



Georgia Department of Early Care and Learning

# Rules and Regulations

## Family Child Care Learning Homes

Chapter 290-2-3  
Effective October 1, 2018



**RULES OF  
BRIGHT FROM THE START:  
GEORGIA DEPARTMENT OF EARLY CARE AND LEARNING**

**CHAPTER 290-2-3  
FAMILY CHILD CARE LEARNING HOMES**

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**290-2-3-.01 Legal Authority**

These rules are adopted and published pursuant to the Official Code of Georgia Annotated (O.C.G.A.) § 20-1A-1 *et seq.*

**Cite as Ga. Comp. R. & Regs. R. 290-2-3-.01**

**Authority:** O.C.G.A. § 20-1A-1 *et seq.*

**History.** Original Rule entitled "Organization and Administration" was filed on January 30, 1974; effective February 19, 1974.

**Amended:** Rule repealed. Filed October 1, 1974; effective October 21, 1974.

**Amended:** Rule entitled "Definitions" adopted. Filed February 21, 1983; effective March 23, 1983, as specified by the Agency.

**Repealed:** New Rule entitled "Legal Authority" adopted. F. Feb. 4, 1994; eff. Mar. 1, 1994, as specified by the Agency.

**Amended:** F. Aug. 16, 2013; eff. Sept 5, 2013.

**290-2-3-.02 Title and Purpose**

These rules shall be known as the Rules and Regulations for Family Child Care Learning Homes.

The purpose of these rules is to provide for the licensure of Family Child Care Learning Homes within Georgia.

**Cite as Ga. Comp. R. & Regs. R. 290-2-3-.02**

**Authority:** O.C.G.A. § 20-1A-1 et seq.

**History.** Original Rule entitled "Administrator Director" was filed on January 30, 1974; effective February 19, 1974.

**Amended:** Rule repealed. Filed October 1, 1974; effective October 21, 1974.

**Amended:** Rule entitled "Applicability of Regulations" adopted. Filed February 21, 1983; effective March 23, 1983, as specified by the Agency.

**Repealed:** New Rule entitled "Title and Purpose" adopted. F. Feb. 4, 1994; eff. Mar. 1, 1994, as specified by the Agency.

**Amended:** F. Dec. 4, 2015; eff. Dec. 24, 2015.

**290-2-3-.03 Definitions**

In these rules, unless the context otherwise requires, the capitalized words and phrases set forth herein shall mean the following:

- (a) "Adult" means any competent individual eighteen (18) years of age or older.
- (b) "Adverse Action" means any Intermediate or Closure Action issued as a result of one or more rule violations.
- (c) "Child" or "Children" means any person(s) under 18 years of age for whom child care service(s) is (are) provided in a Home. For purposes of these rules, the terms shall not include Children that are related to the License Holder or applicant as defined in these rules or Children whose Parent(s) reside in the same residence as the License Holder or applicant.
- (d) "Closure Action" means the most restrictive category of Enforcement Actions including emergency closure, long-term suspension and revocation.
- (e) "Comprehensive Records Check Determination" means a satisfactory or unsatisfactory determination by the Department, based upon a Federal Bureau of Investigation fingerprint check, a search of the National Crime Information Centers National Sex Offender Registry, compliance with relevant state and federal law, and a search of the following registries, repositories or databases in the state where the actual or potential employee or provider resides and in each state where such individual resided during the preceding five years: criminal registry or repository; state sex offender registry or repository; and state based child abuse and neglect registry and database.
- (f) "Crime" means:
  1. Any felony pursuant to O.C.G.A. § 20-1A-30 and in accordance with 42 U.S.C. § 9858f(c)(1)(E);
  2. A violation of O.C.G.A. § 16-5-23, relating to simple battery, where the victim is a minor;
  3. A violation of O.C.G.A. § 16-5-23.1, relating to battery, where the victim is a minor;
  4. A violation of O.C.G.A. § 16-21-1, relating to contributing to the delinquency of a minor;
  5. A violation of O.C.G.A. § 16-6-1 *et seq.* relating to sexual offenses;
  6. A violation of O.C.G.A. § 16-5-29, relating to battery of an unborn child;
  7. A violation of O.C.G.A. § 16-5-60, relating to reckless conduct causing harm when the victim is a minor;
  8. A violation of O.C.G.A. § 16-5-70, relating to cruelty to children;
  9. A violation of O.C.G.A. § 16-12-1.1, relating to child care facility operators being prohibited from employing or allowing to reside or be domiciled persons with certain past criminal violations;
  10. A violation of O.C.G.A. §§ 16-12-100, 16-12-100.1, 16-12-100.2, 16-12-100.3, relating to obscenity and related offenses where the victim is a minor;
  11. A violation of O.C.G.A. § 40-6-391, relating to endangering a child while driving under the influence of alcohol or drugs;

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12. A violation of O.C.G.A. § 19-7-5, relating to a failing to report if mandated to do so by law;
13. Child pornography, in accordance with 42 U.S.C. § 9858f(c)(1)(E);
14. Abuse of, endangerment of, or sexual assault against a child by an adult, in accordance with 42 U.S.C. § 9858f(c)(1)(E);
15. Any other violent misdemeanor against a child by an adult, in accordance with 42 U.S.C. § 9858f(c)(1)(E);
16. A violation of O.C.G.A. § 16-4-1, relating to criminal attempt when the crime attempted is any of the crimes specified by this paragraph; or
17. Any other offenses committed in another jurisdiction which, if committed in this state, would be one of the enumerated crimes listed in this paragraph.

(g) "Criminal Record" means:

1. Conviction of a crime; or
2. Arrest, charge, and sentencing for a crime where:
  - i. A plea of nolo contendere was entered to the charge; or
  - ii. First offender treatment without adjudication of guilt pursuant to the charge was granted; provided, however, that this division shall not apply to a violation of O.C.G.A. § 16-13-1 et seq., relating to controlled substances, or any other offense committed in another jurisdiction which, if it were committed in this state, would be a violation of O.C.G.A. § 16-13-1 et seq. if such violation or offense constituted only simple possession; or
  - iii. Adjudication or sentence was otherwise withheld or not entered on the charge; provided, however, that this division shall not apply to a violation of O.C.G.A. § 16-13-1 et seq. relating to controlled substances, or any other offense committed in another jurisdiction which, if it were committed in this state, would be a violation of Chapter 13 of Title 16 if such violation or offense constituted only simple possession; or
3. Arrest and being charged for a crime if the charge is pending, unless the time for prosecuting such crime has expired pursuant to O.C.G.A. § 17-3-1 et seq.

(h) "Department" means Bright from the Start: Georgia Department of Early Care and Learning.

(i) "Employee" means any person, other than the Provider or Provisional Employee, who has submitted a Records Check Application and has received a satisfactory Comprehensive Records Check Determination and who:

1. Regardless of age, is compensated by a Home for the care of children;
2. Regardless of age, cares for, supervises or has unsupervised access to children at the Home; or
3. Is 17 years of age or older and resides at the Home; or
4. Regardless of age, performs duties for or services that benefit the Home, with or without compensation, which involve personal contact between that person and any child being cared for by the Home, including but not limited to volunteers that perform consistent services for the Home, where services are considered consistent when provided more than once in a ninety calendar day period; or

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5. Regardless of age, is a parent or legal guardian of a child in care who is deemed an employee by the Home or either resides at the Home and is age 17 or older, or is compensated in any fashion by the Home except through appropriate state or federal funds; or

6. Regardless of age, is an independent contractor hired by the Home to offer supplemental educational or physical activities for Children in care; or

7. Regardless of age, is a Student-in-Training.

(j) "Enforcement Action" means any action issued as a result of one or more rule violations ranging from technical assistance to a Closure Action.

(k) "Family Child Care Learning Home" or "Home" means a private residence operated by any person who receives therein for pay for supervision and care fewer than 24 hours per day, without transfer of legal custody, at least three but not more than six Children under 13 years of age who are not Related to such persons and whose Parent(s) are not residents in the same private residence as the Provider and which is required to be licensed; provided, however, that the total number of unrelated Children cared for in such Home, for pay and not for pay, may not exceed six Children under 13 years of age at one time, except that a Provider may care for two additional children three years of age or older for two designated one hour periods daily upon approval by the Department.

(l) "Fingerprint" means any inked fingerprint card or an electronic image of a person's fingerprint.

(m) "Fingerprint Records Check Determination" means a satisfactory or unsatisfactory determination made by the Department that is based on national criminal history record information obtained by the use of Fingerprints.

(n) "Intermediate Action" means a moderately restrictive category of Enforcement Actions including public reprimands, fines, per rule fines, per day fines, restrictions, emergency monitoring and short-term suspension.

(o) "License" means the document issued by the Department to authorize the License Holder to whom it is issued to operate a Family Child Care Learning Home in accordance with these rules.

(p) "License Holder" means the individual issued a License by the Department to operate a Home at a particular location who is responsible for the operation and maintenance of the Home and who primarily provides care in the Home in accordance with these rules.

(q) "Parent" means a person related within the second degree of consanguinity by either blood or marriage, or a person with lawful custody, or a state-regulated foster parent, or a legal guardian of a child in care. For purposes of these rules, a Parent shall not be considered an Employee unless such Parent is deemed an Employee by the Home or either resides in the Home or is compensated in any way by the Home other than through appropriate state or federal funds.

(r) "Plan of Correction" means a written plan prepared by the License Holder or applicant and submitted to and approved by the Department which states the procedure(s), method(s) and time frame(s) that will be used to correct the area(s) of noncompliance with these rules.

(s) "Prevention Action" means the least restrictive category of Enforcement Actions including technical assistance, citation, formal notice letter and office conference.

(t) "Provider" means the License Holder or applicant of a Family Child Care Learning Home who has submitted a Records Check Application and has received a satisfactory Comprehensive Records Check Determination and who is also the person that primarily provides care in the Home.

(u) "Provisional Employee" means a person other than the Provider or Employee, who has submitted a Records Check Application to become an Employee and has not received a Comprehensive Records Check Determination but who has received a satisfactory Fingerprint Records Check Determination and who must be supervised at all times by another Staff member who has a current and valid satisfactory Comprehensive Records Check Determination on file.

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(v) "Records Check Application" means a document created by the Department to be completed and submitted to the Department by every actual and potential Provider, Employee and Provisional Employee of the Home that indicates such information as the Department deems appropriate and which authorizes the Department to receive any sex offender registry, child abuse and neglect registry and criminal history record information pertaining to the individual from any local, state or national agency of appropriate jurisdiction and render a Fingerprint or Comprehensive Records Check Determination.

(w) "Records Check Clearance Date" means the date upon which an individual's fingerprint report was generated.

(x) "Related" or "Related Children" means children that are related to the Provider within the third degree of consanguinity or affinity by either blood or marriage (i.e. sons, daughters, grandchildren, nieces, nephews, first cousins), or under the legal guardianship, custody or state-regulated foster care of the Provider.

(y) "Supervision" and "Supervised" means that the Provider or authorized Adult providing care is alert, is providing watchful oversight to the Children, is able to respond promptly to the needs and actions of the Children and can intervene promptly in the case of an emergency.

(z) "Student-in-Training" means a student currently enrolled in either a high school recognized by the Department of Education or an early education curriculum through an accredited school of higher education which requires or permits the student to observe and participate in the care of Children at a Home during a limited period of time, i.e., one quarter, one trimester or one semester, provided that they are under the direct supervision of Home personnel at all times.

(aa) "Valid Evidence" means either paper or electronic proof of a satisfactory Fingerprint Records Check Determination or a satisfactory Comprehensive Records Check Determination as follows:

1. Providers – a valid and current satisfactory Comprehensive Records Check Determination letter issued by the Department; provided that the letter for the Provider must have a Records Check Clearance Date that is no older than the immediate preceding 12 months of the date of licensure of the Home, and the Provider has not had a lapse of employment from the child care industry that lasted for 180 days (6 months) or longer;

2. Provisional Employees - a valid and current satisfactory Fingerprint Records Check Determination issued by the Department; provided that the letter for a newly hired Provisional Employee must have a Records Check Clearance Date that is within the immediate preceding 12 months of the Provisional Employee's date of hire, and the Provisional Employee has not had a lapse of employment from the child care industry that lasted for 180 days (6 months) or longer;

3. Employees – a valid and current satisfactory Comprehensive Records Check Determination letter issued by the Department; provided that the letter for a newly hired Employee must have a Records Check Clearance Date that is within the immediate preceding 12 months of the Employee's date of hire, and the Employee has not had a lapse of employment from the child care industry that lasted for 180 days (6 months) or longer.

(bb) "Violation Class" means the category on the compliance and enforcement chart that corresponds with the level of risk of harm or actual harm as a result of a rule violation.

(cc) "Violation History Level" means the category on the compliance and enforcement chart that corresponds with the prior history of continued rule violations.



Cite as Ga. Comp. R. & Regs. R. 290-2-3-.03

Authority: O.C.G.A. § 20-1A-1 *et seq.*, 42 U.S.C. § 9857*et seq.*

History. **Original Rule entitled "Other Requirements" adopted. F. Jan. 30, 1974; eff. Feb. 19, 1974.**

**Repealed: F. Oct. 1, 1974; eff. Oct. 21, 1974.**

**Amended: New Rule entitled "Staff Requirements" adopted. F. Feb. 21, 1983; eff. Mar. 23, 1983, as specified by the Agency.**

**Repealed: New Rule entitled "Definitions" adopted. F. Feb. 4, 1994; eff. Mar. 1, 1994, as specified by the Agency.**

**Amended: F. Aug. 16, 2013; eff. Sept. 5, 2013.**

**Amended: F. Dec. 13, 2013; eff. Jan. 2, 2014.**

**Amended: F. Dec. 4, 2015; eff. Dec. 24, 2015.**

**Amended: F. June 2, 2016; eff. June 22, 2016.**

**Amended: F. May 26, 2017; eff. June 15, 2017.**

**Amended: F. Aug. 17, 2018; eff. Sept. 6, 2018.**

**290-2-3-.04 Requirements for Applications and Licenses**

## (1) General

- (a) No person shall operate a Family Child Care Learning Home in the State of Georgia unless a License has been obtained from the Department.
- (b) A License is nontransferable. A License to operate a Home is not transferable in any way. A change of residence or address or Provider requires a new License. Each License shall become invalid immediately upon the final closure of the Home, or the final suspension, revocation, or restriction of the License in accordance with Georgia law.
- (c) Any person that provides care for at least three but not more than six Children for pay under 13 years of age who are not Related to such persons and whose Parent(s) are not residents in the same private residence as the Provider shall make application to the Department for a License to operate a Family Child Care Learning Home.
- (d) Any person that provides care for more than six children for pay, related or unrelated, as defined in these rules, shall make application to the Department for a License to operate a Child Care Learning Center, except as provided in 290-2-3-.07(12).
- (e) No home shall claim to be a licensed Family Child Care Learning Home unless it has been issued a current and valid License by the Department.

## (2) License Applications and Requirements

- (a) An application for a License to operate a Family Child Care Learning Home shall be submitted to the Department on the forms provided by the Department
- (b) Pre-Service Training. Prior to the submission of the License application, the applicant who will be responsible for the day-to-day operations shall complete the pre-service training listed below that has been approved by the Department and which will include:
1. Licensure orientation that provides, at a minimum, instruction on the application process and gives an overview of the Department's rules and regulations that relate to the operation of the Family Child Care Learning Home;
  2. Pre-licensure training course on Provider competencies that serve as a framework for professional development, which includes, but is not limited to, early learning standards, communication, developmentally appropriate practices, professional and leadership development, business management, and advocacy for the Family Child Care Learning Home, Parents, Children, and Staff;
  3. Cardiopulmonary resuscitation (CPR) and first aid training programs offered by certified or licensed health care professionals or trainers and approved by the Department, which include emergency care for infants and children.
- (c) Pre-Licensing Visit. Following receipt and review of the complete license application package, the Department shall conduct an on-site inspection of the potential Family Child Care Learning Home to assess compliance with these rules. The Department may deny the application for License if conditions are found during the on-site inspection that pose health and/or safety risks to children.
- (d) Criminal Records. Before a License to operate a Home may be issued there shall be on file a valid, current satisfactory Comprehensive Records Check Determination issued by the Department for the Provider and every potential Employee of the Home, including persons age 17 or older who reside at the Home or who, with or without compensation and regardless of age, perform duties at the Home which include personal contact between that person and Children in care.

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(e) **Qualifications.** Before a License to operate a Home may be issued the Provider of the Home and all Employees must be qualified, as defined in these rules, to administer or work in a Home. The Department may require additional reasonable verification of the qualifications of the Provider and Employees at the time of application for a License or at any other time the Department has reason to believe or is shown by credible evidence that a Provider or Employee is not qualified under these rules to administer or work in a Home. Reasonable verification which may be required by the Department may include, but need not be limited to, any or all of the following: statement(s) from an attending physician or other health care professionals attesting to the mental and/or physical health of the Provider or Employee; letters of reference from designated persons in the community where the Provider and/or Employee intends to work or is working; certified copies of court orders and additional records check submissions.

(f) A License will be issued, upon presentation of evidence satisfactory to the Department that the Home is in compliance with applicable statutes and these rules. The License is valid for one year unless voluntarily surrendered, reduced to a restricted License or suspended or revoked by the Department.

(g) **Denial of License.** The Department may deny a License to an applicant for knowingly making any false statement in connection with the application for a License, for failing to comply with these rules and regulations, for flagrant and continued operation of an unlicensed Home in contravention of the law, for prior denial or revocation of any License within one year of the date of the application, or for failure to provide the Department access to the Home or to information pertinent to the initial License of the Home.

**Cite as Ga. Comp. R. & Regs. R. 290-2-3-.04**

**Authority:** O.C.G.A. § 20-1A-1 *et seq.*, 42 U.S.C. § 9857 *et seq.*

**History.** Original Rule entitled "Records" adopted. F. Feb. 21, 1983; eff. Mar. 23, 1983, as specified by the Agency.

**Repealed:** New Rule entitled "Registration Requirements and Applications" adopted. F. Feb. 4, 1994; eff. Mar. 1, 1994, as specified by the Agency.

**Repealed:** New Rule of same title adopted. F. Jan. 12, 2009; eff. Feb. 1, 2009.

**Amended:** F. Aug. 16, 2013; eff. Sept. 5, 2013.

**Amended:** F. Dec. 13, 2013; eff. Jan. 2, 2014.

**Amended:** New title "Requirements for Applications and Licenses." F. Dec. 4, 2015; eff. Dec. 24, 2015.

**Amended:** F. Sep. 26, 2016; eff. Oct. 16, 2016.

**Amended:** F. May 26, 2017; eff. June 15, 2017.

**Amended:** F. Aug. 17, 2018; eff. Sept. 6, 2018.

**290-2-3-.05 Inspections and Investigations**

The Department is authorized and empowered to conduct investigations and on-site inspections of any Home during the operating hours of the Home. The proposed and current Provider, Provisional Employees and Employees shall cooperate with any inspection or investigation by responding truthfully to any legitimate Departmental inquiry.

- (a) **Consent to Entry.** An application for a License to operate a Home or the issuance of a License by the Department constitutes consent by the applicant and Provider to allow any representative of the Department to enter the premises at any time Children are being cared for in the Home. This consent applies to both scheduled and unscheduled inspections and includes consent for meaningful access to all Staff, parts of the premises of the Home where Children may be in care, all Children present, and all records required by these rules. The Department shall have the authority to require the production of any books, records, papers, or other information related to the initial or continued Licensure of the Home.
- (b) **Failure to Allow Access.** Failure to allow access of the Department's representative to the Home, its Staff, or the Children receiving care at the Home or the books, records, papers, or other information related to initial or continued Licensure, or failure to cooperate with an inspection or investigation by the Department shall constitute good cause for the denial, restriction, revocation or suspension of a License, or other penalty as provided by law.
- (c) **False or Misleading Statements.** No Provider shall make or condone any Provisional Employee or Employee making false or misleading statements to the Department in connection with any authorized investigation or inspection being conducted by the Department.

**Cite as Ga. Comp. R. & Regs. R. 290-2-3-.05**

**Authority:** O.C.G.A. § 20-1A-1 et seq.

**History.** Original Rule entitled "Children's Activities" adopted. F. Feb. 21, 1983; eff. Mar. 23, 1983, as specified by the Agency.

**Repealed:** New Rule entitled "Inspections and Investigations" adopted. F. Feb. 4, 1994; eff. Mar. 1, 1994, as specified by the Agency

**Amended:** F. Dec. 4, 2015; eff. Dec. 24, 2015.

**Amended:** F. May 26, 2017; eff. June 15, 2017.

**290-2-3-.06 Parental Access**

The Parent(s) of a Child shall be permitted access to all child care areas of the Home at all times a Child is in attendance, unless otherwise ordered by a court of proper jurisdiction.

**Cite as Ga. Comp. R. & Regs. R. 290-2-3-.06**

**Authority:** O.C.G.A. § 20-1A-1 et seq.

**History.** Original Rule entitled "Nutrition and Food Service" adopted. F. Feb. 21, 1983; eff. Mar. 23, 1983, as specified by the Agency.

**Repealed:** New Rule entitled "Parental Access" adopted. F. Feb. 4, 1994; eff. Mar. 1, 1994, as specified by the Agency.

**Amended:** F. Dec. 4, 2015; eff. Dec. 24, 2015.

**290-2-3-.07 Staffing and Supervision**

- (1) The Provider shall be at least 21 years of age.
- (2) Providers who apply for initial License shall submit valid evidence/documentation of one of the following credentials/degrees issued by either the organizations listed below, an accredited educational institution, or another organization approved/recognized by the Department:
  - a. Child Development Associate (CDA) credential (issued by the Council for Professional Recognition); or
  - b. Technical Certificate of Credit (TCC) in Early Childhood Education; or
  - c. Technical Certificate of Credit (TCC) in Early Childhood Education; or
  - d. Associate Degree in Early Childhood Education (AA, AAS, AAT); or
  - e. Paraprofessional Certificate (issued by the Georgia Professional Standards Commission); or
  - f. Bachelor's degree in Early Childhood Education; or
  - g. Master's degree in Early Childhood Education.
- (3) Providers and applicants who have submitted an application for License on or before June 30, 2009 shall be exempt from the requirement stated in (2)(a) through (g) above, except if the Family Child Care Learning Home closes for business and then submits a new application for License on or after July 1, 2009. Any Provider who submits an application for License on or after July 1, 2009 must meet one of the education requirements listed above. Any Provider who submits a new application for License on or before June 30, 2009 shall have a high school diploma, General Education Diploma (GED), or similar credentials and shall submit valid evidence/documentation of such credential.
- (4) The Provider, Employees and Provisional Employees with direct care responsibilities shall complete health and safety training at the time of employment. The state-approved training hours obtained may count toward required annual training hours. Staff members must complete the health and safety training within the first 90 days of employment. The training must address the following health and safety topics: prevention and control of infectious diseases; prevention of sudden infant death syndrome and use of safe sleeping practices; administration of medication, consistent with standards for parental consent; prevention of and response to emergencies due to food and allergic reactions; building and physical premises safety, including identification of and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic; prevention of shaken baby syndrome and abusive head trauma; emergency preparedness and response planning for emergencies resulting from a natural disaster, or threatening event such as violence at the facility; handling and storage of hazardous materials and the appropriate disposal of bio contaminants; and precautions in transporting children (if applicable).
- (5) Every Provider, Provisional Employee and Employee with direct care responsibilities shall have current evidence of successful completion of a biennial training program in cardiopulmonary resuscitation (CPR) and a triennial training program in first aid which have been offered by certified or licensed health care professionals or trainers and which dealt with emergency care for infants and children. Such training must be completed by the Provider prior to initial licensure. Training must be completed within 90 days from date of hire for Provisional Employees and Employees.
- (6) Additionally, the Provider, Provisional Employee and Employee shall attend ten (10) clock hours of diverse training which is related to the care of children and which is offered by an accredited college, university or vocational program or other Department approved source annually. The annual ten (10) clock hours of training shall be chosen from the following fields: child development, including discipline, guidance, nutrition, injury control and safety; health, including sanitation, disease control, cleanliness, detection and disposition of illness; child abuse and neglect, including identification and reporting, and meeting the needs of abused and/or neglected children; and business related topics, including parental communication, recordkeeping, etc.; provided however that such business related training shall be limited to no more than two (2) of the required ten (10) clock hours of training. Records of completion of such training programs shall be maintained in the Home by the Provider, as required by these rules.

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(7) The Provider, Employees and Provisional Employees shall never have been shown by credible evidence, e.g., a court, a department investigation or other reliable evidence to have abused, neglected, sexually exploited, or deprived a child or adult or to have subjected any person to serious injury as a result of intentional or grossly negligent misconduct. The Department may request an oral or written statement to this effect at the time of application or hire or at any other time the Department has reason to believe that a Provider, Employee or Provisional Employee is not qualified under these rules to administer or work in the Home. Upon said request, the Provider, Employee, or Provisional Employee shall provide this statement to the Department.

(8) The Provider, Employees and Provisional Employees must be able to perform adequately the job duties of providing for the care and supervision of the children in the Home in accordance with these rules.

(9) The Provider, Employees and Provisional Employees shall not have made any material false statements concerning qualifications requirements either to the Department or to the Provider.

(10) The Provider, Employees and Provisional Employees must provide additional reasonable verification of the qualifications of the Provider, Employees and Provisional Employees upon request by the Department. Reasonable verification may include, but need not be limited to any or all of the following: statement(s) from an attending physician or other health care professional attesting to the mental and/or physical health of the Provider, Provisional Employee or Employee; letters of reference from designated persons in the community where the Provider, Provisional Employee and/or Employee intend to work or is working; certified copies of court orders; and additional records checks.

(11) The Provider, Employees and Provisional Employees must comply with the background check requirements as outlined in Rule 290-2-3-.21 Criminal Records and Comprehensive Background Checks.

(12) The total number of Children not Related to the Provider in the Family Child Care Learning Home, for pay or not for pay, cannot exceed six Children, except that a Provider may care for two additional children who are three years of age or older for two designated one hour periods daily upon approval by the Department.

(13) Whenever Related Children or Children who reside in the Home are present in the Home, the total number of children present under the age of thirteen years may not exceed twelve, and the space requirement of 35 square feet per each child present must be met.

(14) At least one Adult with a satisfactory Comprehensive Records Check Determination shall supervise Children at all times. Plans shall be made to obtain additional adult help in cases of emergencies.

(15) Each adult responsible for the supervision of Children, if not the Provider, shall receive orientation regarding these rules; the Provider's policies regarding discipline, injuries and illnesses, and release of Children; the Provider's written plan for handling emergencies; and appropriate information about any Child's specific health needs.

(16) An assistant, who must be at least sixteen (16) years of age, must be present to assist with supervision whenever more than three (3) children under the age of twelve (12) months are present, more than six (6) children under the age of three (3) years are present or more than eight (8) children under the age of five (5) years are present.

(17) If Children are allowed to participate in water activities where the water is over two feet in depth, the Provider or an Adult shall supervise such activities and must have successfully completed a training program in lifeguarding offered by a water-safety instructor certified by the American Red Cross or YMCA or other recognized standard setting agency for water safety instruction.

(a) For water-related activities where water is over two feet in depth, the following Staff: Child ratios shall be maintained:

<b>Ages of Children</b>	<b>Staff: Child Ratio</b>
Under 2 ½	1:2
2 1/2 to 4 years	1:5

## Rules for Family Child Care Learning Homes

4 years & older (who cannot swim a distance of 15 yds. unassisted)	1:6
4 years & older (who can swim a distance of 15 yds. unassisted)	1:8

(b) In lieu of requiring each Child four years and older to take a swimming test, the Provider may accept copies of verifications from a recognized water safety instruction organization stating that the Child has successfully completed a swimming class which required the Child to swim a distance of 15 yards unassisted.

(18) **Provisional Employees.** A licensed Home may hire Provisional Employees. All Provisional Employees

(a) must be at least 17 years of age;

(b) must be informed of the rules for Family Child Care Learning Homes and the Home's policies and procedures for the age group for which they will be providing care;

(c) must be informed of the Home's policies and procedures necessary to the proper performance of their job duties in compliance with the Rules for Family Child Care Learning Homes;

(d) must have current evidence of successful completion of a biennial training program in cardiopulmonary resuscitation (CPR) and a triennial training program in first aid provided by certified or licensed health care professionals or trainers and which covers the provision of emergency care to infants and children if the caregiver is the only Adult on the premises or field trip;

(e) must participate in the orientation and training required by the rules;

(f) must have a satisfactory Fingerprint Criminal Records Check Determination issued by the Department on file and must be under continuous direct supervision by a Provider or an Employee with a valid and current satisfactory Comprehensive Records Check Determination on file; and

(g) may be hired as a permanent Employee by the Home only if the individual receives a satisfactory Comprehensive Records Check Determination by the Department and meets all other qualification requirements in these rules.

(19) **Independent Contractors.** A Home may have an independent contractor to offer supplemental educational or physical activities for Children in care.

(a) Such an independent contractor is considered either an Employee or Provisional Employee of the Home for the purpose of these rules and must comply with the background check requirements as outlined in Rule 290-2-3-.21 Criminal Records and Comprehensive Background Checks before being present at the Home while children are present for care or before residing in the Home.

(b) Such an independent contractor is exempted from annual training and first-aid/CPR training requirements.

(20) **Parents.** The Home may have Parents occasionally assist in a classroom, chaperone or accompany a group of Children from the Home on a field trip.

(a) A Parent that is this type of occasional assistant is not required to obtain a Criminal Records Check Determination; however, a Parent that is deemed to be a staff member by the Home or who is age 17 or older and resides at the Home or who is compensated in any way by the Home except through appropriate state or federal funds is considered an Employee or Provisional Employee for purposes of these rules and must comply with the background check requirements as outlined in Rule 290-2-3-.21 Criminal Records and Comprehensive Background Checks before being present at the Home while Children other than their own are present for care or before residing in the Home;



## Rules for Family Child Care Learning Homes

(b) No Parent shall be solely responsible for Children other than their own and must be under continuous direct supervision of the Provider or Home Employee with a valid and current satisfactory Comprehensive Records Check Determination while in the presence of Children in care other than their own; and

(c) Such Parent is exempted from annual training and first-aid/CPR training requirements.

(21) **Volunteers.** The Home may have volunteers other than Parents help in a classroom, chaperone or accompany a group of Children from the Home on a field trip.

(a) Volunteers that provide consistent services are considered either Employees or Provisional Employees for the purposes of these rules and must comply with the background check requirements as outlined in Rule 290-2-3-.21 Criminal Records and Comprehensive Background Checks before being present at the Home while children are present for care or before residing in the Home;

(b) No volunteer shall be solely responsible for Children other than their own and must be under continuous direct supervision of the Provider or Home Employee with a valid and current satisfactory Comprehensive Records Check Determination while in the presence of Children other than their own; and

(c) Such volunteer is exempted from annual training and first-aid/CPR training requirements.

(22) **Students-in-Training.** The Home may have Students-in-Training.

(a) Students-in-Training are considered either Employees or Provisional Employees for the purposes of these rules and must comply with the background check requirements as outlined in Rule 290-2-3-.21 Criminal Records and Comprehensive Background Checks before being present at the Home while children are present for care or before residing in the Home;

(b) No Student-in-Training shall be solely responsible for Children other than their own and must be under continuous direct supervision of the Provider or a Home Employee with a valid and current satisfactory Comprehensive Records Check Determination while in the presence of Children in care other than their own, and

(c) Such Student-in-Training is exempted from annual training and first-aid/CPR training requirements.

(23) **Clerical, Housekeeping, Maintenance and Other Support Staff.** The Home may have qualified and sufficient direct-care, clerical, housekeeping, maintenance and other support staff to ensure full compliance with these rules without neglecting the supervision of the Children.

(a) Other Staff That May Have Direct Contact With Children In Care. A Home may have additional Staff at the Home. Any Staff member that has any personal contact with any Child in care:

1. Is considered either an Employee or Provisional Employee for purposes of these rules and must comply with the background check requirements as outlined in Rule 290-2-3-.21 Criminal Records and Comprehensive Background Checks; and

2. may be exempted from annual training and first-aid/CPR training requirements.

(b) Other Staff That Must Not Have Direct Contact With Children In Care. The Home may have individuals at the Home to repair and/or maintain the Home while Children are in care. These individuals:

1. must have no contact with Children in care;

2. may not be required to obtain a Fingerprint Records Check Determination, unless they have contact with Children in care; and

3. may be exempted from annual training and first-aid/CPR training requirements.

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(24) Compliance with Applicable Laws and Regulations. The Provider, Employees and Provisional Employees shall not commit any criminal act, as defined under Georgia law, in the presence of any child enrolled in the Home and shall comply with all applicable laws and regulations.

**Cite as Ga. Comp. R. & Regs. R. 290-2-3-.07**

**Authority:** O.C.G.A. § 20-1A-1 *et seq.*, 42 U.S.C. § 9857*et seq.*

**History.** Original Rule entitled "Health and Safety" adopted. F. Feb. 21, 1983, eff. Mar. 23, 1983, as specified by the Agency.

**Repealed:** New Rule entitled "Staffing and Supervision" adopted. F. Feb. 4, 1994; eff. Mar. 1, 1994, as specified by the Agency.

**Repealed:** New Rule of same title adopted. F. Jan. 12, 2009; eff. Feb. 1, 2009.

**Amended:** F. Aug. 16, 2013; eff. Sept. 5, 2013.

**Amended:** F. Dec. 13, 2013; eff. Jan. 2, 2014.

**Amended:** F. Dec. 4, 2015; eff. Dec. 24, 2015.

**Amended:** F. June 2, 2016; eff. June 22, 2016.

**Amended:** F. Sep. 26, 2016; eff. Oct. 16, 2016.

**Amended:** F. May 26, 2017; eff. June 15, 2017.

**Amended:** F. Aug. 17, 2018; eff. Sept. 6, 2018.

**290-2-3-.08 Children's Records**

- (1) The Home shall maintain current and updated individual records on each Child in care. The Home shall maintain the records outlined herein while the Child is in care and for a period of one (1) year after such Child is no longer in care at the Family Child Care Learning Home. Such records shall include: identifying information (Child's name, birth date, Parent's name, home and business addresses, telephone numbers); name, address and telephone number of persons, including Child's physician, to contact in emergencies; and name, address, telephone numbers, relationship to Child and to Parent(s) and other identifying information of person(s) to whom the Child may be released.
- (2) Such records shall include evidence of age appropriate immunizations, or a signed affidavit certifying that the required immunizations conflict with the religious belief of the Parent or a physician statement that immunization is contraindicated. Evidence of immunizations or required documentation shall be on file for each Child upon admission to the Home or within 30 days thereafter.
- (3) Such records shall include written authorization for the Child to receive emergency medical treatment when the Parent is not available.
- (4) Such records shall include a record of any allergies and other known medical problems.
- (5) Such records shall include documentation of any medications given as required by these rules.
- (6) Such records shall include descriptions of accidents or serious illnesses occurring while the Child is in the Family Child Care Learning Home, including date, time and condition under which it occurred and the action taken.
- (7) Such records shall include parental agreements for transportation, field trips, swimming and/or other activities away from the Home if the Child will be participating in these activities.
- (8) Policies and Procedures. Each Family Child Care Learning Home shall establish policies and procedures, which shall be kept current, be consistent with applicable laws, including but not limited to the Americans with Disabilities Act, regulations and these rules, made available to the Parents, and used to govern the operations of the Family Child Care Learning Home.
  - (a) The policies and procedures shall include a written description of the services to be provided which specifies the following: ages of children served, months of operation, days of operation, hours of operation, dates the Family Child Care Learning Home will be closed, admission requirements, including parental responsibilities for supplying and maintaining accurate required record information and escorting Child to and from the Family Child Care Learning Home; standard fees, payment of fees, fees related to absences and vacations and other charges such as transportation, etc. and transportation provided, if any.
  - (b) The policies and procedures shall also include written procedures for the following:
    1. Guidance and discipline techniques;
    2. Handling emergency medical care, including where the Children will be taken for emergency medical care;
    3. Administering medication and recording noticeable adverse reactions to medication;
    4. Notifying Parent(s) of their Child's: illness, injury, and exposure to a notifiable disease;
    5. Noticeable adverse reaction to medication(s);
    6. Exclusion of sick children;

## Rules for Family Child Care Learning Homes

7. Exclusion of children with communicable diseases, as defined on the chart of communicable diseases which contains recommendations for the exclusion of sick children and their readmission, and is provided by the Department;
  8. Protection of children in the event of: severe weather, fire, and physical plant problems, such as a power failure, that affect climate control, loss of water, or structural damages;
  9. The transportation of Children to and from school or home, if provided, to include the procedure to be followed if no one is home to receive the transported Child;
  10. Identification of others providing care. The Provider must inform the Parents of Children in care of the names of any caregiver and their responsibilities, and the names of the persons who would be called upon in an emergency;
  11. Parents' ability to visit the Family Child Care Learning Home unannounced and at any time that their Child is in care;
  12. Any information requested by the Parent concerning the operation of the Family Child Care Learning Home or the care of the Child, including but not limited to a description of any special procedures to be followed in caring for the Child, such as any special services which the Home agrees to provide to a Child with special needs. The Parent(s) will be provided daily communication (verbal/written) regarding the care of the Child, especially with infants, toddlers and nonverbal Children. Additionally, the Provider must bring special problems or significant developments to the Parent's attention as soon as they arise;
  13. Notification of the existence of a firearm in the Family Child Care Learning Home;
  14. Notification of any changes in the regular composition of the household. The Provider must notify the Parent(s) of anyone regularly on the premises, including but not limited to spouse, friend(s), relative(s), or significant other(s);
  15. Notification of the existence of any pets or other animals residing in the Home or on the property of the Family Child Care Learning Home; and
  16. Notification of infant sleep position practices. The Provider must notify Parent(s) of Sudden Infant Death Syndrome (SIDS) risk reduction practices, sleep positioning policies, and arrangements for placing all infants on their backs for sleep.
- (9) Documenting the Child's arrival and departure. The Parent or person(s) authorized by the Parent to drop off and pick up the Child will document each time the Parent or authorized person drops off and picks up the Child. The documentation shall include at least the following information: the date, the Child's name, the arrival and departure times, and the signature or initials of the Parent or authorized person and shall be made available to the Department in printed or written form upon request.
- (10) The Home shall ensure that Children are only released to authorized person(s), and the Home shall take necessary steps to determine that any such person(s) presenting to pick up a Child in care is authorized by the Parent(s) of the Child and that person matches the identifying information provided by the Parent.
- (11) If applicable, notification of the absence of a liability insurance policy. If the Home is not covered by liability insurance sufficient to protect its clients, the Home must notify the Parent of each Child under the care of the program in writing. Each Parent must acknowledge receipt of such notice, and a copy of the acknowledgment shall be kept in the Child's file.

## Rules for Family Child Care Learning Homes

- (12) Documentation of family relationships for related children, other than the Provider's own children, cared for in the Home shall be maintained and shall include a notarized statement by the related child's Parent(s) attesting to the relationship.
- (13) Documentation of the non-pay status of related and unrelated children in care for whom no pay is received shall be maintained and shall include a notarized statement by such child's Parent(s) attesting to the non-pay status.
- (14) Documentation of all required training required by these rules shall be maintained in the Home by the Provider, and shall include the title of training courses received by the Provider and any staff, the dates and the number of hours of the courses, and the names of the trainers or sponsoring organizations.
- (15) If applicable, documentation of approved water and sewage disposal systems shall be maintained in the Home by the Provider.

**Cite as Ga. Comp. R. & Regs. R. 290-2-3-.08****Authority:** O.C.G.A. § 20-1A-1 et seq.**History.** Original Rule entitled "Equipment and Supplies" adopted. F. Feb. 21, 1983; eff. Mar. 23, 1983, as specified by the Agency.**Repealed:** New Rule entitled "Records" adopted. F. Feb. 4, 1994; eff. Mar. 1, 1994, as specified by the Agency.**Repealed:** New Rule of same title adopted. F. Jan. 12, 2009; eff. Feb. 1, 2009.**Repealed:** New Rule entitled "Children's Records" adopted Dec. 2, 2009; eff. Dec. 22, 2009.**Amended:** F. Aug. 16, 2013; eff. Sept. 5, 2013.**Amended:** F. Dec. 4, 2015; eff. Dec. 24, 2015.**Amended:** F. Sep. 26, 2016; eff. Oct. 16, 2016.**Amended:** F. May 26, 2017; eff. June 15, 2017.

**290-2-3-.09 Children's Activities**

- (1) The Family Child Care Learning Home shall provide a variety of daily activities appropriate for the Children's chronological ages and developmental levels. Children with special needs shall be integrated into the activities provided by the Family Child Care Learning Home unless contraindicated medically or by parental agreement. Activities shall be planned for each group to allow for:
  - (a) Indoor and outdoor play;
  - (b) A balance of quiet and active periods;
  - (c) A balance of supervised free choice and caregiver-directed activities;
  - (d) Individual, small group, and large group activities;
  - (e) Large muscle activities, such as, but not limited to, running, riding, climbing, balancing, jumping, throwing, or digging;
  - (f) Small muscle activities, such as, but not limited to, building with blocks or construction toys, use of puzzles, nesting or stacking toys, pegs, lacing, sorting beads, or clay;
  - (g) Language experiences, such as, but not limited to, listening, talking, rhymes, finger plays, stories, use of film strips, recordings or flannel boards;
  - (h) Arts and crafts, such as, but not limited to, painting, coloring, cutting, or pasting;
  - (i) Dramatic play, such as, but not limited to, play in a home center, with dolls, puppets, or dress up;
  - (j) Rhythm and music, such as, but not limited to, listening, singing, dancing, or making music; and
  - (k) Nature and science experiences, such as, but not limited to, measuring, pouring, activities related to the "world around us" such as nature walks, plants, leaves or weather, or experiences in using the five senses through sensory play.
- (2) Children shall be helped to develop skills in all areas (washing, dressing, toileting, etc.) appropriate to the age and ability of the child.
- (3) Children shall spend some time of each day outside when the children's health and the weather permits.
- (4) There shall be a supervised nap period during the day for preschool age children.
- (5) Children less than three (3) years of age shall not spend more than one-half (1/2) hour of time consecutively in confining equipment, such as swings, highchairs, jumpseats, carriers or walkers. Children shall use such equipment only when they are awake. Such children shall be allowed time to play on the floor daily.
- (6) Supervised tummy time on the floor shall be provided daily for each infant while the infant is awake.
- (7) The use of entertainment media, such as television programs or video tapes, and computer games shall be limited to programs, tapes, and software that are produced for the benefit of audiences comprised of young children. Such uses of entertainment media shall be used only in addition to other activities, shall not be the primary source of children's activities, and should be limited to no more than two hours daily.
- (8) The Provider shall not engage in or allow children or other adults to engage in activities that could be detrimental to a child's health or well-being such as, but not limited to, horse play, rough play, wrestling, and picking up a child in a manner that could cause injury.

**Cite as Ga. Comp. R. & Regs. R. 290-2-3-.09**

**Authority:** O.C.G.A. § 20-1A-1 et seq.

**History.** Original Rule entitled "Building and Supplies" adopted. F. Feb. 21, 1983; eff. Mar. 23, 1983, as specified by the Agency.

**Repealed:** New Rule entitled "Children's Activities" adopted. F. Feb. 4, 1994; eff. Mar. 1, 1994, as specified by the Agency.

**Repealed:** New Rule of same title adopted. F. Jan. 12, 2009; eff. Feb. 1, 2009.

**Repealed:** New Rule of same title adopted. F. Dec. 2, 2009; eff. Dec. 22, 2009.

**Amended:** F. May 16, 2013; eff. Jun. 5, 2013.

**Amended:** F. Dec. 4, 2015; eff. Dec. 24, 2015.

**Amended:** F. May 26, 2017; eff. June 15, 2017.

**290-2-3-.10 Nutrition and Food Services**

- (1) Children shall be served all meals and snacks scheduled for the period of time in which they are present in the Home. This includes breakfast or a morning snack, lunch, an afternoon snack, supper (if the Home offers evening care), and an evening snack prior to bedtime (if the Home offers night time care).
- (2) Meals and snacks with serving sizes dependent upon the age of the children shall be nutritious, well balanced, and varied. Lunch and supper meals shall consist of vegetables or fruit or both; meat, poultry, fish, cheese, eggs, or protein substitute; bread; and milk unless the child has a specific health reason for prohibiting milk.
- (3) Powdered nonfat dry milk shall not be used except for cooking purposes.
- (4) The Provider shall secure from the Parents infant formula and a feeding plan for children under 1 year of age.
- (5) Infant formula bottles shall be labeled with the individual child's name. Any unused formula or milk shall be discarded or returned to the Parent at the end of the day.
- (6) Infants under six months of age and older children who cannot hold their own bottles or sit alone shall be held during feeding. Baby bottles shall never be propped and the infant's head shall be elevated while feeding.
- (7) Food shall be in sound condition, free from spoilage and contamination, and shall be safe for human consumption.
- (8) All perishable and potentially hazardous foods shall be refrigerated at a temperature of 40 degrees or below and shall be served promptly after cooking. Hot foods shall be maintained at a temperature of 140 degrees or above except during serving.
- (9) Food stored in containers such as cans, jars, and boxes shall be stored above the floor on clean surfaces.
- (10) Garbage shall be stored in trash containers with lids and emptied and cleaned as needed. Areas around outdoor containers shall be kept clean.
- (11) Chipped or cracked dishes shall not be used.
- (12) Food preparation surface areas shall be nonporous with no cracks or unsealed seams.
- (13) Food preparation areas and equipment shall be kept clean and free of accumulation of dust, dirt, food particles, and grease deposits.
- (14) The person preparing meals shall wash their hands and arms thoroughly with soap and warm water before starting food service work and as often as necessary during food preparation and serving to remove soil and contamination.
- (15) Non-disposable dishes and silverware shall be properly cleaned by pre-rinsing, or scraping, washing, sanitizing and air drying.
- (16) Children shall not share eating or drinking utensils.
- (17) Caregivers shall not use food to reward or punish children.

**Cite as Ga. Comp. R. & Regs. R. 290-2-3-.10**

**Authority:** O.C.G.A. § 20-1A-1 et seq.

**History.** Original Rule entitled "Reporting Requirements" adopted. F. Feb. 21, 1983; eff. Mar. 23, 1983, as specified by the Agency.



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**Repealed:** New Rule entitled "Nutrition and Food Services" adopted. F. Feb. 4, 1994; eff. Mar. 1, 1994, as specified by the Agency.

**Repealed:** New Rule of same title adopted. F. Aug. 7, 2009; eff. Aug. 27, 2009.

**Amended:** F. Dec. 4, 2015; eff. Dec. 24, 2015.

**Amended:** F. May 26, 2017; eff. June 15, 2017.

**290-2-3-.11 Health, Safety, and Discipline**

## (1) Health.

- (a) The Department's current communicable disease chart of recommendations for exclusion of sick children from the Home and their readmission shall be followed. Such chart shall be provided by the Department.
- (b) Parents of any Child who becomes ill or is injured while in care shall be notified immediately of any illness or injury requiring professional medical attention, or any illness which may not require professional medical attention but which produces symptoms causing moderate discomfort to the Child, such as, but not limited to, any of the following: elevated temperature, vomiting or diarrhea.
- (c) The Home shall obtain emergency medical services when required by a child's condition.
- (d) Except for first aid and as authorized under Georgia law, personnel shall not dispense prescription or nonprescription medications to a Child without specific written authorization from the Child's physician or Parent. All medications shall be stored as authorized under Georgia law or in accordance with the prescription or label instructions and kept in places that are inaccessible to children. Each dose of medication given to a Child shall be documented showing the Child's name, name of medication, date and time given, and the name of the person giving the medication.
- (e) The Home and any vehicle used by the Home for transportation of Children shall have a first aid kit which shall at least contain: scissors, tweezers, gauze pads, thermometer, adhesive tape, band-aids, insect-sting preparation, antiseptic cleaning solution, antibacterial ointment, bandages, disposable rubber gloves, protective eyewear, facemask, and cold pack. The first aid kit, together with a first aid instruction manual which must be kept with the kit at all times, shall be stored in a central location so that it is not accessible to Children but is easily accessible to the Provider and Staff. The Home must also maintain written directions for the use of universal precautions for handling blood and bodily fluids. The directions on the use of universal precautions must be kept with the first aid kit at all times.
- (f) Diapers shall be changed in the Child's own crib or on a nonporous surface which is cleaned with a disinfectant and dried with a single use disposable towel after each diaper change.
- (g) Soiled diapers and linens shall be disposed of in a closed container.
- (h) If used, toilet potty chairs shall after each use be emptied by disposal in a flush toilet, cleaned with a disinfectant, and stored in the bathroom. If a sink is used, it shall be disinfected after each use.
- (i) Personnel shall wash their hands with liquid soap and warm running water: immediately before and after each diaper change; immediately upon the first Child's arrival in the Home for care and upon re-entering the Home after outside play; before and after dispensing oral medications and applying topical medications, ointments, creams or lotions, handling and preparing food, eating, drinking, preparing bottles, feeding or assisting children with eating and drinking; after toileting or helping children with toileting, using tobacco products, handling garbage and organic waste, touching animals or pets, handling bodily fluids such as, but not limited to, mucus, saliva, vomit or blood and after contamination by any other means.
- (j) Children's hands shall be washed with liquid soap and warm running water: immediately upon arrival for the day and re-entering the child care area after outside play; before and after eating meals and snacks, handling or touching food, and playing in water; after toileting and diapering, playing in sand, touching animals or pets, contact with bodily fluids such as, but not limited to, mucus, saliva, vomit or blood, and after contamination by any other means.

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- (k) Washcloth handwashing is permitted for infants when the infant is too heavy to hold for handwashing or cannot stand safely to wash hands at a sink and for children with special needs who are not capable of washing their own hands. An individual washcloth shall be used only once for each child before laundering.
  - (l) Smoking is prohibited on the premises of a Home during the hours of operation and no smoking signs must be posted. Smoking is also prohibited in any vehicle used to transport children during the hours that the Home is in operation.
  - (m) Children shall be kept clean, dry and comfortable.
  - (n) Pets in the Home shall be vaccinated in accordance with the requirements of the local county Boards of Health. Unconfined pets shall not be permitted in child care areas when any Child is present except for supervised learning experiences.
  - (o) Pets and all other animals shall be controlled to assure that proper sanitation of the premises is maintained and animals are not a hazard to the children, personnel or other visitors. No animal, such as but not limited to, pit bull dogs, ferrets, and poisonous snakes, which may have a vicious propensity, shall be permitted on the Family Child Care Learning Home premises at any time there are children on the premises. Horses or other farm animals shall not be quartered on any property over which the Provider exercises any control that is located within five hundred (500) feet of the building in which the Family Child Care Learning Home is located.
- (2) Safety.
- (a) A Home shall have a written plan for handling emergencies, including but not limited to fire, severe weather, loss of electrical power or water, and death, serious injury or loss of a child, a threatening event, or natural disaster which may occur at the Home. The Home will have in place procedures for evacuation, relocation, shelter-in-place, lock-down, communication and reunification with families, continuity of operations, accommodation of infants and toddlers, children with disabilities, and children with chronic medical conditions. No Home personnel shall impede in any way the delivery of emergency care or services to a child by licensed or certified emergency health care professionals.
  - (b) An operable telephone shall be readily available in the Home with the following telephone numbers posted in a conspicuous place next to the telephone: a physician or hospital, an ambulance or rescue squad service, the local fire department, the local police department, the county health department and the regional poison control center. In those areas of the state serviced by the 911 emergency number, 911 may be posted in lieu of the phone numbers required for ambulance, fire and police.
  - (c) Documentation of drills required by these rules shall be maintained in the Home. The Home shall conduct drills for fire, tornado and other emergency situations. The fire drills will be conducted monthly and tornado and other emergency situation drills will be conducted every six months. The Home shall maintain documentation of the dates and times of these drills for two years.
  - (d) Children shall not have access to hanging cords or other hazardous objects.
  - (e) Clear glass doors shall be marked to avoid accidental impact.
  - (f) Poisons, medicines, cleaning agents, razors, aerosol cans and other potential hazardous materials shall be stored out of reach of children or in locked cabinets.
  - (g) Firearms shall be stored so they are not accessible to children.
  - (h) At least one UL Approved smoke detector shall be on each floor of the Home and such detectors shall be maintained in working order. At least one 2-A:10-B:C fire extinguisher shall be kept in the child

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- care area to be located no more than thirty feet from the kitchen. The extinguisher shall be maintained in working order and shall be inaccessible to the children.
- (i) Flammable liquids, such as gasoline or kerosene, shall not be stored inside the Home.
  - (j) If children are transported in a vehicle by the Provider or a Home's employee, the driver shall have a current driver's license.
  - (k) When transported in a vehicle by the Provider or a Home's employee, children shall be restrained by either individual seat belts or appropriate child restraints in accordance with current state and federal laws and regulations.
  - (l) No child shall be left unattended in a motor vehicle.
  - (m) If children are transported, written authorization for the Child to receive emergency medical treatment when the Parent is not available, as required by these rules, shall be maintained in the vehicle.
  - (n) If a Provider does not carry liability insurance coverage sufficient to protect its clients, the Provider shall post that fact in a conspicuous place in the program. Such notice shall be in at least ½ inch letters. A Provider that fails to post may be subject to a civil fine of \$1,000.00.
- (3) Discipline. Disciplinary actions used to correct a Child's behavior, guidance techniques and any activities in which the Children participate or observe at the Home shall not be detrimental to the physical or mental health of any child.
- (a) A Provider or a Home's Provisional Employees or Employees shall not: physically or sexually abuse a child, or engage in or permit others to engage in sexually overt conduct in the presence of any Child enrolled in the Home; inflict corporal/physical punishment upon a Child; shake, jerk, pinch or handle roughly a Child; verbally abuse or humiliate a Child which includes, but is not limited to, the use of threats, profanity, or belittling remarks about a Child or his family; isolate a Child in a dark room, closet, or unsupervised area; use mechanical or physical restraints or devices to discipline Children; use medication to discipline a Child or to control Children's behavior without written medical authorization issued by a licensed professional and given with the Parent's written consent; or discipline a Child by unreasonably restricting a Child from going to the bathroom; or by punishing toileting accidents; or by force feeding a Child; or by not feeding a Child regularly scheduled meals and/or snacks; or by forcing or withholding naps; or by allowing children to discipline or humiliate other Children; or by confining a Child for disciplinary purposes to a swing, high chair, infant carrier, walker or jump seat.

**Cite as Ga. Comp. R. & Regs. R. 290-2-3-.11****Authority:** O.C.G.A. § 20-1A-1 et seq.**History.** Original Rule entitled "Registration" adopted. F. Feb. 21, 1983; eff. Mar. 23, 1983, as specified by the Agency.**Repealed:** New Rule entitled "Health, Safety and Discipline" adopted F. Feb. 4, 1994; eff. Mar. 1, 1994, as specified by the Agency.**Repealed:** New Rule of same title adopted. F. Jan. 12, 2009; eff. Feb. 1, 2009.**Repealed:** New Rule of same title adopted. F. Dec. 2, 2009; eff. Dec. 22, 2009.**Repealed:** New Rule of same title adopted. F. Aug. 5, 2010; eff. Aug. 25, 2010.**Amended:** F. Aug. 16, 2013; eff. Sept 5, 2013.**Amended:** F. Feb. 24, 2014; eff. Mar. 16, 2014.**Amended:** F. Dec. 4, 2015; eff. Dec. 24, 2015.**Amended:** F. Sep. 26, 2016; eff. Oct. 16, 2016.**Amended:** F. May 26, 2017; eff. June 15, 2017.

**290-2-3-.12 Equipment and Supplies**

- (1) The Home shall provide a variety of age-appropriate toys, books, and play equipment and materials to insure that each child shall have opportunity to experience and participate in a variety of activities.
- (2) Individual or disposable wash cloths and towels shall be provided.
- (3) Furniture and equipment shall be kept clean and in a safe usable condition.
- (4) All indoor and outdoor furniture, activity materials, and equipment shall be: used in a safe and appropriate manner by each Provider, Provisional Employee, Employee and child in attendance and used in accordance with the manufacturer's instructions, recommendations, and intended use.
- (5) All indoor and outdoor furniture, activity materials, and equipment shall be free from hazardous conditions such as, but not limited to, sharp rough edges or toxic paint and kept clean.
- (6) All indoor and outdoor furniture, activity materials, and equipment shall be placed so as to permit the children's freedom of movement and to minimize danger of accident and collision.
- (7) All indoor and outdoor furniture and equipment shall be secured if equipment and furniture is of a weight or mass that could cause injury from tipping, falling, or being pulled or pushed over. Potentially unstable equipment and furniture that might injure a child if not secured include, but are not limited to, televisions, chests of drawers, bookcases, shelving, cabinets and fish tanks. Examples of items not required to be secured include, but are not limited to, child-sized tables and chairs, rocking chairs, and cribs.
- (8) There shall be table space provided for each child who is able to sit at a table unassisted. An appropriately sized chair or bench shall be provided for each child who is not an infant and who is able to use a chair or bench.
- (9) Toys shall be stored on low, open shelves accessible to children in each room or assigned area.
- (10) Toys that launch projectiles, such as dart guns, pop guns, slingshots, etc. shall not be allowed in the Home, and balloons shall not be accessible to preschool children.
- (11) Toys for Children Under Three. Toys for children under three (3) years of age shall also be age-appropriate.
- (12) Toys for children under three (3) years of age shall be non-toxic and lead free; too large to be swallowed by a child and not capable of causing asphyxiation or strangulation; free of sharp pieces, edges or points; free of small parts which may be pried off by a child; free of rust and easily cleaned with a disinfectant daily.

**Cite as Ga. Comp. R. & Regs. R. 290-2-3-.12****Authority:** O.C.G.A. § 20-1A-1 et seq.**History.** Original Rule entitled "Inspections" adopted. F. Feb. 21, 1983; eff. Mar. 23, 1983, as specified by the Agency.**Repealed:** New Rule entitled "Equipment and Supplies" adopted. F. Feb. 4, 1994; eff. Mar. 1, 1994, as specified by the Agency**Repealed:** New Rule of same title adopted. F. Dec. 2, 2009; eff. Dec. 22, 2009.**Amended:** F. May 16, 2013; eff. Jun. 5, 2013.**Amended:** F. Dec. 4, 2015; eff. Dec. 24, 2015.**Amended:** F. May 26, 2017; eff. June 15, 2017.

**290-2-3-.13 Building and Grounds**

- (1) The Home's building shall be kept clean and free from obvious hazards to the children's health and safety.
  - (a) The areas used for child care shall provide a minimum of 35 square feet of usable floor space per child.
  - (b) Basement areas in excess of 25 linear feet from a window shall not be used for housing Children.
  - (c) Furniture and equipment shall be arranged so as not to interfere with exits.
  - (d) The Home shall be kept free of fire hazards and unnecessary or excessive combustible material. When in use, radiators, open fire, oil or wood burning stoves, floor furnaces and similar hazards shall have barriers or screens to prevent Children from being burned. Unvented fuel fired heaters shall not be used unless equipped with an oxygen depletion safety shut off system.
  - (e) Multiple plugs and electric extension cords shall not be used. Electrical outlets within reach of children shall be plugged or covered.
  - (f) Fans shall be positioned or installed so as to be inaccessible to the children.
  - (g) Measures shall be utilized to prevent the presence of rodents, flies, roaches and other vermin on the premises. Windows and doors used for ventilation shall be screened.
  - (h) Water supply and sewage disposal systems, if other than approved county or city systems, shall be approved by the proper authority having jurisdiction.
- (2) Outside grounds and play areas shall be kept clean and free of obvious hazards to the children's health and safety.
  - (a) Outside play areas shall be free of hazards such as, but not limited to exposed sharp edges of concrete or non-play equipment, broken glass, debris, open drainage ditches, holes and stagnant water.
  - (b) Climbing and swinging equipment that are not portable shall be securely anchored to eliminate accidents or injuries.
  - (c) Climbing and swinging equipment that are not portable shall have a resilient surface beneath the equipment and the fall zone from such equipment, which is adequately maintained by the Family Child Care Learning Home to assure continuing resiliency.
  - (d) Such outside play areas shall be protected from traffic or other hazards by fencing or other barriers at least four feet in height and approved by the Department. Fencing material shall not present a hazard to children. A fence shall be provided around swimming pools to make them inaccessible when not in use.

**Cite as Ga. Comp. R. & Regs. R. 290-2-3-.13**

**Authority:** O.C.G.A. § 20-1A-1 et seq.

**History:** Original Rule entitled "Variances and Waivers" adopted. F. Feb. 21, 1983; eff. Mar. 23, 1983, as specified by the Agency.

**Repealed:** New Rule entitled "Building and Grounds" adopted. F. Feb. 4, 1994; eff. Mar. 1, 1994, as specified by the Agency.

**Repealed:** New Rule of same title adopted. F. Jan. 12, 2009; eff. Feb. 1, 2009.

**Amended:** F. Dec. 4, 2015; eff. Dec. 24, 2015.

**Amended:** F. May 26, 2017; eff. June 15, 2017.

**290-2-3-.14 Reporting**

(1) Within twenty-four (24) hours or the next work day, the Home shall report the following to the Department: any death of a Child while in the care of the Home; any serious illness or injury requiring hospitalization or professional medical attention other than first aid administered by the Provider, Provisional Employee or Employee of the Home; any fire; any structural disaster; the closing of the home and any situation when a Child in care becomes missing, such as, but not limited to, a Child who is left on a vehicle, a Child who leaves the building, playground, or property, or a Child who is left behind on any trip.

(2) Within twenty-four (24) hours or the next work day, the Home shall report any arrest or change in the Comprehensive Records Check Determination of any Provider or Employee (including any resident of the Home age 17 or older), or the Fingerprint Records Check Determination of a Provisional Employee of the Home.

(3) Within twenty-four (24) hours or the next work day, the Home shall report any suspected incident of child abuse, neglect or deprivation to both the Department and also the local county Department of Family and Children Services in accordance with O.C.G.A. § 19-7-5.

(4) Within twenty-four (24) hours or the next work day, the Home shall report any cases or suspected cases of notifiable communicable diseases to both the Department and also the local county health department in accordance with rules of the Department of Public Health regarding Notification of Disease, Chapter 11-2-11.

**Cite as Ga. Comp. R. & Regs. R. 290-2-3-.14**

**Authority:** O.C.G.A. § 20-1A-1 *et seq.* and 42 U.S.C. § 9857*et seq.*

**History.** Original Rule entitled "Denial or Revocation of Certificate" adopted. F. Feb. 21, 1983; eff. Mar. 23, 1983, as specified by the Agency.

**Repealed:** New Rule entitled "Reporting" adopted. F. Feb. 4, 1994; eff. Mar. 1, 1994, as specified by the Agency.

**Repealed:** New Rule of same title adopted. F. Aug. 7, 2009; eff. Aug. 27, 2009.

**Amended:** F. Dec. 13, 2013; eff. Jan. 2, 2014.

**Amended:** F. Dec. 4, 2015; eff. Dec. 24, 2015.

**Amended:** F. May 26, 2017; eff. June 15, 2017.

**Amended:** F. Aug. 17, 2018; eff. Sept. 6, 2018.

**290-2-3-.15 Enforcement and Adverse Actions**

(1) **Enforcement and Adverse Actions.** Under Georgia law, the Department, after considering the seriousness of the violation(s), including but not limited to the circumstances, extent and gravity of the prohibited act(s), the severity of the rule violation, the duration of non-compliance, the License Holder's prior Licensure or history, the voluntary reporting of the violation(s) for which an Adverse Action is being imposed and the hazard(s) or potential hazard(s) to the health or safety of the public, may take any of the following actions when a Home, Permit Applicant or License Applicant violates any of the rules for Family Child Care Learning Homes:

- (a) Refuse to grant a License or Permit;
- (b) Administer a public reprimand;
- (c) Suspend any License or Permit;
- (d) Prohibit any License Applicant, License Holder, Permit Applicant or Permit Holder from allowing a person who previously was involved in the management or control of any program which has had its License or Permit revoked or denied within the past 12 months to be involved in the management or control of such program;
- (e) Revoke any License or Permit;
- (f) Impose a fine, not to exceed a total of \$25,000, of up to \$500 per day for each violation of the law, rule, regulation or formal order related to the initial or ongoing licensing requirement of any program. If any violation is a continuing one, each day of such violation will constitute a separate violation for the purpose of computing the applicable enforcement fine;
- (g) Impose a late fee of up to \$250 for failure of a program to pay the annual License fee within 30 days of the due date;
- (h) Limit or restrict any License or Permit, including but not limited to, restricting some or all services of or admissions, into a Home;
- (i) Seek an injunction against an early care and education program operating without a License or Permit or in willful violation of these rules;
- (j) Make application for an inspection warrant to a court of competent jurisdiction to gain entry into a Home that is believed to be subject to licensure;
- (k) Order the emergency placement of a monitor or monitors in a Home at the expense of the Home; and
- (l) Order the emergency closure of a Home.

(2) **Adverse Actions Subject to the Compliance and Enforcement Chart.** In the majority of cases when a rule violation is found, the Department will determine the appropriate action in accordance with the Compliance and Enforcement Chart below. A Home will receive points based on the frequency and severity of citations and will land in the corresponding box. Accordingly, Prevention, Intermediate or Closure Actions will be imposed as outlined in the Enforcement Categories, Levels and Action Chart below. The Department will consider mitigating and aggravating factors to determine which action is appropriate and will have sole discretion in making this determination. The guidelines for determining the Violation History Level and Violation Class shall be posted on the Department website and updated as needed. Note that if a rule violation is not found, the chart will not be applied, and no citations will be issued.



COMPLIANCE AND ENFORCEMENT CHART

V I O L A T I O N  C L A S S	Incident results in or could result in:	VIOLATION HISTORY LEVEL			
		I 0 Points	II 1-3 Points	III 4-9 Points	IV 10 + Points
	<b>D Extreme Harm or Risk of Harm Imminent Danger</b>	I3-C D <span style="float: right;">D</span>			
	<b>C High Harm or Risk of Harm</b>	CI I1-I2 GS	CII I1-I3 S	CIII I2-C D	CIV I3-C D
	<b>B Medium Harm or Risk of Harm</b>	N/A	BII P2-P3 GS	BIII I1-I2 S	BIV I2-C D
	<b>A Low Harm or Risk of Harm</b>	AI P1-P2 GS	AII P1-P3 GS	AIII P2-P3 GS	AIV I1-I2 S

ENFORCEMENT CATEGORIES, LEVELS AND ACTIONS		
PREVENTION ACTION CATEGORY (P)	INTERMEDIATE ACTION CATEGORY (I) (Includes Citation and Prevention Actions)	CLOSURE ACTION CATEGORY (C) (Includes Citation and Prevention and/or Intermediate Actions)
<b>Prevention 1 (P1)</b>	<b>Intermediate 1 (I1)</b>	<b>Closure (C)</b>
Technical Assistance	Fine	Suspension of License (More than 1 week)
<b>Prevention 2 (P2)</b>	<b>Intermediate 2 (I2)</b>	Revocation of License
Citation	Per Rule Fine	Emergency Closure
<b>Prevention 3 (P3)</b>	Per Day Fine	
Formal Notice Letter	<b>Intermediate 3 (I3)</b>	
Office Conference	Public Reprimand	
	Fine and Restrictions	
	Restricted License	
	Restricted License & Per Rule/Per Day Fine	
	Emergency Monitor & Per Rule/Per Day Fine	
	Short-term Suspension (Less than 1 week)	

**(3) Adverse Actions Not Subject to the Compliance and Enforcement Chart.** In the event that any of the rule violations described below are identified, the Department will not apply the Compliance and Enforcement Chart, but will take Adverse Action as follows:

(a) The Department shall refuse to issue a License or shall otherwise restrict a License or Permit for any applicant who has had a License denied, suspended or revoked within one year of the date of the application.

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(b) The Department shall refuse to issue a License or shall otherwise restrict a License for any applicant, alter ego or agent of the applicant who has transferred ownership or governing authority of a program when such transfer was made in order to avert payment of an enforcement fine, denial, revocation or suspension of such License.

(c) The Department shall refuse to issue a License upon a showing of non-compliance with rules and regulations, flagrant and continued operation of an unlicensed facility, or failure to pay the License fee.

(d) The Department shall refuse to issue a License or Permit if the applicant or the operation or management of a Home knowingly or intentionally makes or causes another to make any false statement of material information in connection with the application for a License or Permit, or in statements made, records maintained, or on documents submitted to the Department as part of an inspection, survey, or investigation.

(e) The Department shall refuse to issue a License or Permit if the applicant or Home fails to provide the Department with information pertinent to an investigation, or the initial or continued licensing of a program within the time specified by the formal notice provided by the Department.

(f) The Department shall refuse to issue a License or Permit if a Home repeatedly fails or refuses to allow the Department access to the Home for the purpose of determining whether the Home is in compliance with these rules.

(g) The Department shall refuse to issue a License or Permit if a Home knows or should reasonably know that any actual or potential Provider, Employee (including Independent Contractors, Students-in-Training, and Volunteers) or Provisional Employee has a Criminal Record, an unsatisfactory Fingerprint Records Check Determination or an unsatisfactory Comprehensive Records Check Determination and allows such individual to either reside at the Home or be present at the Home while any Child is present for care.

(h) The Department may revoke a License or Permit if a Home displays a multi-year pattern of failure to correct a correctable abuse, dereliction or deficiency in the operation or management of a Home within a reasonable time after having received notice from the Department.

(i) The Department shall revoke a License or Permit if a non-correctable abuse, dereliction or deficiency exists in the operation or management of the Home.

(j) The Department shall revoke a License if a Home fails to pay the annual License fee within a reasonable time after the Department provides formal notice of such fee.

(k) The Department shall revoke a License or Permit if a Home knows or should reasonably know that any actual or potential Provider, Employee (including Independent Contractors, Students-in-Training, and Volunteers) or Provisional Employee has a Criminal Record, an unsatisfactory Fingerprint Records Check Determination or an unsatisfactory Comprehensive Records Check Determination and allows such individual to either reside at the Home or be present at the Home while any Child is present for care.

(l) The Department shall revoke a License or Permit if a Home knowingly or intentionally violates other provisions relating to Criminal Records or Comprehensive Background Checks.

(m) The Department shall revoke a License if a Home fails to pay an enforcement fine within the time specified by the formal notice provided by the Department.

(n) The Department shall revoke a License or Permit if the operation or management of a Home knowingly or intentionally makes or causes another to make any false statement of material information in connection with the application for a License or Permit, or in statements made, records maintained, or on documents submitted to the Department as part of an inspection, survey, or investigation.

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(o) The Department shall revoke a License or Permit if a Home fails to provide the Department with information pertinent to an investigation, or the initial or continued licensing of a program within the time specified by the formal notice provided by the Department.

(p) The Department shall revoke a License or Permit if a Home repeatedly fails or refuses to allow the Department access to the Home for the purpose of determining whether the Home is in compliance with these rules.

**(4) Rights and Responsibilities of a License Holder or Permit Holder**

(a) A License Holder or Permit Holder has the right to submit a written statement within ten (10) days of the receipt of notice of the Departmental intent to impose an Adverse Action as to why the Department should not take the Adverse Action. If the licensee submits a written statement, it will be placed in the facility's state file.

(b) The imposition of any Enforcement Action by the Department shall not preclude the Department from taking any additional action authorized by law or regulation.

(c) Right to a Hearing. The Department's Enforcement Actions shall be preceded by a notice and opportunity for a hearing and shall constitute a contested case in accordance with the Georgia Administrative Procedure Act, O.C.G.A. § 50-13-1 *et seq.*, except that only thirty (30) days' notice in writing from the Commissioner's designee shall be required prior to License or Permit revocation except that the hearing held relating to such action by the Department may be closed to the public if the hearing officer determines that an open hearing would be detrimental to the physical or mental health of any child who will testify at that hearing.

(d) The notice of revocation, suspension or restriction of a License or Permit becomes effective thirty (30) days from the day of notice unless the License Holder or Permit Holder requests a hearing. A request for a hearing must be made in writing within ten (10) days of receipt of the notice or of revocation, suspension or restriction.

(e) Payment of an enforcement fine must be made within thirty (30) days of receipt of the notice, unless otherwise specified in writing by the Department.

(f) The notice of the emergency closure of a Home becomes effective upon delivery of the order, unless otherwise provided in the order. A request for a hearing must be made in writing within 48 hours, excluding weekends and holidays, from the receipt of the emergency order.

(g) When the Department issues a revocation or emergency order that is based upon health and safety rule violations, the following actions shall be taken:

1. the Department shall both hand-deliver and send the formal notice to the Home by certified or registered mail;
2. the Home shall post the formal notice in an area that is visible to the Parents and others whose Children attend the Home;
3. the Department shall provide a brief notice of revocation or emergency action to the Home; and
4. the Home shall distribute the brief notice to all Parents or persons authorized to pick up Children from care for the Parents.

(h) When the Department issues a revocation or emergency order that is not based upon health and safety rule violations, the Department shall either hand-deliver or send the formal notice or both to the Home by certified or registered mail.

(i) The Department may post any notice of any Adverse Action on the Department's website.

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- (j) The Department may share any notice of any Adverse Action and any information pertaining thereto with any other agencies which may have an interest in the welfare of the children in care at the Home.
- (k) When the Department has issued a notice of revocation or emergency action required to be posted in accordance with these rules, the Home shall ensure that the notice continues to be visible to the Parents and others throughout the pendency of the revocation or emergency action, including throughout any appeal period.
- (l) When the Home transports Children in care to and from the Home and Parents do not come to the Home on a regular basis, the Home shall send home copies of the brief notice of the revocation or emergency action with the Children on the day that it is delivered by Department.
- (m) When the Department has issued a notice of revocation or emergency order required to be posted in accordance with these rules, the Home shall post any inspection reports that are prepared by the Department during the pendency of any revocation or emergency action in an area that is readily visible to the Parents and others.
- (n) A Home shall not permit the removal or obliteration of any notices of revocation, emergency action, resolution, or inspection survey report posted on the premises of the Home during the pendency of any revocation or emergency action.

**Cite as Ga. Comp. R. & Regs. R. 290-2-3-.15****Authority:** O.C.G.A. § 20-1A-1 *et seq.* and 42 U.S.C. § 9857 *et seq.***History.** Original Rule entitled "Enforcement" adopted. F. Feb. 21, 1983; eff. Mar. 23, 1983, as specified by the Agency.**Repealed:** New Rule entitled "Enforcement and Penalties" adopted. F. Feb. 4, 1994; eff. Mar. 1, 1994, as specified by the Agency.**Repealed:** New Rule of same title adopted. F. Dec. 2, 2009; eff. Dec. 22, 2009.**Amended:** F. Dec. 13, 2013; eff. Jan. 2, 2014.**Amended:** F. Dec. 4, 2015; eff. Dec. 24, 2015.**Amended:** New title "Enforcement and Adverse Actions." F. June 2, 2016; eff. June 22, 2016.**Amended:** F. May 26, 2017; eff. June 15, 2017.**Amended:** F. Aug. 17, 2018; eff. Sept. 6, 2018.

**290-2-3-.16 Waivers and Variances**

The Department may, in its discretion, grant waivers and variances of specific rules upon application or petition being filed on forms provided by the Department. The Department may establish conditions which must be met by the Home in order to operate under the waiver or variance granted. Waivers and variances may be granted in accordance with the following considerations:

- (a) Variance. A variance may be granted by the Department upon a showing by the applicant or petitioner that the particular rule or regulation that is the subject of the variance request should not be applied as written because strict application of the rule would cause undue hardship. The applicant or petitioner must also show that adequate standards affording protection for the health, safety and care of the children exist and will be met in lieu of the exact requirements of the rule or regulations in question.
- (b) Waiver. The Department may dispense entirely with the enforcement of a rule or regulation by granting a waiver upon a showing by the applicant or petitioner that the purpose of the rule or regulation is met through equivalent standards affording equivalent protection for the health, safety and care of the children.
- (c) Experimental Variance or Waiver. The Department may grant waivers and variances to allow experimentation and demonstration of new and innovative approaches to delivery of services upon a showing by the applicant or petitioner that the intended protections afforded by the rule or regulation which is the subject of the request are met and that the innovative approach has the potential to improve service delivery.

**Cite as Ga. Comp. R. & Regs. R. 290-2-3-.16**

**Authority:** O.C.G.A. § 20-1A-1 et seq.

**History.** Original Rule entitled "Waivers and Variances" adopted. F. Feb. 4, 1994; eff. Mar. 1, 1994, as specified by the Agency.

**Amended:** F. Dec. 4, 2015; eff. Dec. 24, 2015.

**Amended:** F. May 26, 2017; eff. June 15, 2017.

**290-2-3-.17 Severability**

In the event that any rule, sentence, clause or phrase of any of these rules and regulations may be construed by any court of competent jurisdiction to be invalid, illegal, unconstitutional, or otherwise unenforceable, such determination or adjudication shall in no manner affect the remaining rules or portions thereof. The remaining rules or portions thereof shall remain in full force and effect, as if such rule or portions thereof so determined, declared or adjudged invalid or unconstitutional were not originally a part of these rules.

**Cite as Ga. Comp. R. & Regs. R. 290-2-3-.17**

**Authority: O.C.G.A. Chaps. 49-5-8; 49-5-12.**

**History.** Original Rule entitled "Severability" adopted. F. Feb. 4, 1994; eff. Mar. 1, 1994 as specified by the Agency.

**290-2-3-.18 Repealed.**

**Cite as Ga. Comp. R. & Regs. R. 290-2-3-.18**

**Authority:** O.C.G.A. § 20-1A-1 et seq.

**History.** Original Rule entitled "Notice of Revocation or Emergency Suspension Actions to Parents, Guardians and Others" adopted as ER. 290-2-3-0.18-.18. F. Oct. 17, 2002; eff. Oct. 16, 2002, the date of adoption.

**Amended:** Permanent Rule entitled "Notice of Revocation or Emergency Suspension Actions" adopted. F. Nov. 22, 2002; eff. Dec. 12, 2002.

**Amended:** F. Dec. 4, 2015; eff. Dec. 24, 2015.

**Repealed:** F. June 2, 2016; eff. June 22, 2016.

**290-2-3-.19 Safe Sleeping and Resting Requirements****(1) Sleeping and Resting Equipment.**

- (a) **Cribs and Other Approved Sleep Equipment.** The Home shall provide either a safety approved crib or other equipment that is approved for infant sleep for each infant who cannot climb out of the crib or other approved equipment. Each crib shall be safety approved in compliance with Consumer Product Safety Commission (CPSC) and American Society of Testing and Materials International (ASTM) safety standards; any other equipment, such as, but not limited to, a portable crib, playpen, play yard or bassinet, shall be in compliance with current ASTM Standard Consumer Safety Specifications for Non-Full-Size Baby Cribs/Play Yards. ("Infant" refers to any child under the age of twelve (12) months or any child who is under eighteen (18) months of age who is not walking.)
1. **Crib Construction.** Cribs and other equipment approved for infant sleep shall be in good repair and free of hazards. Stack cribs and cribs with drop sides shall not be used.
  2. **Crib Mattress.** A mattress shall be provided for each crib and other equipment approved for infant sleep and shall be firm, tight-fitting, at least two inches (2") thick and covered with waterproof, washable material. Before a change of occupant, each mattress shall be cleaned with a disinfectant.
  3. **Crib Sheet.** Each crib and other equipment approved for infant sleep shall have only an individual, tight-fitting sheet which is changed daily or more often as needed and prior to a change of occupant.
- (b) **Cots and Mats.** Cots and mats shall be provided for each child who is two (2) years of age or older and who is required to take a nap and for each child under the age of two years who can climb out of a crib or other equipment approved for infant sleep.
1. **Cot and Mat Construction.** Cots and mats shall be of sound construction and of sufficient size to accommodate comfortably the size and weight of the child. Mats must be in good repair, washable, covered with waterproof material and at least two inches (2") thick.
  2. **Individual Use.** Cots and mats must be used by the same child daily and marked for individual use.
  3. **Sheets.** Sheets or similar coverings for cots or mats shall either be marked for individual use or laundered daily. If individually marked, they must be laundered weekly or more frequently if needed.
  4. **Covers.** A light cover shall be available for each child's use on a cot or mat and shall be marked for individual use or laundered daily. If individually marked, they must be laundered weekly or more frequently if needed.
- (c) **Pillows.** Pillows may be used only by children two (2) years of age or older. When used, pillows shall be assigned for individual use and covered with pillow cases that are marked for individual use or covered with cases that are laundered daily. Individually marked pillow cases shall be laundered weekly or more frequently as needed.
- (d) **Arrangement of Sleeping and Resting Equipment.** All sleeping and resting equipment shall be arranged to avoid obstructing access to exit doors, to provide the caregivers access to each child, and to prevent children's access to cords hanging from window treatments and other hazardous objects. To reduce the transfer of airborne diseases, sleeping and resting equipment shall be arranged as follows. There shall be a minimum of twenty-four inch (24") corridor between each row of sleeping or resting equipment. There shall be a minimum of twelve inches (12") between each piece of sleeping or resting



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equipment in each row of equipment. Children shall be placed on cots and mats so that one child's head is toward another child's feet in the same row.

- (2) Environment. A Family Child Care Learning Home shall provide a safe sleep environment in accordance with American Academy of Pediatrics (AAP), Consumer Product Safety Commission (CPSC) and American Society for Testing and Materials (ASTM) recommendations as listed in these rules for all infants and one-year-old children when placed for sleep in a safety approved crib or in any other type of equipment approved for infant sleep. Staff shall place an infant to sleep on the infant's back unless the Parent has provided a physician's written statement authorizing another sleep position for that particular infant that includes how the infant shall be placed to sleep and a time frame that the instructions are to be followed. When an infant can easily turn over from back to front and back again, Staff shall continue to put the infant to sleep initially on the infant's back, but allow the infant to roll over into his or her preferred position and not re-position the infant. Sleepers, sleep sacks and wearable blankets that fit according to the commercial manufacturer's guidelines and will not slide up around the infant's face may be used when necessary for the comfort of the sleeping infant, however swaddling shall not be used unless the Home has been provided a physician's written statement authorizing its use for a particular infant that includes instructions and a time frame for swaddling the infant. Staff shall not place objects or allow objects to be placed in or on the crib with an infant such as but not limited to toys, pillows, quilts, comforters, bumper pads, sheepskins, stuffed toys, or other soft items and shall not attach objects or allow objects to be attached to a crib with a sleeping infant such as but not limited to crib gyms, toys, mirrors and mobiles.
  - (a) The Home shall maintain the infant's sleeping area to be comfortable for a lightly clothed adult within a temperature range of sixty-five (65) to eighty-five (85) degrees depending upon the season. There shall be lighting adequate to see each sleeping infant's face to view the color of the infant's skin and check on the infant's breathing.
  - (b) Wedges, other infant positioning devices and monitors shall not be used unless the Parent provides a physician's written statement authorizing its use that includes how to use the device and a time frame for using the device for that particular infant.
  - (c) Infants shall only sleep in a safety approved crib or other equipment approved for infant sleep as described in 290-2-3-.19 (1)(a) and shall not sleep in any other equipment, such as, but not limited to, a car safety seat, bouncy seat, highchair, or swing. Infants who arrive at the facility asleep or fall asleep in such equipment or on the floor shall be transferred to a safety approved crib or other equipment approved for infant sleep.
- (3) Night-time Care. For Homes that offer night-time care, each child, except infants and toddlers who require individual cribs, shall be provided an individual bed with a four inch (4") mattress or a cot with a two inch (2") pad. Such equipment shall be arranged so that the children's sleep will not be unnecessarily interrupted by delivery and pick up of other children.
- (4) Storage. If cots and mats are stored in the children's activity room or area, they shall be stored to prevent children's access to them and to allow maximum use of play space. When storage is available and used for the storage of cots and mats that allows the cots, mats and any bedding to be stored without touching any other cots, mats or bedding, the bedding may be left on the cot or mat. When such storage is not available for the cots and mats, each child's bedding shall be kept separate from other children's bedding and stored in containers marked for individual use, such as, but not limited to, bins, cubbies, or bags.

**Cite as Ga. Comp. R. & Regs. R. 290-2-3-.19**

**Authority:** O.C.G.A. § 20-1A-1 et seq.

**History.** Original Rule entitled "Posting and Distribution of Notices of Revocation and Emergency Suspension Actions" adopted as ER. 290-2-3-0.18-.19. F. Oct. 17, 2002; eff. Oct. 16, 2002, the date of adoption.

**Amended:** Permanent Rule entitled "Infant-Sleeping Safety Requirements" adopted. F. Nov. 22, 2002; eff. Dec. 12, 2002.

**Amended:** New title "Safe Sleeping and Resting Requirements." F. May 16, 2013; eff. Jun. 5, 2013.

**Amended:** F. Dec. 4, 2015; eff. Dec. 24, 2015.

**Amended:** F. May 26, 2017; eff. June 15, 2017.

**290-2-3-.20 E-Mail Contact Information**

All Family Child Care Learning Home license applicants shall submit a valid e-mail address to the Department at the time of application on forms provided by the Department. It shall be the Family Child Care Learning Home's responsibility to maintain correct contact information, to update the Department if contact information changes, and to respond timely to information requests from the Department transmitted to the provided e-mail address. Delivery of any such information, including but not limited to directives, bulletins, data requests, notices of proposed amendments to rules and regulations, and any other matters affecting Family Child Care Learning Homes, to said e-mail address shall be considered valid so long as the Department does not receive a failure to deliver message.

**Cite as Ga. Comp. R. & Regs. R. 290-2-3-.20**

**Authority:** O.C.G.A. § 20-1A-1 et seq.

**History.** Original Rule entitled "Posting of Inspection Results" adopted as ER. 290-2-3-0.18-.20. F. Oct. 17, 2002; eff. Oct. 16, 2002, the date of adoption.

**Amended:** New Rule entitled "E-mail Contact Information" adopted. F. Apr. 17, 2009; eff. May 7, 2009.

**Amended:** F. Dec. 4, 2015; eff. Dec. 24, 2015.

**290-2-3-.21 Criminal Records and Comprehensive Background Checks****(1) Satisfactory Fingerprint Records Check Determination or Satisfactory Comprehensive Records Check Determination Required**

(a) The Home must ensure that the Provider, every actual and potential Employee (including residents age 17 and older) and Provisional Employee of the Family Child Care Learning Home must submit both a Records Check Application to the Department and Fingerprints to an authorized fingerprinting site.

(b) Every Provider must have a current and valid satisfactory Comprehensive Records Check Determination on file prior to being present at the Home while any child is present for care or before residing in the Home. The Comprehensive Records Check Determination must have a Records Check Clearance Date that is no older than the preceding 12 months of the license date; provided, however, if the Provider has had a lapse of employment from the child care industry that lasted for 180 days (6 months) or longer, a new satisfactory Comprehensive Records Check Determination is required.

(c) Every Employee must have a current and valid satisfactory Comprehensive Records Check Determination on file prior to being present at the Home while any child is present for care or before residing in the Home if age 17 or older. The Comprehensive Records Check Determination must have a Records Check Clearance Date that is no older than the preceding 12 months of the hire date; provided, however, if the Employee has had a lapse of employment from the child care industry that lasted for 180 days (6 months) or longer, a new satisfactory Comprehensive Records Check Determination is required.

(d) Every Provisional Employee must have a current and valid satisfactory Fingerprint Records Check Determination on file prior to being present at the Home while any child is present for care or before residing in the Home if age 17 or older and must be supervised at all times by a Provider or Employee with a current and valid satisfactory Comprehensive Records Check Determination. The Fingerprint Records Check Determination must have a Records Check Clearance Date that is no older than the preceding 12 months of the hire date; provided, however, if the Provisional Employee has had a lapse of employment from the child care industry that lasted for 180 days (6 months) or longer, a new satisfactory Fingerprint Records Check Determination is required.

(e) No actual or potential Provider, Employee or Provisional Employee of the Family Child Care Learning Home with an unsatisfactory Fingerprint Records Check Determination or an unsatisfactory Comprehensive Records Check Determination may be present at a Home when any child is present for care or reside in a Home.

(f) Valid Evidence of a satisfactory Fingerprint Records Check Determination must be maintained at the Family Child Care Learning Home for each Provisional Employee for the duration of employment or residency plus one year, and such paper or electronic evidence must be made immediately available to the Department upon request.

(g) Valid Evidence of a satisfactory Comprehensive Records Check Determination must be maintained at the Family Child Care Learning Home for the Provider, and each Employee (including Students-in-Training, volunteers, independent contractors and residents age 17 and older) for the duration of employment or residency plus one year, and such paper or electronic evidence must be made immediately available to the Department upon request.

(h) Every Provider must receive a satisfactory Comprehensive Records Check Determination before October 1, 2018.

(i) The Home must ensure that every Provisional Employee requests child abuse and neglect registry information and criminal history documents from any U.S. state, territory or tribal land other than Georgia in which they have resided in the preceding five years and submit such documents to the Department in a timely manner. Failure to request out-of-state information will result in the issuance of an unsatisfactory Comprehensive Records Check Determination.

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(j) For a Provisional Employee to become a permanent Employee, the individual must have a satisfactory Comprehensive Records Check Determination.

(k) Portability for Providers, Employees and Provisional Employees, excluding Students-in-Training. Only the most recently issued determination letter is eligible for portability and must be ported electronically. A Provider may accept a satisfactory Fingerprint Records Check Determination letter for a Provisional Employee or a satisfactory Comprehensive Records Check Determination letter issued by the Department for a potential Employee if the individual's Records Check Clearance Date is within the preceding 12 months from the hire date, the individual has not had a lapse of employment from the child care industry that lasted for 180 days (6 months) or longer, and the Provider does not know or reasonably should not know that the individual's satisfactory status has changed.

(l) Portability for Students-in-Training. Only the most recently issued determination letter is eligible for portability and must be ported electronically. A Provider may accept a satisfactory Fingerprint Records Check Determination or a satisfactory Comprehensive Records Check Determination letter issued by the Department for a Student-in-Training if the Records Check Clearance Date is within the preceding 24 months from the hire date, the Provider has verified and maintains evidence on file at the Home that the Student-in-Training is currently enrolled in a high school recognized by the Department of Education or an early education curriculum through an accredited school of higher education, the individual has not had a lapse of employment from the child care industry that lasted for 180 days (6 months) or longer, and the Provider does not know or reasonably should not know that the individual's satisfactory status has changed.

(m) Recheck Required. The Home must immediately require that every Provider, Employee and Provisional Employee submit to the Comprehensive Records Check Determination process at the following times:

1. When the Provider knows or reasonably should know that an Employee or Provisional Employee has been arrested or charged for any covered Crime;
2. When there is a lapse of employment from the child care industry that lasted for 180 calendar days (6 months) or longer;
- 3 At least once every five years; and
4. When the Department so requests.

**Cite as Ga. Comp. R. & Regs. R. 290-2-3-.21**

**Authority:** O.C.G.A. § 20-1A-1 *et seq.*, 42 U.S.C. § 9857 *et seq.*

**History.** Original Rule entitled "Criminal Records Check" adopted. F. Dec. 13, 2013; eff. Jan. 2, 2014.

**Amended:** F. Dec. 4, 2015; eff. Dec. 24, 2015.

**Amended:** New title "Criminal Records and Comprehensive Background Checks." F. Aug. 17, 2018; eff. Sept. 6, 2018.