

Rule 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;

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
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.

(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) "Staff" or "Personnel" means all persons including the Provider, Employees and Provisional Employees.

(yz) "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~~aa) "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.

(~~a~~abb) "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.

(~~b~~cc) "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.

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

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

Rule 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(~~44~~15).

(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.

(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.

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

290-2-3-.07 Staffing and Supervision

(1) The Provider shall be at least 21 years of age.

(2) Providers ~~must possess who apply for initial License shall~~ and 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 and kept current); or
- b. Technical Certificate of Credit (TCC) in Early Childhood Education; or
- c. Technical ~~Certificate of Credit (TCC)~~ College Diploma (TCD) 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 and kept current); 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~~ has submitted an 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) A Home must maintain a personnel file on the Provider, all Employees, Provisional Employees, Personnel, Staff, Students-in-Training, Volunteers, Clerical, Housekeeping, Maintenance and other Support Staff for the duration of the term of employment plus one (1) calendar year, and it shall contain the following: identifying information to include: name, date of birth, social security number, current address and current telephone number; employment history for the past ten years; as applicable to the position held: evidence of education and qualifying work experience, evidence of required program orientation including date and signature of person providing the orientation; evidence of all training required by these rules which shall include: title of training, date of training, trainer's signature, location of training and number of clock hours obtained; a statement completed by the staff member that the information provided is true and accurate; and any other records required by these rules.

(5) Program Orientation. Prior to assignment to children or task, the Provider and all Employees and Provisional Employees must receive initial program orientation.

(6) The initial program orientation must include the following subjects: the Home's policies and procedures; the portions of these rules dealing with the care, health and safety of children; the Staff person's assigned duties and responsibilities; reporting requirements for suspected cases of child abuse, neglect or deprivation; communicable diseases and serious injuries; emergency weather plans; the program's emergency preparedness plan; childhood injury control; the administration of medicine; reducing the risk of Sudden Infant Death Syndrome (SIDS); hand washing; fire safety; water safety; and prevention of HIV/Aids and blood borne pathogens.

(47) Health and Safety Orientation. The Provider, Employees and Provisional Employees with direct care responsibilities shall complete health and safety orientation training within the first 90 days ~~at the time~~ of employment. The state-approved training hours obtained ~~may~~ will count toward required ~~annual~~ first year 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 (including immunization); 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 and child maltreatment; emergency preparedness and response planning for emergencies resulting from a natural disaster, ~~or a~~ human-caused event (such as violence at a child care facility); 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)~~; recognition and reporting of child abuse and neglect; and child development.

(~~58~~) First Aid and CPR. 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. The Provider, a Provisional Employee or Employee with current CPR and first aid training must always be on the Home's premises and on any field trip whenever any Child is present.

(~~69~~) Annual Training. Every calendar year, after the first year of employment, ~~Additionally,~~ the Provider, Provisional Employees and Employees shall attend ten (10) clock hours of diverse training which is task-focused in on-going health, safety and early childhood or child development related topics 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.

(~~710~~) 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.

(~~811~~) 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.

(~~912~~) 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.

(~~1013~~) 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.

(~~1114~~) 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.

(~~1215~~) 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.

~~(1316)~~ 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.

~~(1417)~~ At least one Adult Staff person with a satisfactory Comprehensive Records Check Determination shall supervise Children at all times. Plans shall be made to obtain additional ~~adult Staff~~ 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.~~

~~(1618)~~ An ~~assistant-Employee or Provisional Employee~~, 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.

~~(1719)~~ 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:

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

(20) **Employees.** A licensed Home may hire Employees. All Employees:

(a) must comply with the background check requirements as outlined in Rule 290-2-3-.21, Criminal Records and Comprehensive Background Checks;

(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; and

(d) must participate in the orientation and training required by these rules.

~~(1821)~~ **Provisional Employees.** A licensed Home may hire Provisional Employees. All Provisional Employees:

~~(a) must be at least 17 years of age; comply with the background check requirements as outlined in Rule 290-2-3-.21, Criminal Records and Comprehensive Background Checks;~~

(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;~~

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

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

(gf) 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.

~~(1922)~~ **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.

~~(2023)~~ **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;

(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.

~~(2124)~~ **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.

~~(2225)~~ **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.

~~(2326)~~ **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.

~~(2427)~~ **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.

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

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.

(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 ~~if the~~ 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.

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