Rhode Island Department of Human Services

Regulation: Family Child Care Home Regulations for Licensure
Full RICR Citation: 218-RICR-70-00-2
Posted for Public Comment on: April 15, 2024
Public hearing held on: April 30, 2024
Public Comment Period Ended on: May 15, 2024
Summary Response to Comments:

	Nature of the Comments
	Summary of comment received
1.	The two regulations define a "Comprehensive Background Check," which includes state and federal criminal record checks, as being "required of the provider, al/household members and assistants/substitutes who work or live" within a licensed program (emphasis added). The new definition of "household member" specifies that it includes "minor... children" and "foster or adopted children." Taken together, these new definitions, whether intentional or not, call for criminal record checks of minor children. If intended, it strikes us as problematic for obvious reasons: a child who is residing in one of these homes should not be subject to the indignity of a fingerprint check that can then be collected and stored by police. Additionally, this language exceeds state law which explicitly provides that "adult household member[s]" (emphasis added) must undergo such background checks. R.I.G.L. § 40- 13.2-S(a). The language also conflicts with a provision currently in the regulations - consistent with that statute - which appropriately limits background checks to adult members. See, Section 2.2.l(B)(l) [218-RICR-70-00-2] and Section 7.2.l(B)(l) [218-RICR-70-00-7]. We therefore urge that, to avoid any confusion in implementation, these new definitions be clarified to mirror the current limitation on background checks to adult household members. If the suggestion we have made is not adopted, we request, pursuant to R.I.G.L. §42-35- 2.6, a statement of the reasons for not accepting these arguments.
2.	I have had 2 emergency assistants over the 36 years and other than a handful of "appointments" I have not ever utilized the emergency assistant. I understand that this regulation for emergency assistants in place for good reason, however for me I don't use them. If an emergency would occur my plan is to call all the parents and either they or their emergency person would be called to come pick up the children and I would shut down. I have a lot of conversations with each family upon our initial intake about the need of a back up should an emergency occur. Also my program is for children ages 3 and up. I operate Tuesday- Friday, 8-3:30. I follow the Newport School calendar, and I am off on all school holidays, vacations, and summer. So I do not attract families that work Mon-Friday, 7-5pm. All of my families have to be flexible and are prepared for "an interruption in child care" should it happen. Also these preschoolers have had a previous established plan of care prior to enrolling with me. They use these caregivers as well as family members for backup. It is also important to note that in 36 years of care I have NEVER woken up and not been able to work. I have had to take planned days off but it has never been a problem. With this all being said it is clear that I do not utilize emergency assistants, I never have. And now you are expecting my 2 "assistants" (I will be required to have 2 due to a license for 8 children) to do 6 hours of training! I know both my present emergency assistants would not do that and I would never expect them to. It is unnecessary for my program. Should this new regulation go through I can see this being a serious issue with my program. Like I said it may even cause me to go into retirement. I would propose an amendment or additional paperwork requiring a document signed by parents stating should an emergency occur the parents or emergency persons documented in their paperwork would be required to pick up the children immediately. I would be more than happy to draft a form for DHS that could be used for providers to use in situations.
3.	My main concern in these proposed rules and regulations is the elimination of Emergency Assistants and the addition of Substitutes. Our current Emergency Assistants need to get finger printed every 5 years, get a physical examination and CPR/First Aid Training every 2 years, obtain a flu vaccine every year and they must have received their other vaccines. In addition, the Substitutes will be required to have an annual physical examination and must complete 6 hours of Professional Development every year. In the past 28 1/2 years, I have only used my Emergency Assistants for required doctor's appointments (which I have always scheduled at the very end of the day). I currently work Monday - Thursday and schedule my appointments on Fridays. I have 2 appointments that cannot be scheduled on Fridays for a total of 1 1/2 hours, for which I need to ask my emergency person to cover for me. For

	these 1 1/2 hours per year, my Substitute would now be required to complete 6 hours of Professional Development Training (or per license renewal, for 3 hours of needed coverage, they would be required to complete 12 hours of Professional Development Training). This is really a lot to ask of these people and I am considering my career options because of this. Would it be possible to get a variance and continue with my 2 Emergency Assistants as the rules currently stand? If not, what options do I have? Can you please let me know?
4.	We support the following changes: -The change in terminology from "emergency assistant" to "substitute." -The inclusion of a definitions for "household member," "enrichment visitor" and "social visitor." -Definitions of licensing status and actions including "plan of corrective action," "probationary license," "provisional license," and "summary suspension." -Removal of the requirement to have documents notarized. -Clarify requirement to have at least one unannounced monitoring visit per year. -Addition of new requirement to have bathroom on same floor as child care space, and for programs that do not meet this requirement a plan for ensuring sight and sound supervision when children are accessing the bathroom. -Clarification that square footage is measured by the licensor and will be used to determine capacity allowed for expansions. -Requirement to have an outdoor activity plan for those providers who do not have safe, adequate outdoor play space on site. -Inclusion of reference to Child and Adult Care Food Program nutrition guidelines. -Clarification of first aid supplies required. -Clarification of requirements to report injuries to parents. -Clarification that infant equipment that holds children in place is used for only 15 minutes. -Addition of language clarifying feeding plans, encouraging/supporting breastfeeding and feeding breast milk, and requiring that infants be held while bottle feeding. -Addition of specific health and safety topics required for professional development. - Change to prohibit TV and screen time for children under age 2 (vs.18 months) and to limit it to 30 minutes per week (vs. per day). - Requirement that Group Family Child Care providers have at least a CDA.
5.	Suggest adding the word "written" before plan regarding requirement for providers who do not have a bathroom on same floor as child care space to have a plan for ensuring sight and sound supervision when children are accessing the bathroom.
6.	Regarding requirements for reporting injuries to parents. Suggest also referencing the need to report serious injuries that require medical attention to DHS and/or DCYF which is in another section of the regulations (Is DCYF taking reports of injuries in child care that require medical attention?). Suggest clarifying what is meant by "medical attention."
7.	Suggest adding a college credit in ECE equivalent option for those who pursue that pathway for GFCC providers.
8.	We have significant concerns about the removal of a requirement to have early childhood credentials/coursework for Family Child Care Group home providers who are becoming licensed after two years as a regular family child care provider. In Rhode Island, group family child care providers have always been led by individuals with formal early childhood training and credentials. We recommend requiring any new group family child care provider without any early childhood coursework or a credential receive a provisional license and be required to complete a CDA or equivalent college coursework in ECE within three years (so then they would have had at least 5 years to get this credential – 2 as a regular family child care provider and another 3 as a group family child care provider).
9.	Chart clarifying maximum capacity and staffing requirements. This is very helpful, but confusing in some places. Recommend clarifying the provider alone option with four children under age 3 – specify again that no more than two are under 18 months. If a provider does not have any assistant (alone) why are there options to be licensed for eight children? If a provider is licensed for twelve, why are there options to staff the program alone? There should be clear rules for licensed capacity and rules for daily staffing that are not confusing for providers, licensors, and parents. A provider licensed for twelve needs to have at least one regular assistant (capacity) – but on a random day the assistant is absent and then they can only have six children in attendance if they are alone (daily staffing requirement).
10.	Regulations have allowed family child care providers to be out of the home for 20% of the total work week. This has caused confusion in the past with some providers taking on other regular paid employment or regular out-of-the-home responsibilities for these 20% or 15 hours per week. We recommend the following be added to the regulations: 1) Specify that staffing ratios must be met with approved substitutes and/or assistants whenever the provider is out of the home. 2) Specify that the parents of all children enrolled are informed about the absence ideally in writing and at least 24 hours in advance, the reason for the absence, and the staffing plan during the absence. 3) Specify the reasons why a provider can be absent could include health care appointments, professional development, attending school meetings or events for older children, etc. 4) Regular daily and weekly record keeping of staff presence and absence and hours with children, including the licensed provider, to be reviewed by licensing periodically.
11.	Requirement that substitutes must apply through "an outside vendor." Is there a list of these "outside vendors" that is available to family child care providers statewide and if so, can you include the link in these regulations? Is this common in other states to require use of an "outside vendor" to hire substitutes for family child care but not for centers? Do the outside vendors supervise and pay the substitute? It says substitutes may be used for temporary coverage for an approved assistant, but can they also be used to cover absences of the licensed provider?
12.	Can DHS collect data during the licensing/renewal process about whether regular assistants and substitutes are employed by the license-holder and if they are being paid a regular wage?
13.	Can DHS collect data during the licensing/renewal process about whether regular assistants and substitutes are also household members (or family members and thus would be exempt from wage and labor laws)?