

**Department of Social Services  
Rules Review Committee  
Summary of Child Care Rule Updates (06/13/23)**

**Priorities and Feedback Process**

The package represents a comprehensive rewrite of the rules for child care providers. Regulated providers in South Dakota fall within four categories:

- Child Care Centers
- Before and After School Programs
- Group Family Day (limited to no more than 20)
- Registered Family Day (limited to no more than 12)

Child Care Centers, Before and After School Programs, and Group Family Day serving 13 or more *must* be licensed. Providers serving up to 12 children in a family day setting *can* be registered.

Key priorities of this effort include:

- clarity and readability (full repeal of four chapters and rewrite to create one new chapter)
- reduce barriers to becoming regulated; increase the number of regulated providers
- reduce administrative hurdles that do not directly enhance the safety of children
- provide flexibility, permitting providers to adjust to local needs and characteristics of children served
- align rules with federal requirements.

Substantive Feedback Gathered:

- The rules development process included several iterations. Feedback gathered on each, with revisions to each, before arriving at their current form. Input from over 350 providers.
- Fall/Spring 2021 held targeted discussions with providers that choose to be unregulated: “Why?” “Were you aware of the benefits of licensing?”
  - Feedback urged removal of “hoops” that do not enhance safety, that add unnecessary administrative effort, and/or cost money.
  - Unregulated providers also urged DSS to add flexibility so they could serve more infants in family day setting.
- Spring/Summer 2022 through Winter 2023:
  - 16 listening sessions.
  - Surveys were conducted with parents, child care providers, and other stakeholders. Reactions to proposed revisions to standards gathered.
    - 297 participants participated in the listening sessions
    - 441 participants responded to the survey
  - Proposed standards and any revisions have been maintained on the DSS website.

## Areas of Refinement (from existing rules)

The package repeals chapters 67:42:03, 67:42:10, 67:42:14, and 67:42:16, and replaces those with a new chapter, ARSD 67:42:17. Changes are limited to several key areas including:

- Consolidating similar topics for clarity and ease of reference and removing duplicate requirements.
- Removing requirements for posting inspections and for providers to submit references for employees.
- Added flexibility. As examples:
  - removed requirement for family day care provider to undergo a physical examination
  - removed limitation on number of hours for substitutes
  - expands the duties of 14-year-old staff members when working in a b/a school program
  - removed annual training requirements for bus drivers (staff who do not provide direct care for children)
- Training
  - Pre-service and ongoing professional development reduced to 10-hours
    - requires specific training topics for family day care providers
    - adds flexibility so providers can focus on quality vs quantity of training
    - continues requirements for CPR and first aid (additional approx. 3-4 hours per year)
- Age Groups/Ratio adjustments are limited to four areas:
  - 15:1 ratio applies for five-year-old children (school aged) for a licensed program
  - Family Day Care (statutorily limited to 12 total)
    - increases the number of infants by one (2 to 3)
    - does not change the number of children under the age of two
  - Group family day programs (serving twenty or less)
    - can have a ratio of 10:1 in a mixed age group
    - can serve no more than 2 children under age 1
  - Group/Center programs
    - flexibility extended to providers to align group size with the capacity of a room.

## Results of May 12, 2023 Public Hearing of Proposed Rule

After the extensive listening sessions identified above, the public hearing on the proposed rules was held and elicited 46 formal comments. Based on these comments, five key areas in the rules were further revised before submission to LRC for consideration by this committee:

- Water safety regulations related to fencing applied to indoor pools (i.e., YMCA's).
  - Revised to better reflect the intent (applies to outdoor pools at a family day or other setting).
- Training requirements.
  - Revised language to emphasize that CPR and first aid training were still required *in addition to* 10 hours of training required for center-based staff.
- Clarified language around supervision of sleeping children.
  - Reverted to current standard.
- Clarified language regarding mixed age groups for Group Family Day centers serving up to 20.
  - Revised to make more clear intent no more than two children under age 1 in a 10:1 ratio.
- Added Flexibility to Group Size for centers.
  - Ability to exceed room capacity by 3 if staff to child ratios are met.