



## **Frequently Asked Questions Related to New Daycare Standards**

**Question: Why is the Department of Health and Welfare making these changes to daycare standards?**

Answer: The current daycare law has not had any significant changes since the early 1980's. During the 2009 Legislative Session the Legislature passed Senate Bill 1112 to make improvements in daycare regulation. The new law was supported by providers, child care experts and other stakeholders with an interest in quality daycare services. The Department is now proposing rules to support this new law.

**Question: What are the major changes in the new law?**

Answer: The new law enhances the criminal history and background check process, specifies the content of health and safety inspections, including water features and gun safety, and establishes a meaningful staff to child ratio and group sizes. *The new law also requires that all providers caring for seven or more children for compensation be licensed.*

**Question: Do I have to count my own children when determining if I need a license and in ratio and group sizes?**

Answer: Yes. For state licensing purposes, a child is a child (a child is defined as a person less than thirteen years of age). When a provider accepts compensation for the care of a child they are responsible for determining if they will need a daycare license.

Any provider caring for 7 or more children and accepting compensation must be licensed by the state (unless licensed by a city or county that is exempt from state licensing standards). For example, a mother with 4 of her own children who agrees to care for her neighbors 3 children for compensation must obtain a state license as she is caring for a total of 7 children. A mother with 4 of her own children caring for 1 other child for compensation would not need a license as she is only caring for 5 children.

**Question: Are there exclusions to state licensing?**

Answer: Yes. The following exclusions apply to state licensing:  
The occasional or irregular care of a neighbor's, relative's, or friend's

child or children by a person not ordinarily in the business of providing daycare;

The operation of a private school or religious school for educational purposes for children over four years of age, or a religious kindergarten;

The provision of occasional care exclusively for children of parents who are simultaneously in the same building;

The operation of day camps, programs and religious schools for less than twelve weeks during a calendar year or not more often than once a week;

The provision of care for children of a family within the second degree of relationship.

**Question: Do Idaho Child Care Program (ICCP) providers have to meet these new state licensing standards?**

Answer: Yes. ICCP providers must meet the state licensing standards and be in compliance with the ICCP rules. ICCP providers who are required to be licensed by the state will need to show proof of licensure when they renew their ICCP provider agreement.

**Question: Will the Department still be issuing “certifications” for group providers?**

Answer: No. The Department will now license group providers under the same standards as centers.

**Question: What if my city has daycare licensing requirements? As a provider do I need a state and city license?**

Answer: If a city or county has adopted an ordinance for regulation and/or licensing of daycare services then the state law does not apply unless the ordinance is repealed. A provider in a city or county with its own ordinance is not required to be licensed by the state.

**Question: How often will I have to renew my state license?**

Answer: A state license is good for two years.

**Question: Providers and parents have expressed a great deal of concern regarding the changes to the child to staff ratio and the maximum group size restrictions in the new law. Has the Department decided to take any action related to these comments?**

Answer: Yes. The Department is moving forward with legislation that, if approved by the legislature during the 2010 session, will amend the child to staff ratio requirements (*please see Attachment A for the proposed ratios*). The Department took into consideration the input of providers, parents and advocates when determining the proposed standards. We also compared city ordinances across the state to help guide the decision.

**Question: As a provider I am confused about the requirements related to how many children I can have enrolled verses in attendance. Can you please explain the difference and how this will be managed?**

Answer: In the proposed changes to the law the Department has defined “attendance” as the number of children present at a daycare facility. The Department will compare the number of children in attendance with the number of staff providing direct supervision to those children when determining a provider’s compliance with child to staff ratio.

The Department will determine the type of license (group, center, or family) based on the number of children a provider plans to have in attendance at any point in time during business hours. If a provider does not plan to care for more than 12 (twelve) children at any time they will be licensed as a group facility. Those caring for thirteen (13) or more children will be licensed as a center.

A provider can have as many children as they would like enrolled in their daycare. We understand that providers may have multiple part-time children enrolled. For example, a group provider may have fourteen (14) children enrolled in their daycare but never has more than twelve (12) children in attendance at any time.

**Question: Please provide a timeline and description of the process to implement the new law and rules.**

Answer: The Department of Health and Welfare entered into Negotiated Rule Making in order to ensure that stakeholders have adequate opportunities for input and feedback on the rules. The timeline is as follows:

May 2009	Passage of Senate Bill 1112
June 2009	Negotiated Rule Making Session with stakeholders Open public comment period
September 2009	Proposed rules published in the Administrative Bulletin Public Hearings were held across the state Open public comment period
November 2009	Rules were presented and approved by the Board of Health and Welfare
January 2010	New law goes into effect

July 2010 Rules are presented to Legislature for approval  
Proposed law changes are presented to the legislature  
Rules go into effect  
Proposed law changes go into effect (*if approved by the legislature*)

**Question: What are the fees related to state licensing and when will they go into effect?**

Answer: Providers and/or employees will be responsible for all fees associated with criminal history and background checks and juvenile justice checks.

Licensing fees are set as follows and will be in effect July 1, 2010 when the rules have been approved by the legislature:

Family Providers (1-6 children) (voluntary licensing) - \$100.00  
Group Providers (7-12 children) - \$100.00  
Center Providers (13 or more children) - \$175.00

*These fees will not be in effect until July 1, 2010 when the daycare rules are approved by the legislature. Between January 1, 2010 and July 1, 2010 there will be no state licensing or health and safety inspection fees.*

**Question: How will the Department of Health and Welfare manage the gap in time between January 1, 2010 when the new law goes into effect and July 1, 2010 when the rules go into effect? How do the proposed changes to the law affect this timeline?**

Answer: The Department wants providers to use the time between now and July 1, 2010 to prepare for the changes. The Department recognizes that there is uncertainty related to the proposed law changes and how that affects the enforcement of staff to child ratio. We will require compliance with the new health and safety standards, background checks, fees, etc but will remain flexible with providers around ratio and group size as we work through the legislative process. We will enforce ratio and group size as defined in the law and rules when the safety of children is clearly compromised.

**Question: How will the Department manage new providers and those who are renewing their license or certification between January 1 and July 1?**

Answer: Please remember that the Department will no longer issue certifications for group providers. As of January 1, 2010 we will license all providers under the new standards as outlined in law. These licenses will be good for two years and when the Department has approved rules and/or the changes to the law are approved we will notify providers and expect business practices will be adjusted to be in compliance.

**Question: I am currently a state licensed daycare provider. When do I have to be in compliance with these changes?**

Answer: The Department will notify providers of the changes to law and rules once the legislature has taken action and will use this as an opportunity to clarify what is expected of providers. *After July 1, 2010 providers will be expected to be in compliance with the law and rules regardless of the decisions made during the upcoming legislative session, the date that their license was issued or if they are up for renewal.*

As provider's licenses come up for renewal the Department will follow the new standards set forth in law and rule. The Department will use renewal dates as the opportunity to verify a provider's alignment with the standards. The Department will also investigate complaints related to the new standards and will work with providers to help them come into compliance.

**Question: Where can I find out what is included in the new code, the proposed changes and rules?**

Answer: The link below will take you to Title 39, Chapter 11, Idaho Code related to daycare licensing:

<http://www.legislature.idaho.gov/idstat/Title39/T39CH11.htm>

A copy of the rules can be found at:

<http://adm.idaho.gov/adminrules/bulletin/bul/09bul/09sept.pdf>

Please check [www.legislature.idaho.gov](http://www.legislature.idaho.gov) after the first of the year for a copy of the proposed code changes.

**Question: How can I file a complaint or concern regarding a daycare provider?**

Answer: The Department of Health and Welfare has designated the 2-1-1 Idaho Careline as the single point of entry for daycare complaints in Idaho. 2-1-1 will accept the call and then route the investigation of the complaint to the proper authority.

**Question: Who can I contact if I have further questions?**

Answer: Please feel free to contact Landis Rossi at 208.334.5688 or [Rossil@dhw.idaho.gov](mailto:Rossil@dhw.idaho.gov) if you have further questions.

## Attachment A

### Proposed Child to Staff Ratio Requirements

Each staff member on-duty who is providing direct care and supervision to children will be counted by the department as staff for purposes of determining compliance with child:staff ratio. Staff sixteen (16) and seventeen (17) years of age who are under the direct supervision of an adult staff member, when on-duty and providing direct care and supervision to children, will be counted by the department as staff for purposes of determining compliance with child:staff ratio.

Each child will be counted by the department as one (1) child for purposes of determining compliance with child:staff ratio.

For group daycare facilities and family daycare homes where there are children of mixed age groups, the maximum allowable ratio of children to staff is twelve (12) points per each staff member or up to a maximum of twelve (12) children, per each staff member. For purposes of determining compliance with child:staff ratio, the department will calculate points and count staff and children at group daycare facilities and family daycare homes as follows:

<b>Child:Staff Ratios for Group Daycare Facilities and Family Daycare Homes Where There are Children in Mixed Age Groups</b>	
Twelve (12) months of age or younger	Two 2 points per child <i>Up to a maximum of two (2) children in attendance within this age group per staff member</i>
Thirteen (13) months of age through twenty four (24) months of age	1.5 points per child <i>Up to a maximum of four (4) children in attendance within this age group per staff member</i>
Twenty five (25) months of age through four (4) years of age	1 point per child <i>Up to a maximum of twelve (12) children in attendance per staff member</i>
Five (5) years of age or older	.5 point per child <i>Up to a maximum of twelve (12) children in attendance per staff member</i>

For daycare centers that have a separate room(s) for children of a defined age group, the maximum allowable ratio of children to staff is based upon the ages of the children in each separate room(s). For purposes of determining compliance with child:staff ratio the department will count children in the defined age group/separate room(s), and staff as follows:

<b>Child:Staff Ratios for Daycare Centers with Separate Rooms for Children of a Defined Age Group</b>	
Twenty four (24) months of age or younger	One (1) staff member per six (6) children in attendance
Twenty five (25) months of age through three (3) years of age	One (1) staff member per eight (8) children in attendance
Four (4) years of age to five (5) years of age	One (1) staff member per twelve (12) children in attendance
Five (5) years of age or older	One (1) staff member per eighteen (18) children in attendance

Daycare centers that combine classrooms with mixed age children must comply with the child:staff ratio required for family daycare homes and group daycare facilities, as defined in the table above for mixed age group settings.