LICENSE EXEMPT DEPARTMENT OF WORKFORCE SERVICES APPROVAL REQUIREMENTS

LE-DWS-1. Purpose.

(1) These requirements define the procedures for obtaining and renewing a License Exempt (LE) Department of Workforce Services (DWS) approval through the Office of Licensing (OL), Division of Licensing and Background Checks (DLBC) within the Department of Health and Human Services (department).

(2) These requirements establish the foundational standards necessary to protect the health and safety of children in LE DWS approved programs.

LE-DWS-2. Definitions.

(1) "Caregiver" means an employee (who receives direct or indirect compensation) or a volunteer (who does not receive direct or indirect compensation) who provides direct care to children.

(2) "CCL" means the Child Care Licensing Program under the Office of Licensing (Licensing), that is delegated with the responsibility to enforce the rules under Titles R381 and R430 and Rule R380-600.

(3) "Covered Individual" means any of the following individuals involved with the program:

(a) an owner or member of the governing body;

(b) a director or director designee;

(c) a caregiver, an assistant caregiver, or a teacher;

(d) an employee;

(e) an individual 12 years old and older living where care is provided; or

(f) anyone who has unsupervised contact with a child in care.

(3) "Eligible" means there were no findings in a covered individual's OBP background check that could prohibit that covered individual from being involved with child care.

(4) "Entrapment Hazard" means an opening greater than 3-1/2 by 6-1/4 inches and less than 9 inches in diameter where a child's body could fit through but the child's head could not fit through, potentially causing a child's entrapment and strangulation.

(5) "Facility" means the indoor and outdoor areas approved for care.

(6) "Group" means the children assigned to and supervised by one or more caregivers.

(7) "Guest" means an individual who is not a Covered Individual and is at the program with the provider's permission.

(8) "Inaccessible" means:

(a) When there are children in care younger than 5 years old:

(i) locked, such as in a locked room, cupboard, or drawer;

(ii) secured with a child safety device, such as a child safety cupboard lock or doorknob device;

(iii) behind a properly secured child safety gate;

(iv) located in a cupboard or on a shelf at least 36 inches above the floor; or

(v) located in a bathroom cupboard or on a bathroom shelf at least 36 inches above a surface on which a child could stand or climb.

(b) When all children in care are 5 years old or older:

(i) locked, such as in a locked room, cupboard, or drawer;

(ii) secured with a child safety device, such as a child safety cupboard lock or doorknob device;

(iii) behind a properly secured child safety gate;

(iv) located in a cupboard or on a shelf at least 48 inches above the floor; or

(v) located in a bathroom cupboard or on a bathroom shelf at least 48 inches above a surface on which a child could stand or climb.

(9) "Infant" means a child who is younger than 1 year old.

(10) "Older toddler" is a child who is 18 months to 23 months old.

(11) "Parent volunteer" is an individual with legal guardianship of children currently enrolled at the program.

(a) A parent volunteer who counts in caregiver to child ratios or is ever left unsupervised with children other than their own (they are not in the same room/area as an eligible), is a caregiver and required to be eligible.

(b) A parent volunteer who never counts in caregiver to child ratios and is never left unsupervised with children other than their own is a guest and is not required to have a OBP background check and is required to wear a guest name tag.

(12) "Program" means the collective care, operations, and personnel authorized under LE DWS approval to fulfill children's physical, emotional, and developmental needs.

(13) "Protective barrier" means an enclosing structure such as bars, lattice, or solid panels, around an elevated play equipment platform (a flat surface on a piece of stationary play equipment intended for more than one user to stand on and upon which the users can move freely) and is intended to prevent accidental or deliberate movement through or access to something

(14) "Protective cushioning" means a shock-absorbing surface under and around equipment that reduces the severity of injuries from falls.

(15) "Provider" means the administrator of the program.

(16) "School age child" is a child who is 5 years old through 12 years old.

(17) "Stationary play equipment" means equipment such as a climber, a slide, a swing, a merry-go-round, or a spring rocker that is meant to stay in one location when children use it. Stationary play equipment does not include sandboxes, stationary circular tricycles, sensory tables, or playhouses that sit on the ground with no play equipment (such as slides, swings, ladders, and climbers) attached to them.

(18) "Strangulation hazard" means something on which a child's clothes or something around a child's neck could become caught such as:

(a) a protruding bolt end that extends more than 2 threads beyond the face of the nut;

(b) hardware that forms a hook or leaves a gap or space between components such as a protruding S-hook; or

(c) a rope, cord, or chain that is attached to a structure and is long enough to encircle a child's neck.

(19) "Student intern" means a student who is employed or volunteering at the program or with the program for a fixed period of time.

(20) "Toddler" means a child who is 1 year old.

(21) "Use zone" means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted movement around the equipment and onto which a child falling from or exiting the equipment could be expected to land.

(22) "Volunteer" means an individual who does not receive any form of direct or indirect compensation for their services.

(a) When a volunteer counts in caregiver to child ratios or is ever left unsupervised with children (they are not in the same room/area as an eligible individual), they are a caregiver and are required to be eligible.

(b) A volunteer who never counts in caregiver to child ratios and is never left unsupervised with children is a guest and is not required to have a OBP background check and is required to wear a guest name tag.

(23) "Younger Toddler" means a child who is 12 through 17 months old.

LE-DWS-3. Approval Details.

(1) LE DWS Approvals are required for providers to be eligible to receive Child Care and Development Fund (CCDF) money and/or child care subsidy payments from DWS.

(2) LE DWS Approvals are active for one year.

(3) LE DWS Approvals are for the program and the approved location and are not assignable or transferable. An application for a new LE DWS Approval is required for a different program or for a different location.

(4) LE DWS Approvals will not be given if there is an active Child Care License at the same location.

(5) LE DWS Approvals are not available for license-exempt providers when the reason for the exemption is:

(a) The care is provided by or at a private or parochial school.

(b) The care is provided on a sporadic basis.

LE-DWS-4. New and Renewal Approvals.

(1) To receive a new LE DWS approval, the applicant must do all of the following:

(a) Read the requirements.

(b) Submit the following:

(i) a completed LE DWS Approval Application,

(ii) a completed Background Check form for each Covered Individual,

(iii) required fingerprints and fingerprint processing fees, and

(iv) background check fees.

(c) Complete New Provider Training.

(d) Ensure all Covered Individuals are eligible.

(e) Have an onsite inspection and be in compliance with all requirements.

(f) Submit a W-9 form through their Licensing Portal.

(2) A LE DWS Approval application will be denied when:

(a) The provider does not complete the OBP background check process within 6 months of submitting the application;

(b) The provider does not complete New Provider Training within 6 months of submitting the application;

(c) Covered Individuals are not eligible;

(d) The provider is not there for the onsite inspection; and/or

(e) The provider does not show compliance with the requirements within 6 months of submitting the application.

(3) To renew a LE DWS Approval, the provider must:

(a) Submit a Renewal Request through their Licensing Portal at least 30 calendar days before the expiration of the current approval, and

(b) Have an announced onsite inspection and be in compliance with all requirements before the end date of the approval.

LE-DWS-5. Inspections.

(1) Before the new approval, the provider will have an announced inspection to assess compliance with the requirements. When noncompliance to any requirement is found during this inspection, the provider will be given a date to come into compliance with the requirement(s). The application will be denied when the provider does not show compliance with the requirement(s) by the required date.

(2) During the approval year, the director or the director designee will have an unannounced inspection to assess compliance with the requirements. When noncompliance to any requirement is found during this inspection, the director or the director designee will be given a date to come into compliance with the requirement(s). The approval will be deactivated when the director does not show compliance with the requirement(s) by the required date.

(3) Before the expiration date of the approval, the director will have an announced inspection to assess compliance with the requirements. When noncompliance to any requirement is found during this inspection, the director will be given a date to come into compliance with the requirement(s). The approval will be deactivated when the director does not show compliance with the requirement(s) by the required date.

(4) When there are concerns with compliance, the director or the director designee will have an unannounced inspection to assess compliance with the requirements. When noncompliance to any requirement is found during this inspection, the director or the director designee will be given a date to come into compliance with the requirement(s). The approval will be deactivated when the provider does not show compliance with the requirement(s) by the required date.

(5) Providers can request a review of any action taken by the Licensing staff by submitting the request through the Licensing Portal.

LE-DWS-6. Administration and Children's Records.

(1) The provider must ensure all areas of the facility are maintained and used in a safe manner to prevent injury to children. This includes the proper handling, storage, and disposal of hazardous materials and bio-contaminants.

(2) When caring for children with special needs, the provider must make any necessary accommodations to meet their needs.

(3) On the day of its occurrence, the provider must ensure parents are notified of any incident, accident, or an injury involving their child(ren).

(4) Within 48 hours of the change, the provider must ensure parents and Licensing staff is notified of a change in the program's phone number or email address.

(5) The provider must ensure each child in care has current immunizations or exemption.

(6) The provider must ensure there is documentation of current immunizations, or exemption from immunization for each child (children who are homeless or in foster care may have a 90 day exemption) available for review by Licensing staff.

LE-DWS-7. Personnel and Training.

(1) The provider must:

(a) be at least 21 years old and

(b) ensure compliance with all federal, state, and local laws and rules, including fire requirements, pertaining to the operation of the program and the facility that houses the program.

(2) The provider must ensure there is a qualified director who is responsible for the day-to-day operation of the facility or program. The provider must ensure the director is at least 21 years old and have one of the following:

(a) an associates, bachelors, or graduate degree from an accredited college/university or successful completion of at least 12 semester credit hours of college/university level coursework in child development, early childhood education, elementary education, or a related field; or

(b) a currently valid national certification such as a Certified Childcare Professional (CCP) issued by the National Child Care Association, a Child Development Associate (CDA) issued by the Council for Early Childhood Professional Recognition; or

(c) a currently valid Child Care Licensing-approved National Administrator Credential (NAC) plus at least 60 hours of approved Utah Early Childhood Career Ladder courses in child development or 60 hours of equivalent training as approved by the Department.

(2) The provider must ensure there is a director designee with the authority to act on behalf of the director. The provider must ensure the director designee is at least 18 years old.

(3) The provider must ensure the director or the director designee is at the program whenever children are in attendance.

(4) The provider must ensure all caregivers who count in caregiver to child ratios are at least 18 years old.

(5) The provider must ensure all assistant caregivers are at least 16 years old and work under the immediate supervision of caregivers.

(6) The provider must ensure all caregivers and assistant caregivers:

(a) do not engage in or allow conduct that is adverse to the public health, morals, welfare, and safety of the children in care; and

(b) take all reasonable measures to protect the safety of children in care.

(7) The provider must ensure all directors, director designees, caregivers, and assistant caregivers hired after April 30, 2022 complete Licensing's online preservice training no more than 6 months before their first day of interacting with the children in care.

(8) Licensing will ensure the preservice training includes at least the following topics:

(a) children with special needs;

(b) recognizing the signs of homelessness and available assistance;

(c) building and physical premises safety;

(d) prevention, signs, and symptoms of child abuse and neglect, and legal reporting requirements;

(e) pediatric first aid and CPR training;

(f) emergency preparedness, response, and recovery planning;

(g) prevention and response to emergencies due to food and allergic reactions;

(h) safe handling and disposal of hazardous materials and biocontaminants;

(i) prevention and control of infectious diseases, including immunizations;

(j) administration of medications;

(k) child development, including the social, emotional, physical, cognitive and language principals of growth and brain development;

(l) precautions in transporting children

(m) prevention of Shaken Baby Syndrome, abusive head trauma, and child maltreatment;

(n) coping with crying babies; and

(o) prevention of Sudden Infant Death Syndrome (SIDS) and use of safe sleeping practices.

(9) The provider must ensure directors, director designees, caregivers, and assistant caregivers complete at least 1 hour of ongoing child care training for each month they have been employed or volunteered or at least 10 hours each exemption year (between the start and end date of the exemption). The provider must ensure the training includes at least the following topics:

(a) disaster preparedness, response, and recovery;

(b) pediatric first aid and CPR;

(c) children with special needs;

(d) safe handling and disposal of hazardous materials;

(e) the prevention, signs, and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements;

(f) principles of child growth and development, including brain development;

(g) prevention of shaken baby syndrome and abusive head trauma, and coping with crying babies;

(h) prevention of sudden infant death syndrome (SIDS) and use of safe sleeping practices;

(i) recognizing the signs of homelessness and available assistance;

(j) review of the program's Emergency Preparedness, Response, and Recovery Plan; and

(k) review of the LE DWS Approval Requirements.

(10) The provider must ensure the ongoing training is documented and the documentation is available for review by the Licensing staff. The provider must ensure the documentation includes at least the following:

(a) the name of the director, director designee, or caregiver;

(b) the training topic;

(c) the first date the person counted in ratios;

(d) the date of the training;

(e) the length of the training; and

(f) the source of the training

LE-DWS-8. Background Checks.

(1) The provider must ensure all Covered Individuals are eligible before being with children in care.

(a) The provider must ensure background check forms and background check fees are submitted for all new Covered Individuals.

(b) The provider must ensure fingerprints and fingerprint processing fees for the FBI Next Generation Identification check are submitted for all new Covered Individuals 18 years old and older and all 16 and 17 year old assistant caregivers.

(2) The provider must ensure eligible covered individuals are associated with their program before the covered individual is with children in care.

(3) The provider must ensure guests are always in the same room/area with an eligible individual and wear guest name tags.

(4) A student intern can count in caregiver to child ratios when:

(a) they are registered in a high school or college child care course, and

(b) they are always in the same room/area as an eligible individual.

(5) Owners and members of governing boards who live out of state and are never at the program are not required to have OBP background checks.

(6) The provider must ensure individuals who are not eligible are not at the facility or part of the program.

(7) To keep their background check eligibility current, the provider must ensure that a new background check form and fingerprints are submitted for any Covered Individual who has:

(a) resided outside of Utah since their last background check was completed;

(b) has not been associated with an active OBP approved child care program within the past 180 days; or

(c) has turned 18 years old and has not previously submitted fingerprints for a OBP background check. If the 18-year-old has previously submitted fingerprints for an OBP background check, only a new background check form is required.

LE-DWS-9. Facility.

(1) The provider must ensure there is a working telephone at the facility at all times children are in care.

(2) The provider must ensure there is a working fire extinguisher accessible to caregivers.

(3) If there is an outdoor area that is used by children in care and that is maintained by the provider, the provider must ensure the area is safely accessible.

(4) If there is an outdoor area that is used by children in care and that is maintained by the provider, the provider must ensure drinking water is available to children in care.

(5) If there is an outdoor area that is used by children in care and that is maintained by the provider, the provider must ensure the following are inaccessible (surrounded by a barrier that is at least 48 inches high) to children in care:

(a) metal animal swings;

(b) unanchored swings; and

(c) unanchored slides.

(6) If there is an outdoor area that is used by children in care and that is maintained by the provider, the provider must ensure standing water is inaccessible (surrounded by a barrier that is at least 48 inches high) to children in care.

(7) If there is an outdoor area that is used by children in care and that is maintained by the provider and there are children younger than school age in care, the provider must ensure:

(a) The area is enclosed within a 4 foot high fence or wall, or a solid natural barrier that is at least 4 feet high.

(b) Fences do not have gaps greater than 5 by 5 inches and gaps between the bottom of the fence and the ground cannot be more than 5 inches

LE-DWS-10. Ratios and Group Size.

(1) The provider must ensure the following minimum caregiver to child ratios and maximum group size are maintained.

Single Age Groups			
Minimum Number of Caregivers	Children's Age	Number of Children	Maximum Group Size
1	infant	4	8
1	younger toddler	4	8
1	older toddler	5	10
1	2 years old	8	16
1	3 years old	12	24
1	4 years old	15	30
1	school age	20	40

(2) For any mixed-age groups of children, the provider shall:

(a) maintain at least the number of required caregivers;

(b) not exceed the number of children in the caregiver-to-child ratio;

(c) not exceed the maximum group sizes; and

(d) separate any single-age group that reaches their maximum group size from the mix.

(3) For mixed-age groups of children not including infants and toddlers, the provider shall ensure that:

(a) the caregiver-to-child ratio is determined by the age of the oldest child present in the group minus one child of that age group; and

(b) the maximum group size is determined by the age of the oldest child present in the group, minus two children of that same age group.

(4) For mixed-age groups of children including infants and toddlers, the provider shall ensure that:

(a) infants are only mixed with toddlers, unless:

(i) the group has eight or fewer children;

(ii) there are no more than three children younger than two years old in the group with one caregiver; and

(iii) there are at least two caregivers with the group if more than two children who are younger than 18 months old are present and the group has more than four children;

(b) if older toddlers and two-year-old children are mixed, there is at least one caregiver for up to seven children and at least two caregivers for eight and up to 14 children in the group;

(c) older toddlers and older children are only mixed, besides when only mixed with two-year-old children, when:

(i) the group has eight or fewer children

(ii) there are no more than three older toddlers in the group; and

(iii) there are at least two caregivers with the group if more than three younger toddlers are present and the group has more than five children.

(5) During nap times (which cannot exceed 2 hours), the minimum caregiver to child ratios may double for children 18 months old and older if the children are in a restful or non-active state and the caregiver can communicate with another onsite caregiver without leaving the napping children.

(6) Employees' children 4 years old and older do not count in caregiver to child ratios but do count in maximum group sizes.

LE-DWS-11. Child Supervision and Security.

(1) The provider must ensure caregivers maintain active supervision of all children in care at all times. Active supervision means caregivers must be physically in the room/area with children younger than school age and must be able to hear school age children and be near enough to intervene; must know the number of children in their care at all times; must be focused on the children and not their personal interests; and must be aware of the entire group even when interacting with a small group or individual child.

(2) Children 3 years old and older may go to the bathroom by themselves if there is a policy to ensure their safety.

(3) To maintain the security and supervision of the children in care, the provider must ensure children are signed in and out of the program with the time of arrival and the time of departure. The provider must ensure these records are kept for at least three years.

(4) The provider shall ensure that student interns who are registered and participating in a high school or college child care course and guests do not have unsupervised contact with any child in care, including during offsite activities and transportation.

(5) The provider shall ensure that parents of children in care do not have unsupervised contact with any child in care, except with their own children.

LE-DWS-12. Child Guidance and Interaction.

(1) The provider must ensure children in care are not subjected to physical, emotional, or sexual abuse while in care.

(2) The provider must ensure all employees and volunteers follow the reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation found in Utah Code, Section 62A-4a-403 and 62A-4a-411.

(3) The provider must ensure all employee and volunteer interactions with children in care do not include:

(a) any form of corporal punishment that produces pain or discomfort such as hitting, spanking, shaking, biting, or pinching;

(b) restraining movement by binding, tying, or other form of restraint;

(c) shouting at children;

(d) any form of emotional abuse (behavior that could impair a child's emotional development, such as threatening, intimidating, humiliating, or demeaning a child, constant criticism, rejection, or profane language);

(e) forcing or withholding food, rest, or toileting; or

(f) confining a child in a closet, locked room, or other enclosure such as a box, cupboard, or cage.

LE-DWS-13. Child Safety and Injury Prevention.

(1) The provider must ensure firearms are stored separately from ammunition and in a cabinet or area that is locked with a key, combination, or fingerprint lock, unless the use is in accordance with the Utah Concealed Weapons Act, or as otherwise allowed by law.

(2) The provider must ensure toxic or hazardous substances are inaccessible to children in care.

(3) The provider must ensure tobacco, e-cigarettes, and e-juice are inaccessible to children in care.

(4) The provider must ensure open flames are inaccessible to children in care.

(5) The provider must ensure trampolines are inaccessible to children in care.

(6) The provider must ensure open containers of alcohol are inaccessible to children in care.

(7) The provider must ensure sexually explicit materials are inaccessible to children in care.

(8) The provider must ensure illegal items are inaccessible to children in care.

(9) The provider must ensure children in care are protected from unintended access to vehicular traffic

LE-DWS-14. Emergency Preparedness and Response.

(1) The provider must ensure the facility's street address and emergency numbers, including ambulance, fire, police, and poison control, are posted near each telephone in the facility and/or in the contact list of cell phones.

(2) The provider must ensure at least one person at the program at all times children are in care, at least one person in each vehicle transporting children, and at least one person present during off-site activities has current Red Cross, American Heart Association, or equivalent pediatric First Aid and CPR certification. The provider must ensure the CPR certification is from a class that included hands-on testing.

(3) The provider must ensure documentation of current First Aid and CPR certification is available for review by Licensing staff.

(4) The provider must have, and follow when needed, a written Emergency Preparedness, Response, and Recovery Plan that is reviewed annually and updated when needed. The provider must ensure the plan is available for review by Licensing staff and includes procedures for at least:

(a) shelter in place;

(b) lockdown;

(c) evacuation and relocation;

(d) communication with parents and reunification of families;

(e) continuity of operations; and

(f) accommodating infants and toddlers, children with disabilities, and children with chronic medical conditions during emergencies.

(5) The provider must ensure fire evacuation drills are held during each month the program is open.

(6) The provider must ensure the date and time of each fire evacuation drill is documented and the documentation is available for review by Licensing staff.

(7) The provider must ensure disaster (other than fire) drills are held at least every six months that the program is open.

(8) The provider must ensure the date and time of each disaster drill is documented and the documentation is available for review by Licensing staff.

(9) By the next business day, the provider must ensure Licensing is notified of any fatality, hospitalization, emergency medical response, or injury that required attention from a health care provider unless the medical service was part of the child's medical treatment plan. The provider must also ensure documentation of the incident is submitted to Licensing staff within five working days of the incident.

LE-DWS-15. Health and Infection Control.

(1) The provider must ensure all areas of the program used for care are clean and sanitary.

(2) To prevent and control infectious diseases, the provider must ensure all employees, volunteers, and children in care wash their hands thoroughly with liquid soap and warm running water:

(a) upon arrival;

(b) before handling and/or preparing food;

(c) before serving and/or eating meals and snacks;

(d) after using the toilet;

(e) before administering and/or taking medication;

(f) after coming into contact with body fluids (blood, urine, feces, vomit, mucus, and saliva);

(g) after playing with or handling animals; and

(h) after cleaning and/or taking out garbage.

LE-DWS-16. Food and Nutrition.

(1) The provider must meet the nutritional needs of the children in care.

(2) The provider must ensure there is a record of known food allergies of children in care.

(3) Immediately upon recognizing it, the provider must report to the parent any allergic reaction a child in care has to a particular food.

LE-DWS-17. Medications.

(1) The provider must ensure over the counter or prescription medications are inaccessible to children in care.

(2) The provider must ensure there is parental permission before administering medication to children in care.

(3) Immediately upon the recognition of the error, the provider must ensure parents are notified of any adverse reaction to a medication or an error in the administration of medication for their child(ren).

LE-DWS-18. Activities.

(1) The provider must ensure the children in care have enough physical activity.

(2) The provider must ensure parents are aware of any off-site activities.

LE-DWS-19. Play Equipment.

If there is play equipment that is used by children in care and that is maintained by the provider, the provider must ensure:

(1) All stationary play equipment used by children in care meets the following requirements for use zones:

(a) When all children in care are at least two years old:

(i) If the height of a designated play surface (any accessible elevated surface for standing, walking, crawling, sitting, or climbing or an accessible flat surface at least 2" by 2" in size and having an angle less than 30 degrees from horizontal) or climbing bar on a piece of equipment, excluding swings, is greater than 30 inches:

(A) The use zone must extend a minimum of 6 feet in all directions from the perimeter of each piece of equipment.

(B) The use zones of two pieces of equipment that are positioned adjacent to one another may overlap if the designated play surfaces of each structure are no more than 30 inches above the protective cushioning underneath the equipment. When this is the case, there must be a minimum of 6 feet between the adjacent pieces of equipment.

(C) There must be a minimum use zone of 9 feet between adjacent pieces of equipment if the designated play surface of one or both pieces of equipment is more than 30 inches above the protective cushioning underneath the equipment.

(ii) The use zone in the front and rear of a single-axis swing must extend a minimum of twice the height of the pivot point of the swing and may not overlap the use zone of any other piece of equipment.

(iii) The use zone of a multi-axis swing must extend a minimum of 6 feet plus the length of the suspending members and must never overlap the use zone of another piece of equipment.

(iv) The use zone for merry-go-rounds must never overlap the use zone of another piece of equipment.

(v) The use zone for spring rockers must extend a minimum of 6 feet from the at-rest perimeter of the equipment.

(b) When any child in care is an infant or toddler:

(i) If the height of a designated play surface or climbing bar on a piece of equipment, excluding swings, is greater than 18 inches:

(A) The use zone must extend a minimum of 3 feet in all directions from the perimeter of each piece of equipment.

(B) Use zones may overlap if two pieces of equipment are positioned adjacent to one another, with a minimum of 3 feet between the perimeters of the two pieces of equipment.

(ii) The use zone in front of a slide must not overlap the use zone of any other piece of equipment.

(iii) The use zone in the front and rear of all swings must extend a minimum distance of twice the height from the swing seat to the pivot point of the swing, and must not overlap the use zone of any other piece of equipment.

(iv) The use zone for the sides of a single-axis swing must extend a minimum of 3 feet from the perimeter of the structure, and may overlap the use zone of a separate adjacent piece of equipment.

(v) The use zone of a multi-axis swing must extend a minimum distance of 3 feet plus the length of the suspending members, and must never overlap the use zone of another piece of equipment.

(vi) The use zone for spring rockers must extend a minimum of 3 feet from the at-rest perimeter of the equipment.

(2) There is adequate protective cushioning in all use zones.

(a) If sand, gravel, or shredded tires are used as protective cushioning, the depth of the material must meet the Consumer Product Safety Commission (CPSC) guidelines in Table 1. The provider must ensure that the material is periodically checked for compaction, and if compacted, must loosen the material to the depth listed in Table 1. If the material cannot be loosened due to extreme weather conditions, the provider must ensure that children are not on the equipment until the material can be loosened to the required depth.

TABLE 1
Depths of Protective Cushioning Required for Sand, Gravel, and Shredded Tires

Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point	Fine Sand	Coarse Sand	Fine Gravel	Medium Gravel	Shredded Tires
4' high or less	6"	6"	6"	6"	6"
Over 4' up to 5'	6"	6"	6"	6"	6"
Over 5' up to 6'	9"	9"	6"	9"	6"
Over 6' up to 7'	9"	Not Allowed	9"	Not Allowed	6"
Over 7' up to 8'	9"	Not Allowed	9"	Not Allowed	6"
Over 8' up to 9'	9"	Not Allowed	9"	Not Allowed	6"
Over 9' up to 10'	Not Allowed	Not Allowed	9"	Not Allowed	6"
Over 10' up to 11'	Not Allowed	Not Allowed	Not Allowed	Not Allowed	6"
Over 11' up to 12'	Not Allowed	Not Allowed	Not Allowed	Not Allowed	6"

Fine Sand is white sand in bags marked "play sand". 100% of the material must pass through a #16 screen. Coarse Sand is usually sand for landscaping or construction. 98% of the material must pass through a #4 screen.
Fine Gravel is gravel with particles that are rounded and 3/8 inch or less in diameter.
Medium Gravel is gravel with particles that are rounded and ½ inch or less in diameter.

(b) If shredded wood products are used as protective cushioning, the depth of the shredded wood must meet the CPSC guidelines in Table 2.

TABLE 2
Depths of Protective Cushioning Required for Shredded Wood Products

Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point	Engineered Wood Fibers	Wood Chips	Double Shredded Bark Mulch
4' high or less	6"	6"	6"
Over 4' up to 5'	6"	6"	6"
Over 5' up to 6'	6"	6"	6"
Over 6' up to 7'	9"	6"	9"
Over 7' up to 8'	9"	9"	9"
Over 8' up to 9'	9"	9"	9"
Over 9' up to 10'	9"	9"	9"
Over 10' up to 11'	9"	9"	9"
Over 11' up to 12'	9"	Not Allowed	Not Allowed

(c) If a unitary cushioning material, such as rubber mats or poured rubber-like material is used as protective cushioning, the provider must ensure that the cushioning material is securely installed so that it cannot become displaced or picked up by children.

(d) Stationary play equipment may be placed on grass, but must not be placed on concrete, asphalt, dirt, or any other hard surface when:

(i) all children in care are school age and the highest designated play surface (a flat surface on a piece of stationary play equipment that a child could stand, walk, sit, or climb on, and that is at least 2" by 2" in size) is less than 30 inches from the ground and there are no moving parts on which children sit or stand.

(ii) all children in care are at least 2 years old and the highest designated play surface (a flat surface on a piece of stationary play equipment that a child could stand, walk, sit, or climb on, and that is at least 2" by 2" in size) is less than 20 inches from the ground and there are no moving parts on which children sit or stand.

(iii) any child in care is an infant or toddler and the highest designated play surface (a flat surface on a piece of stationary play equipment that a child could stand, walk, sit, or climb on, and that is at least 2" by 2" in size) is less than 18 inches from the ground and there are no moving parts on which children sit or stand.

(3) Stationary play equipment has protective barriers on all play equipment platforms that are more than 48 inches above the ground. The bottom of the protective barrier must be less than 3-1/2 inches above the surface of the platform, and there can be no openings greater than 3-1/2 inches in the barrier. The top of the protective barrier must be at least 38 inches above the surface of the platform when all children in care are school-age and at least 30 inches above the ground when any child in care is younger than school-age.

(4) There are no entrapment hazards on any piece of stationary play equipment or within or adjacent to the use zone of any piece of stationary play equipment.

(5) There are no strangulation hazards on any piece of stationary play equipment or within or adjacent to the use zone of any piece of stationary play equipment.

(6) When any child in care is an infant or toddler:

(a) There are no designated play surfaces that exceed 3 feet in height on any piece of stationary play equipment used by infants and toddlers.

(b) Swings used by infants and toddlers must have enclosed seats.

LE-DWS-20. Transportation.

If transportation is provided:

(1) While transporting children in care, the provider must ensure the driver has children in care in appropriate individual safety restraints.

(2) While transporting children in care, the provider must ensure the driver never leaves the children in care unattended in the vehicle.

LE-DWS-21. Animals.

Currently there are no requirements for this section.

LE-DWS-22. Rest and Sleep.

Currently there are no requirements for this section.

LE-DWS-23. Diapering.

If diapering is provided:

(1) The provider must ensure children's diapers are changed at a diaper changing station with railings.

(2) The provider must ensure caregivers do not leave children unattended when the children are on the diapering surface.

LE-DWS-24. Infant and Toddler Care.

If any child in care is younger than two years old is in the program:

(1) The provider must ensure high chairs have T-shaped safety straps or devices that are used whenever a child is in the chair.

(2) The provider must ensure infants sleep in equipment designed for sleep, such as a crib, bassinet, porta-crib or play pen and are not placed to sleep on mats or cots or in bouncers, swings, car seats, or other pieces of similar equipment. The provider must ensure soft toys, loose blankets, or other objects are not placed in sleep equipment while in use by sleeping infants.

(3) The provider must ensure infants are placed on their backs for sleeping unless there is documentation from a health care provider for the treatment of a medical condition.

(4) When there are more than eight children in the area, the provider must ensure infants and toddlers do not use the outdoor play area at the same time as older children.