

**HEALTH AND SAFETY RULES
FOR FACILITY BASED LICENSE-EXEMPT
CHILD CARE PROVIDERS
RECEIVING CHILD CARE SCHOLARSHIP**



Department of Health and Human Services
Division of Economic and Housing Stability
Bureau of Child Development & Head Start Collaboration

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He-C 6916 HEALTH AND SAFETY RULES FOR FACILITY BASED LICENSE-EXEMPT CHILD CARE PROVIDERS RECEIVING CHILD CARE SCHOLARSHIP

Statutory Authority: RSA 161:2, XII

He-C 6916.01 Purpose:

The purpose of this part is to set forth the minimum standards for health and safety requirements for license-exempt child care providers who provide child day care services for children and families receiving child care scholarship, pursuant to 170-E:6-a, RSA 170-E:3, I(f), and (g), and 45 CFR Part 98.41 and 98.42.

He-C 6916.02 Scope:

This part shall apply to any license-exempt child care facility based program providing child day care services to families receiving child care scholarship pursuant to He-C 6914, and is exempt from licensure, pursuant to, RSA 170-E:3, I(f),and (g).

He-C 6916.03 Definitions:

- (a) "Child" means "child" as defined in RSA 170-E:2, II, namely "any person under 18 years of age."
- (b) "Child care" means the act of providing supervision, food, activity, and rest for a child for any portion of a 24-hour day, in order to promote healthy child development and assist the child's parent(s), in preparing for, securing, or maintaining employment or employment related education or training, for an approved activity that supports service or case plan goals.
- (c) "Commissioner" means "the commissioner of the department of health and human services," as defined in RSA 170-E:2, V.
- (d) "Corporal punishment" means the use of physical force, physical restraint, or physical actions against a child as a means of discipline.
- (e) "Department" means "the department of health and human services" as defined in RSA 170-E:2, VII.
- (f) "Developmentally appropriate" means actions, environment, equipment, supplies, communications, interactions, or activities that are based on the developmental level and abilities, the family culture, and the individual needs of each child in care.
- (g) "Enrolled child care provider" means a child care provider who has met the requirements found in He-C 6914 and is authorized to receive payment for services from the department. The term includes "registered provider" as defined in RSA 170-E:6-a.

- (h) “Facility based program” means a license-exempt child care provider pursuant to RSA 170-E:3, I (f) and(g) that is enrolled as a child care provider pursuant to He-C 6914.
- (i) “Foster parent” means an individual who has a license or permit for foster family care, pursuant to He-C 6446.
- (j) “Legal guardian” means an individual who is given legal authority by a court and charged with the duty to provide care, custody, and supervision of the child or children.
- (k) “Monitoring statement” means a written report issued by the department detailing the findings of a monitoring visit conducted by the department.
- (l) “Monitoring visit” means a visit made to the facility based program by the department for the purpose of assessing compliance with He-C 6914, He-C 6917, and 45 CFR Part 98.41 and 98.42.
- (m) “NH professional registry” means New Hampshire’s password protected electronic database designed to support and track professional development for the early childhood and afterschool workforce pursuant to He-C 6914.04 (g) and (h).
- (n) “Parent” means an individual who has a birth, adoptive, or step-parent relationship to the child or children, a foster parent as defined in (l) above or a legal guardian as defined in (m) above.
- (o) “Program” means a license-exempt child care provider pursuant to RSA 170-E: 3, I, (f) and (g). The term includes facility based programs.
- (p) “Program improvement plan” means a written plan developed by a program, approved by the department in response to a monitoring statement assessment, and stating how the program will come into compliance with the rules.
- (q) “Staff” means the staff of a facility based program who provide supervision of children or who are required to meet staff to child ratios.
- (r) “Supervision” means being present with children in child care, knowing their number, identities, and whereabouts, observing their activities , and being in close enough proximity to have all children within sight or hearing, and allowing intervention, if needed, to safeguard each child from accident or injury.

He-C 6916.04 Professional Development:

- (a) Every 12- month period, beginning on the date of enrollment, staff shall:
 - 1. Complete 2 hours of annual professional development in any of the health and safety topics pursuant to in He-C 6914.04(d)(1)-(11), (e) (1)-(2);

2. Complete 2 hours of annual professional development in any of the topic areas listed in accordance with He-C 6914.05 (a),(3)(a)-(l); and
 3. Upload documentation of completion of professional development in (a)(1) and (2) above to the NH Professional Registry.
- (b) Staff hired after the DHHS enrollment date shall:
1. Complete the professional development specified in (a)(1) and (2) each 12-month period, from the date of hire; and
 2. Upload documentation of completion of professional development in (b) (1) above to the NH Professional Registry.
- (c) CPR and first aid training shall not be included in the annual required professional development hours specified in (a) (1) and (2) above.
- (d) Staff hired for 4 months or less, such as for a summer or recreational program, shall complete and upload to the NH Professional Registry documentation of the required health and safety topics pursuant to He-C 6914.04 (d)(1)-(11),and (e) (1)-(2) within 2 weeks of the start of employment.
- (e) Programs enrolled with the department prior to October 1, 2017, who have maintained enrollment, shall comply with the requirements in (a)(1) and (2) above by March 30, 2019. Thereafter, annual professional development shall be completed by March 30th.

He-C 6916.05 Building and Physical Premises Safety:

- (a) Premises shall be maintained in a neat, clean and safe condition, free and clear of excess clutter and items such as boxes and bins used for storage which restrict children's free movement.
- (b) Programs shall maintain the child care environment free of hazards to children including, but not limited to, the following:
1. Fire hazards;
 2. Electrical hazards;
 3. Guns, weapons, or live or spent ammunition which are not in locked storage;
 4. Heavy furnishings or other heavy items that could easily fall on children and would be likely to cause injury;
 5. Loose and flaking paint which is accessible to children;

6. Unclean conditions or disrepair which demonstrates a lack of regular cleaning or maintenance;
 7. Damp conditions which result in visible mold or mildew or a musty odor; and
 8. The use of trampolines during child care hours, with the exception of small indoor trampolines intended for individual use with direct adult supervision only.
- (c) Construction, remodeling, or alteration of structures during child care operations shall be done in a manner as to prevent exposure of children to hazardous or unsafe conditions including, but not limited to, fumes, dust, construction materials, and tools which pose a safety hazard.
- (d) Programs shall ensure that all indoor areas used by children:
1. Have a safe, functioning heating system;
 2. Include protection for children from exposed heat sources which present a hazard, including but not limited to baseboard heaters, radiators, fireplaces, and woodstoves; and
 3. Have working smoke detectors on each level.
- (e) Portable electric space heaters shall:
1. Be inaccessible to children;
 2. Bear the safety certification of a recognized laboratory such as Underwriters Laboratory (UL) or Electro Technical Laboratory (ETL); and
 3. Be installed and operated in accordance with the manufacturer's specifications.
- (f) Outside areas which are accessible to children shall be free of hazards including, but not limited to, the following:
1. Unprotected pools, wells, or other bodies of water;
 2. Lawn and farm machinery;
 3. Trash, litter, or debris;
 4. Animal feces; and
 5. Other dangerous items or substances.
- (g) In outside areas, stationary play equipment accessible to children shall not be over hard surfaces such as cement or asphalt.

- (h) All swimming pools and wading pools shall be inaccessible to children except during supervised activities.
- (i) Programs shall remove standing water.
- (j) Programs shall have a safe supply of water under pressure available for drinking and program use.
- (k) Programs shall not use portable toilets, chemical toilets, or any other toilets which are not attached to a functional sewage disposal system.
- (l) During all hours of operation there shall be functional sewage disposal facilities.

He- C 6916.06 Handling, Storage, and Disposal of Hazardous Materials:

- (a) All toxic and flammable materials and tobacco products shall be stored in cabinets which are locked, or secured with child proof latches, or otherwise out of reach of children.
- (b) Pesticides shall not be used in areas used by children while children are present and any treated indoor area must be aired out per manufacturers' instructions prior to allowing children to return to that area.
- (c) Programs shall adhere to state and federal rules and regulations in regards to lead paint and asbestos removal.

He-C 6916.07 Emergency Preparedness and Response Planning:

- (a) Programs shall ensure that for each child, upon the child's first day, there is a child registration and emergency information form completed by a parent, on file at the program.
- (b) Programs shall be equipped with a telephone that is operable and accessible to all staff during all operating hours for incoming and outgoing calls.
- (c) Pursuant to 45 CFR Part 98.41, programs shall develop an emergency operations plan (EOP) which shall include procedures for responding to natural, human-caused, or technological incidences including, but not limited to:
 - 1. Evacuation;
 - 2. Relocation;
 - 3. Shelter-in-place;
 - 4. Lockdown;
 - 5. Communication and reunification with families;

6. Continuity of operations;
 7. Accommodations of infants and toddlers;
 8. Accommodations of children with disabilities; and
 9. Accommodations of children with chronic medical conditions.
- (d) Programs shall practice no less than 2 components of their emergency operations response plan (EOP) with children, when appropriate, but no less than twice per year and maintain a written record of the practiced components.
- (e) All staff shall review the program's EOP and verification of the review shall be documented in each staff member's personnel file.
- (f) Upon enrollment, programs shall provide families with information from the EOP that addresses communication and reunification procedures, as specified in (c)(5) above.
- (g) Programs shall conduct at least one fire drill each month the program is in operation in accordance with the following:
1. All children and staff shall evacuate the building during each fire drill; and
 2. Staff shall check daily attendance records to ensure that all children and staff are accounted for after the building is evacuated.
- (h) Programs shall complete a written record of fire drills which shall:
1. Be maintained on file at the program for one year; and
 2. Be available for review by the department.
- (i) The written record of fire drills required under (h) above shall include at least the following:
1. The date and time the drill was conducted;
 2. The exits used;
 3. The number of children evacuated and total number of people in the building at the time of the drill;
 4. The amount of time taken to evacuate the building; and
 5. The name of the person conducting the drill.
- (j) Programs shall conduct a fire drill in the presence of a representative of the department upon request.

- (k) Any occurrence of a missing child shall be reported to emergency police services, or 911, as soon as staff has determined that the child cannot be promptly located on the premises of the child care program.
- (l) Programs shall report any occurrence of a missing child to the department within 24 hours.
- (m) If a child is seriously injured while in the care of the program, including fractures, dislocations, stitches, second or third degree burns, concussions, or loss of consciousness, or requires emergency medical treatment or hospitalization, the program shall:
 - 1. Notify the child's parent(s) immediately;
 - 2. Notify the department within 48 hours; and
 - 3. Within one week provide to the department a written report which details the nature and circumstances of the serious injury.
- (n) If a child dies while in child care the program shall:
 - 1. Notify emergency personnel and the child's parent(s) immediately;
 - 2. Notify the department of the death within 24 hours;
 - 3. Provide developmentally appropriate information for children and parent(s) regarding the death of the child: and
 - 4. Within 72 hours provide to the department a written report which details the circumstances which led up to the death.
- (o) In addition to the reporting requirements under (n) above, the program shall, upon request, provide the department with any available information regarding the death.

He-C 6916.08 Prevention of and Response to Emergencies Due to Food and Allergic Reactions:

- (a) Each child with an allergy shall have a written care plan from the child's physician that includes at a minimum:
 - 1. Instructions regarding the food(s) or other allergens to which the child is allergic and steps to be taken to avoid them;
 - 2. A detailed treatment plan to be implemented in the event of an allergic reaction, including the names, doses, and methods of prompt administration of any medications; and
 - 3. Specific symptoms that would indicate the need to administer one or more medications.

- (b) With the permission of the parent or guardian, each child's allergies shall be posted prominently and wherever the child might come in contact with the allergen.
- (c) The staff shall notify the parent(s) immediately of any suspected allergic reactions, as well as the ingestion of, or contact with, a known allergen even if a reaction did not occur.
- (d) Staff shall contact 911 whenever epinephrine has been administered.
- (e) Staff shall comply with dietary restrictions as requested in writing by the parent(s) of each child, due to food allergies, or religious or philosophical beliefs.

He-C 6916.09 Administration of Medication, Including Immunizations:

- (a) Staff shall administer any medication, treatment, or other remedy as required under the provisions of the Americans with Disabilities Act.
- (b) Staff shall only administer medication with:
 - 1. Signed and dated written instructions for administering the medication from the child's physician; and
 - 2. Written permission from the parent.
- (c) Administration of non-prescription topical substances may be performed by any staff, with written permission from the child's parent(s).
- (d) In the event of a medication error in the administration of medication, the staff shall notify the child's parent(s) immediately.
- (e) For any chronic condition requiring medication that is to be administered for more than 12 months, the written parental authorization specified in (b) above shall be updated annually.
- (f) Staff shall maintain a written log for each dose of medication, excluding topical substances, administered to each child.
- (g) In the event of an error documenting the administration of medication, the staff shall notify the child's parent(s) by the end of the day in which the error occurred.
- (h) All medication shall be:
 - 1. Inaccessible to children;
 - 2. Stored at the temperature and conditions recommended by the manufacturer or as directed on the prescription label; and
 - 3. Labeled with the child's name to ensure correct identification of each child's medication.

- (i) Medications such as insulin, inhalers, and EpiPens shall be immediately accessible to staff caring for children requiring such medications.
- (j) All prescription or non-prescription medication and topical substances shall be kept in the original containers or pharmacy packaging and properly closed after each use.
- (k) Documentation of immunizations, in accordance with RSA 141-C:20-a, RSA 141-C:20-b, and He-P 301.14, shall be on file for each child on the first day the child is in attendance at the program.
- (l) Exemptions from the immunizations required under (l) above shall be in accordance with RSA 141-C:20-c and pursuant to 45 CFR Part 98 for children experiencing homelessness or children in foster care. Providers may enroll children and allow for 60 days for families to obtain and provide documentation of immunizations.
- (m) Programs shall not be required to obtain immunization records for children whose parent(s) object in writing, on the grounds that such immunization is contrary to their religious beliefs, or for children with medical conditions that contraindicate immunization.

He-C 6916.10 Prevention and Control of Infectious Diseases:

- (a) Staff and children shall wash their hands with liquid soap and warm running water as needed.
- (b) Staff shall observe each child for symptoms of illness or injury throughout the day and contact the parent(s) if a child has:
 - 1. More than one episode of vomiting in one day;
 - 2. More than one episode of diarrhea in one day;
 - 3. Uncontrolled coughing or wheezing;
 - 4. Skin lesions which have not been diagnosed or treated by a licensed health care practitioner;
 - 5. An oral temperature of 101 degrees Fahrenheit or higher or an under arm temperature of 100 degrees Fahrenheit or higher combined with any of the following:
 - a. Diarrhea;
 - b. Rash;
 - c. Ear ache;
 - d. Sore throat; or
 - e. Vomiting.

- (c) When any staff or child in the program have symptoms of or are known to have a communicable disease, the program shall contact the bureau of disease control and prevention at (800) 852-3345, ext. 4496 for instructions regarding whether the ill individual is required to be excluded from the program and to determine reporting requirements in accordance with RSA 141-C:7 and He-P 301.03(d) and (e), He-P 301.03(i) and He-P 301.05(i)(1)b.
- (d) All foods prepared and served to children shall be free from spoilage, filth, or other contamination.
- (e) Programs shall clean and disinfect bathroom facilities whenever visibly soiled, but at a minimum of at least weekly.
- (f) Programs with pets on the premises shall:
 - 1. Ensure dogs and cats have a current vaccination for rabies;
 - 2. Keep litter boxes away from food preparation, food service areas, or any other area where children play; and
 - 3. Ensure children do not have direct contact with animal feces or urine either indoors or outdoors.

He-C 6916.11 First Aid and CPR:

- (a) Programs shall have on the premises a selection of non-expired first aid supplies adequate to meet the needs of the children.
- (b) If any child receives an injury or any incident occurs which requires first aid treatment, medical treatment, or medical consultation, staff shall inform the child's parent(s) of the injury or illness on the date the child is injured or becomes ill.
- (c) If any child has a serious injury while in the care of the program that resulted in medical treatment by a physician or other health care professional, or required hospitalization, or if CPR is performed on a child while in the care of the program, staff shall:
 - 1. Notify the child's parent(s) immediately;
 - 2. Notify the department within 48 hours; and
 - 3. Within one week provide to the department a written report which details the nature and circumstances of the serious injury.

He- C 6916.12 Child Development:

- (a) During the operating hours of the program, parent(s) shall have an opportunity to communicate with the staff that cares for their child.
- (b) Staff shall supervise every child in care at all times.
- (c) The only exceptions to (b) above shall be as follows:
 - 1. Staff may allow children ages 72 months and older to go inside to use the bathroom when no staff are inside provided that staff have a plan in place to keep track of children who have gone inside and to check on children who have not returned in a timely manner; and
 - 2. Staff may allow school-age children 72 months and older who are enrolled in a full day school program to leave the premises of the program, unsupervised by staff, to participate in a specific activity, provided that there is written authorization from each child's parent(s) on file at the program.
- (d) Programs shall provide privacy for each child toileting, while allowing for age appropriate supervision of each child.
- (e) Smoking shall not be permitted in the building anytime.
- (f) Staff who smoke on their breaks shall wash their hands and change into fresh clothing, or remove smoke- contaminated outerwear prior to returning to work to reduce exposure to third-hand smoke.
- (g) Programs shall provide daily opportunity for outdoor physical activity.
- (h) All media, including televisions, video, or electronic devices shall be age and developmentally appropriate.
- (i) Staff shall guide children's behavior using the following techniques:
 - 1. Redirecting a child's attention to a desirable activity when a child is engaging in unacceptable behavior;
 - 2. Providing positive guidance;
 - 3. Establishing developmentally appropriate rules or limits for acceptable behavior which are fair, consistently applied, realistic, and designed to promote cooperation and respect;
 - 4. Providing children with reasons for limits and rules;
 - 5. Giving positively worded directions;
 - 6. Acting as a role model to demonstrate desired behavior and problem-solving skills and then redirecting children to acceptable behavior;

7. Arranging equipment, materials, activities, and schedules in a way that promotes desirable behavior; and
 8. Implementing safe, logical, and natural consequences related to the misbehavior and enforcing those consequences as soon as possible after the misbehavior has occurred.
- (j) Separation, or time out, shall only be used as a method to enable a child to regain control of his or herself, not as a punitive disciplinary technique, as follows::
1. Separation shall be brief and appropriate to the child's developmental level and circumstances;
 2. When a child is separated from the group, he or she shall be:
 - a. Able to see and hear the other children; and
 - b. Within hearing and vision of staff; and
 3. The only exception to (2) above shall be that staff may remove a child from the classroom to a quieter area which is visible by other staff, to provide one-on-one attention.
- (k) Staff shall not:
1. Abuse or neglect children;
 2. Use corporal punishment;
 3. Attempt to control children's behavior by actions which are damaging to children, including but not limited to:
 - a. Requiring children to stand or sit facing walls or corners;
 - b. Verbally shaming children;
 - c. Belittling children;
 - d. Ridiculing children;
 - e. Yelling at children;
 - f. Name calling;
 - g. Making verbal threats to children; and
 - h. Placing or confining children in equipment that is not appropriate for their age.
 4. Withhold food from children or forcibly feed children;

5. Discipline children for not eating;
6. Shame, humiliate, or discipline any child for toileting accidents or lapses in toileting habits;
7. Use isolation as a form of discipline;
8. Prohibit children from using the toilet as a form of discipline;
9. As a means of discipline, require children to:
 - a. Sleep or rest; or
 - b. Go to their cot, mat, crib, bed, or playpen or other sleeping or rest facilities; and
10. Discipline a child for not sleeping at rest or nap time.

He-C 6916.13 Recognition and Reporting of Child Abuse and Neglect:

- (a) Staff shall allow a parent access to his or her child(ren) at all times while the child(ren) is in the program's care, unless allowing access is contrary to a court order or a court-ordered parenting plan pursuant to He-C 6914.07(a).
- (b) The staff shall take prompt action to protect children from abuse, neglect, corporal punishment, or other mistreatment by any individual.
- (c) Any child care program staff or other person involved with a program who suspects that child is being abused or neglected shall be a mandated reporter in accordance with RSA 169-C:29 and shall report the suspected abuse to the division for children, youth, and families at 1-800-894-5533.
- (d) When any child, while under the care of a program, is the victim of corporal punishment or other harsh punishment or treatment and has been physically or mentally injured because he or she was not supervised, or when the health, safety, or well-being of any child has been otherwise seriously jeopardized due to a program's non-compliance with any of the provisions of He-C 6916, the enrolled child care provider or his or her designee shall fully inform the child's parent(s) of the details of the punishment, or of the incident which injured their child or jeopardized their child's health, safety or well-being, including the following details:
 1. The name of who was involved in, and who witnessed the incident, while keeping the identities of other children confidential;
 2. What occurred prior to and following the incident;
 3. When and where the incident occurred; and
 4. Any action that has been or will be taken by the program as a result of the incident.

- (e) The details of the incident outlined in (e) above shall be provided to the parent(s) of the child or children involved in writing by the next business day.

He-C 6916.14 Appropriate Precautions in Transporting Children:

- (a) Programs who wish to take children on routine, unplanned local trips, or scheduled field trips shall obtain a signed and dated permission slip from each child's parent, which specifies all approved destinations and activities. This permission slip shall include the destination of the trip(s) and the estimated time that the parent(s) can expect the child to return to the program.
- (b) The following shall be taken to any field trip:
 - 1. An attendance record which includes the name and age of each child;
 - 2. Copies of the registration and emergency information form required in He-C 6916.07(a), for each child; and
 - 3. All medications, which shall be available and administered as required under He-C 6916.09.
- (c) Items referenced in (b)(2) – (3) above for each child shall remain with an individual who is with the child, including during transport.
- (d) During any field trip, at least one staff or volunteer shall have access to a phone in case of emergency and that phone number shall be available to parent(s) or to staff remaining at the facility.
- (e) Children who are transported by the program or during any program sponsored activity shall be transported in vehicles which are:
 - 1. Registered, insured, and inspected in accordance with the laws and rules of the state of New Hampshire;
 - 2. Driven by individuals who are at least 18 years of age and hold a valid driver's license; and
 - 3. Maintained in a safe operating condition.
- (f) Staff shall be prohibited from using mobile electronic devices while operating a vehicle to transport children, including hands-free operation.
- (g) The number of persons who are transported by the program or in any vehicle during any program sponsored activity shall be limited to the number of persons the vehicle is designed to carry.
- (h) In all vehicles, age appropriate child restraints or seat belts shall be provided for and used by each child in accordance with RSA 265:107-a.

He-C 6916.15 Staff to Child Ratio and Group Size:

- (a) The staff to child ratio for school-age programs shall be one staff for 15 children with a maximum group size of 60.
- (b) In addition to the staffing requirements in (a) above, programs shall have a second staff person in the building when 13 or more children are present.
- (c) Programs shall provide a minimum of 40 square feet of usable indoor space per child. Indoor active play space shall be available to children daily.
- (d) In addition to (a) above, programs offering drop-in care shall monitor attendance records to ensure compliance with group size and ratios. If there is a pattern of exceeding ratio and group size then additional staff shall be added. Attendance records shall be kept on file for review by the department.
- (e) The only exception to (a) above shall be when children combine for time-limited activities, such as meals, snacks, daily meetings, short stories, special guest presentations, or other special events, provided that all children have sufficient room for the activity.

He-C 6916.16 Monitoring Visits, Monitoring Statements, Program Improvement Plans, and Enforcement:

- (a) The department shall conduct an announced monitoring visit prior to enrollment.
- (b) The department shall conduct an annual announced visit for enrolled child care providers to maintain enrollment.
- (c) The department shall issue a monitoring statement to the program for each monitoring visit.
- (d) At the close of any visit or when an investigation is concluded, or as soon as possible thereafter, the department shall review with the program a summary of any violations of He-C 6916 found during the visit.
- (e) The department shall issue the monitoring statement via email if a valid email address has been provided by the program or by U.S. mail if an email address has not been provided.
- (f) Programs shall:
 - 1. Display the monitoring statement and program improvement plan approved by the department for the most recent visit to the program in a prominent location which is accessible to parent(s), and notify clients and prospective clients of their location;

2. Make available upon request to clients and prospective clients a copy of the monitoring statement and program improvement plan approved for the visit immediately preceding the visit represented on the monitoring statement posted in accordance with (1) above; and
 3. Not alter the monitoring statement or program improvement plan issued by the department.
- (g) Programs shall complete a program improvement plan for each violation included on the monitoring statement, which shall include the following:
1. The action the program has taken or will take to correct the violation(s);
 2. The steps the program will take to ensure compliance with He-C 6916 and the applicable statutes in the future;
 3. The date by which each of the violations was corrected or will be corrected;
 4. The interim measures the program has implemented to protect the health and safety of children, when the violation cannot be corrected immediately; and
 5. The dated signature of the enrolled child care provider.
- (h) Programs shall complete program improvement plans and return them to the department in accordance with the following:
1. The program improvement plan shall be submitted to the department within 3 weeks of the date that the monitoring statement is sent out by the department; and
 2. The names of individuals shall not be included in the program improvement plan.
- (i) When a submitted program improvement plan in accordance with (g) and (h) above is not acceptable to the department in correcting a violation, the department shall issue a directed program improvement plan to the program.
- (j) Notwithstanding (g), (h), and (i) above, when the department determines that there is an imminent threat to the health or safety of children, it shall issue a program improvement plan to the program, without first offering the program an opportunity to complete a program improvement plan.
- (k) When a program receives a directed program improvement plan issued by the department, in accordance with (i) or (j) above, it shall:
1. Add any additional details regarding the improvement plans the program feels are necessary; and
 2. Complete and return the program improvement plan in accordance with (g)(5) and (h) above.

- (l) Notwithstanding (a) through (g) above, when a program has repeatedly violated standards set forth in He-C 6916 or has violated a rule or statute which resulted in physical or mental injury to a child or caused a child to be in danger of physical or mental injury, the department shall initiate enforcement action without first requesting that the program submit a program improvement plan.
- (m) Programs shall comply with all approved program improvement plans.
- (n) The department shall conduct follow up monitoring visits as needed to monitor the implementation of the program improvement plan.
- (o) The department shall post on the department website the monitoring statement and program improvement plan within 5 days of the date of issue.
- (p) Programs shall maintain all records, whether in electronic or paper format, required by He-C 6916:
 - 1. On file on the premises of the program; and
 - 2. Accessible and available for review by the department, upon request, for one year, unless otherwise specified.
- (q) Child care program personnel shall not:
 - 1. Make false or misleading statements to the department, whether verbal or written; or
 - 2. Falsify any documents, other written information, or reports issued by or required by the department under He-C 6912, He-C 6914, He-C 6916, and He- C 6920.
- (r) The department shall revoke or deny a new applicant or renewal as an enrolled child care provider in accordance with He-C 6912, He-C 6914, He-C 6918, and He-C 6920.

He-C 6916.17 Waiver of Rules:

- (a) Programs that wish to request a waiver of a rule shall provide in writing or electronically the following information:
 - 1. The program name, address, phone number, and Bridges resource ID number assigned by the department for electronic payments;
 - 2. The rule numbers for which the waiver is being requested;
 - 3. A brief explanation of the reason for the waiver, the length of time for which the waiver is requested, and any effect the granting of the waiver will have on the health and safety of the children in the program;
 - 4. The number and age range of children who will be affected by the waiver;

5. The signature of the enrolled child care provider;
 6. Signatures of parents or copy of a notice which has been shown to, or mailed to each parent, explaining the specifics of the waiver request and informing parents that they may call the department if they have any concerns about the requested waiver; and
 7. The plan for future compliance after the waiver period is over.
- (b) A waiver shall be granted to the applicant or enrolled child care provider if the department determines that the alternative proposed by the applicant or enrolled provider:
1. Meets the objective or intent of the rule;
 2. Does not negatively impact the health, safety, or well-being of the children: and
 3. Does not negatively impact the operation of the program.
- (c) When a waiver is approved, the program's subsequent compliance with the alternatives approved in the waiver shall be considered equivalent to complying with the rule from which waiver was sought.
- (d) The department shall not approve any request for a waiver of any of the provisions relevant to state or federal law or any rules of other state agencies which are referred to in this chapter.
- (e) A waiver request shall be denied when any of the following occurs:
1. The rule for which a waiver is being requested is related to fire safety or environmental health or safety;
 2. The program has been found in violation of one or more critical rules and has not corrected those violations;
 3. The department finds that approval of the requested waiver will jeopardize the health or safety of children;
 4. The department finds that approval of the requested waiver will impair the program's ability to adequately care for children;
 5. The departments finds that approval of the requested waiver will impair the operations of the program; or
 6. The department determines that the program has not submitted a written plan for compliance with the rule or an acceptable plan for satisfying the intent of the rules as an alternative to complying with the rule.

He-C 6916.18 Complaints and Investigations:

- (a) The department shall respond to any complaint that meets the following conditions:
1. The alleged violation(s) occurred not more than 6 months prior to the date the department was made aware of the allegation(s);
 2. The complaint is based upon the complainant's first-hand knowledge regarding the allegation(s) or on information reported directly to the complainant by a child who has firsthand knowledge regarding the allegation(s);
 3. There is sufficient specific information for the department to determine that the allegation(s), if proven to be true, would constitute a violation of any of the provisions of He-C 6916; or
 4. The complaint is received from any source and alleges a violation that occurred at any time if the complaint alleges:
 - a. Physical injury or abuse;
 - b. Verbal or emotional abuse; or
 - c. The danger of physical injury to one or more children.
- (b) A complaint investigation shall be conducted when the department receives a complaint which meets the conditions specified in (a) above and which contains an allegations of violation of He-C 6916.
- (c) When the complaint is determined to be founded, a monitoring statement shall be issued listing the violations found as a result of the investigation and any other violations found during the visit, which shall be considered and treated as a finding of a complaint visit.
- (d) When the complaint is determined to be unfounded, a notice shall be sent to the program advising that the complaint was unfounded.

6916.19 Confidentiality:

- (a) Except for law enforcement agencies or in an administrative proceeding against the applicant or enrolled programs, the department shall keep confidential any information collected during an investigation, unless it receives an order to release, destroy, or take any action relating to the information from a court of competent jurisdiction.
- (b) When the department determines that any child was the victim of corporal punishment, or other harsh punishment or treatment, or has been physically or mentally injured because he or she was not supervised, or any child's health, safety, or well-being was otherwise jeopardized due to a program's non-compliance with He-C 6916, the department shall contact the child's parent(s) to

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ensure that staff have fully informed the parent(s) about the corporal punishment, or other harsh punishment or treatment, or the incident which injured their child or placed their child at risk, in accordance with He-C 6916.13(e).

- (c) A provider shall maintain all records, whether in electronic or paper format, required by He-C 6916:
 - 1. On the premises; and
 - 2. Accessible and available for review by the department, upon request, for one year, unless otherwise specified.
- (d) Programs shall keep confidential all records required by the department pertaining to the admission, progress, health, and discharge of children under their care and all facts learned about children and their families with the following exceptions:
 - 1. Programs shall allow the department access to all records that programs are required by department rule or state statute to keep, and to such records as necessary for the department to determine staffing patterns and staff attendance; and
 - 2. Programs shall release information regarding a specific child only as directed by a parent of that child, or upon receipt of written authorization to release such information, signed by that child's parent.
- (e) In addition to (c) above, programs shall discuss or share information regarding the admission, progress, behavior, health, or discharge of a child with the child's parent(s) in a manner that protects and maintains confidentiality for both the child and the child's parent(s).