 3290, FAMILY CHILD CARE HOMES

GENERAL REQUIREMENTS

§3290.11(m) – Child abuse and criminal history clearances

Question: If the operator and household members already have Pennsylvania State Police criminal clearances and child abuse clearances, must they now obtain FBI clearances?

Response: The requirements of the Child Protective Services Law were amended effective July 1, 2008 to include FBI clearances and have the following impacts for family child care homes:

- The following are not required to submit FBI clearances:
 - A facility operator who had a certificate of registration prior to July 1, 2008 is not required to submit an FBI clearance.
 - Employees who were hired prior to July 1, 2008 are not required to submit FBI clearances.
 - Household members who submitted clearances prior to July 1, 2008 are not required to submit FBI clearances.
- The following persons are required to submit FBI clearances:
 - A person seeking to operate a family child care home for the first time after July 1, 2008, must submit an FBI clearance.
 - An individual hired to work in the facility after July 1, 2008, must submit an FBI clearance
 - A household member submitting clearances for the first time after July 1, 2008 is required to submit an FBI clearance.

Question: What are the exact clearances required for individuals living in the family child care home?

Response: When submitting an application for the first time to open a new family child care home, the applicant must submit three types of clearances for the applicant and for each person 18 years of age and older who resides in the home at least 30 days per year:

- Pennsylvania child abuse history clearance;
- Pennsylvania State Police criminal history clearance; and
- FBI fingerprint based federal criminal history clearance

If the family child care home is currently registered and the registration certificate was issued prior to May 28, 2007, when the operator renews the registration

certificate, the operator must submit all three types of clearances for each individual 18 years of age or older who resides in the facility at least 30 days in a calendar year.

Thereafter, when the operator files an application to renew the registration certification, the operator must submit all three clearances for:

- Each household member who attained 18 years of age following the date of the previous application for a registration certificate; and
- Each individual age 18 years of age or older who moved into the facility following the date of the previous application for a registration certificate.

Question: Who pays for clearances for family child care home providers?

Response: The family child care provider or the individual applying for the clearance pays for the clearances.

§3290.21 - Departmental access

Question: For a family child care home, will the entire home be inspected or only the area used for child care?

Response: The Department must be provided access to any area of the home that children in care may access or use. If children have access to the entire home then the Department must have access to the entire home.

Question: In my family child care home, my kitchen area is not accessible to children. Does a certification representative still need to go into my kitchen to check my refrigerator for a thermometer and temperature?

Response: Yes, the certification representative must have access to the refrigerator in order to measure compliance with the regulation at §3290.106, relating to refrigerator.

FACILITY PERSONS

§§3290.31 and 3290.213 - Age and training

Question: Are current family child care home providers grandfathered and therefore exempted from the requirement to have a high school diploma or GED?

Response: Yes. Family child care home operators who had a registration certificate as of September 22, 2008 are grandfathered and are not required to submit a high school diploma or GED certificate.

Question: What if the operator of the family child care home initially registered after September 22, 2008, does not provide proof of a high school diploma or GED at the time of renewal? Can the operator designate another caregiver with a high school diploma to care for the children as long as the operator does not care for the children?

Response: An operator of a family child care home who received an initial registration certificate after September 22, 2008, must supply proof of a high school diploma or GED certificate at the time of registration renewal or the Department cannot renew the registration certificate. The high school diploma or GED for another caregiver is not acceptable.

CHILD HEALTH

§3290.131(e)(4) - Annual Immunizations Report

Question: When will family child care homes be required to participate in the annual immunization reporting to the Department of Health?

Response: The Department of Health will determine when family child care homes will be included in the annual reporting requirement. At that time, the Department of Health will send to each family child care home provider a form to complete which will include instructions on how the provider must complete the report and return it to the Department of Health.