

## NOTICES OF EMERGENCY RULEMAKING

Under the Administrative Procedure Act, an agency may determine that adoption, amendment, or repeal of a rule is necessary for immediate preservation of the public health, safety, or welfare and the notice and public participation requirements are impracticable. Under this determination, the agency may adopt the rule as an emergency and submit it to the Attorney General for review. The Attorney General approves the rule and then files it with the Secretary of State. The rule remains in effect for 180 days. An emergency rule may be renewed for one 180-day period if the requirements of A.R.S. § 41-1026 are met. If the emergency rule is not renewed or the rule is not permanently adopted by the end of the 180-day period, the emergency rule expires and the text of the rule returns to its former language, if any.

### NOTICE OF RENEWAL OF EMERGENCY RULEMAKING

#### TITLE 6. DEPARTMENT OF ECONOMIC SECURITY

#### CHAPTER 5. SOCIAL SERVICES

[R06-463]

#### PREAMBLE

- 1. Sections Affected**

R6-5-7401	<b><u>Rulemaking Action</u></b>
R6-5-7437	Amend
R6-5-7447	Amend
R6-5-7465	Amend
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 41-1954(A)(3)  
Implementing statute: A.R.S. § 8-503
- 3. The effective date of the rules:**

These rules became effective by emergency rulemaking on June 1, 2006.
- 4. Is this rulemaking a renewal of a previous emergency rulemaking?**

Yes
- 5. The name and address of agency personnel with whom persons may communicate regarding the rule:**

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- 6. An explanation of the rule, including the agency's reasons for initiating the rule:**

The Department of Economic Security is initiating this rulemaking to give entities licensed under this Article a method for meeting the developmental needs of children and young adults who require preparation for adult self-sufficiency.
- 7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable
- 8. The summary of the economic, small business, and consumer impact:**

This rulemaking will benefit young adults who require preparation for adult self-sufficiency. It will benefit entities licensed under this Article, by allowing them to accept and meet the needs of clients in this age group, while still complying with licensing standards and contractual obligations. It will also benefit other agencies that make placements in these licensed entities. It provides improved clarity regarding the Department's expectations for licensed entities serving a young adult population.

**9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable

**10. Incorporations by reference and their location in the rules:**

Not applicable

**11. An explanation of the situation justifying the rule's making as an emergency rule:**

A renewal of this emergency rulemaking is necessary as an emergency under A.R.S. § 41-1026(A)(1) to protect the safety and welfare of young adults in group care who will "age out" of foster care. Currently, child welfare licensees who offer services to young adults to prepare them for adult self-sufficiency are unable to comply with licensing regulations while meeting the needs of their young adult clients. Young adults preparing for adult self-sufficiency need to access and learn to use normal household supplies such as cleaning supplies, laundry detergent, tools, and kitchen utensils, which under current rule are not accessible to them. Young adults residing in a child welfare agency also need to learn to live responsibly without the constant supervision provided in a traditional group home setting. The rules in Article 74 do not provide enough flexibility to allow young adults to take increasing responsibility for their own lives and belongings, a necessary skill for individuals who are rapidly approaching adulthood.

The Department's previous attempts to resolve this issue without amending Article 74 resulted in confusion about the licensing status of providers who offer these services. The Department learned in early May 2006 that two other state agencies that place young adults in these facilities stopped making placements due to the confusion, leaving these agencies without suitable resources for their clients. Under A.R.S. § 36-1201, the Administrative Office of the Courts and the Arizona Department of Juvenile Corrections are unable to place juveniles in facilities that are not licensed by DHS or DES, and the licensing status of the young adult facilities was unclear. In addition, at least one licensee shut down a program for these young adults, believing it was untenable under the current licensing framework.

The Department's commitment to preparing children about to "age out" of foster care for adulthood, along with providing access to similar resources for other children in state care requires an emergency amendment of the rules in Article 74. These young adults will not have the tools and training necessary to live on their own. Without this amendment, the health, safety, and welfare of these young adults in care on the verge of independence is in immediate jeopardy.

**12. The date of the Attorney General's approval of the emergency rule:**

This emergency rule was originally approved on June 1, 2006. The renewal of this emergency rule was approved on November 27, 2006.

**13. The full text of the rules follows:**

**TITLE 6. DEPARTMENT OF ECONOMIC SECURITY**

**CHAPTER 5. SOCIAL SERVICES**

**ARTICLE 74. LICENSING PROCESS AND LICENSING REQUIREMENTS FOR CHILD WELFARE AGENCIES OPERATING RESIDENTIAL GROUP CARE FACILITIES AND OUTDOOR EXPERIENCE PROGRAMS**

Section

- R6-5-7401. Definitions
- R6-5-7437. Staff Coverage; Staff-child Ratios
- R6-5-7447. Sleeping Arrangements
- R6-5-7465. General Safety

**ARTICLE 74. LICENSING PROCESS AND LICENSING REQUIREMENTS FOR CHILD WELFARE AGENCIES OPERATING RESIDENTIAL GROUP CARE FACILITIES AND OUTDOOR EXPERIENCE PROGRAMS**

**R6-5-7401. Definitions**

In addition to the definitions contained in A.R.S. § 8-501, the following definitions apply in this Article:

1. "Abandonment" has the same meaning ascribed to "abandoned" in A.R.S. § 8-546(A)(1).
2. "Abuse" means the infliction or allowing of physical injury, impairment of bodily function or disfigurement or the infliction of or allowing another person to cause serious emotional damage as evidenced by severe anxiety, depression, withdrawal or untoward aggressive behavior and which emotional damage is diagnosed by a medical doctor or psychologist pursuant to Section 8-223 and which is caused by the acts or omissions of an individual having care, [physical] custody and control of a child. Abuse shall include inflicting or allowing sexual abuse pursuant to Section 13-1404, sexual conduct with a minor pursuant to Section 13-1405, sexual assault pursuant to Section 13-1406, molestation of a child pursuant to Section 13-1410, commercial sexual exploitation of a minor pursuant to Section

13-3552, sexual exploitation of a minor pursuant to Section 13-3553, incest pursuant to Section 13-3608 or child prostitution pursuant to Section 13-3212. A.R.S. § 8-546(A)(2).

3. "Accredited" means the approval and recognition of an institution of learning as maintaining those standards requisite for its graduates to gain admission to other institutions of higher learning or to achieve credentials for professional practice. An example of an accrediting body is the North Central Association of Colleges and Universities.
4. "Administrative completeness review time frame" means the number of days from [the Licensing Authority's] receipt of an application for a license until [the Licensing Authority] determines that the application contains all components required by statute or rule, including all information required to be submitted by other government agencies. The administrative completeness review time frame does not include the period of time during which an agency provides public notice of the license application or performs a substantive review of the application. A.R.S. § 41-1072(1).
5. "Adverse action" means suspension or revocation of a license, denial of a renewal license, or making a material change in licensing status.
6. "After-care" means services provided to a child after the child is discharged from a licensee's care and may also include services for the child's family.
7. "Applicant" means a person who submits a written application to the Licensing Authority to become licensed or to renew a license to operate a child welfare agency or a residential group care facility.
8. "Barracks" means a building that:
  - a. Is designed and constructed or remodeled for the specific purpose of housing large numbers of children of the same gender;
  - b. Has wide, open sleeping areas for children, under one roof;
  - c. Is identified and described as a barracks or dormitory in the agency's promotional and organizational materials; and
  - d. Is made known as a barracks or dormitory to placing agencies and persons considering placement of a child.
9. "Behavior management" means the policies, procedures, and techniques a licensee uses to control conduct as prescribed in R6-5-7456.
10. "Child placing agency" means a person or entity that is licensed or authorized to receive children for care, maintenance, or placement in a foster home, because:
  - a. The Department has licensed the person or entity as a child welfare agency pursuant to A.R.S. § 8-505; or
  - b. It is an entity with statutory authorization to place children.
11. "Child welfare agency" or "agency" means:
  - a. Any agency or institution maintained by a person, firm, corporation, association, or organization to receive children for care and maintenance or for 24-hour social, emotional, or educational supervised care or who have been adjudicated as a delinquent or dependent child.
  - b. Any institution that provides care for unmarried mothers and their children.
  - c. Any agency maintained by the state, or a political subdivision thereof, person, firm, corporation, association, or organization to place children or unmarried mothers in a foster home. "Child welfare agency" or "agency" does not include state operated institutions or facilities, detention facilities for children established by law, camps operating less than 12 months per year or boarding schools which board children on a regular school year basis and where the child is off the grounds for at least 60 days or [a] health care institution which is licensed by the department of health services pursuant to Section 36-405. A.R.S. § 8-501(A)(1).
12. "Corrective action" means a specific course of conduct an agency will follow to remedy violations of the licensing requirements prescribed in this Article, within a specified period of time.
13. "Corrective action plan" means a written document describing an agency's corrective action, as prescribed in R6-5-7419.
14. "CPS" means Child Protective Services, a Department program responsible for investigating reports of child maltreatment.
15. "CPSCR" means the Child Protective Services Central Registry, a computerized database, which CPS maintains according to A.R.S. § 8-546.03.
16. "De-escalation" means a method of verbal communication or non-verbal signals and actions, or a combination of signals and actions, that interrupt a child's behavior crisis and calm the child.
17. "Department" or "DES" means the Department of Economic Security.
18. "Developmentally appropriate" means an action which takes into account:
  - a. A child's age and family background;
  - b. The predictable changes that occur in a child's physical, emotional, social, cultural, and cognitive development; and
  - c. A child's individual pattern and timing of growth, personality, and learning style.
19. "DHS" means the Department of Health Services.
20. "Direct care staff" means the facility staff who provide primary personal care, guidance, and supervision to children in care.

21. "Discharge plan" means:
  - a. A written description of:
    - i. A program of action to prepare a child for release from a facility; and
    - ii. After-care;
  - b. That is developed by a licensee in cooperation with a child's service team.
22. "Discipline" means a teaching process through which a child learns to develop and maintain the self-control, self-reliance, self-esteem, and orderly conduct necessary to assume responsibilities, make daily living decisions, and live according to accepted levels of social behavior.
23. "Document" means to make and retain a permanent written or electronic record of a fact, event, circumstance, observation, contact, or communication.
24. "Exploitation" means the act of taking advantage of, or to make use of a child selfishly, unethically, or unjustly, for one's own advantage or profit, in a manner contrary to the best interests of the child, such as having a child panhandle, steal, or perform other illegal activities.
25. "Facility" or "residential group care facility" means a living environment operated by a child welfare agency, where children are in the care of adults unrelated to the children, 24 hours per day.
  - a. "Facility" does not include a program licensed as a behavioral health service agency by the Department of Health Services under A.R.S. § 36-405 and 9 A.A.C. 20.
  - b. "Facility" does include an outdoor experience program.
  - c. When used in reference to an outdoor experience program, "facility" means the campsite at which or the mobile equipment in which children are housed.
26. "File" means a place where information is stored through written, electronic, or computerized means.
27. "Foot candles" means a unit of luminous intensity that can be measured with a light meter.
28. "Governing body" means an individual or group of individuals responsible for the policies, activities, and operations of a facility, as prescribed in R6-5-7424.
29. "Individual education plan" or "IEP" means a written document which describes educational goals for a particular child and the services the child needs to attain those goals.
30. "Institution" as used in A.R.S. § 8-501(A)(1) means an entity meeting two or more of the following criteria:
  - a. Solicits charitable contributions;
  - b. Is organized as a profit or non-profit corporation with a board of directors and officers;
  - c. Publishes and distributes information or promotional materials about its program or operations;
  - d. Requires residents to formally apply for residency through use of application forms or other similar paperwork;
  - e. Operates a structured program of care pursuant to written policies, procedures, guidelines, or rules; or
  - f. Advertises itself or holds itself out in the community as an institution that provides care or social services.
31. "Institution for Unwed Mothers and Children" means a child welfare agency, as described in A.R.S. § 8-501(A)(1)(a)(ii), that is licensed to care for unmarried mothers who are under age 18 at the time of admission to the agency and the children of those mothers.
32. "License" means a document issued by the Licensing Authority to an individual or non-governmental business, which authorizes the individual or business to operate a child welfare agency in compliance with this Article.
33. "Licensee" means the person or entity holding a license. When used in reference to a duty, task, or obligation, the term "licensee" includes the staff who work at an agency or facility and who are responsible for doing the acts necessary to fulfill the requirements of this Article.
34. "Licensed medical practitioner" means a person who holds a current license as a physician, surgeon, nurse practitioner, or physician's assistant pursuant to A.R.S. §§ 32-1401 et seq., Medicine and Surgery; A.R.S. §§ 32-1800 et seq., Osteopathic Physicians and Surgeons; A.R.S. §§ 32-2501 et seq., Physician's Assistant; and A.R.S. §§ 32-1601 et seq., Nursing and A.A.C. R4-19-503, Registered Nurse Practitioner, respectively.
35. "Licensing Authority" means the Department administrative unit which monitors and makes licensing determinations for agencies and facilities, including issuance, denial, suspension, and revocation of a license or operating certificate, and imposition of corrective action.
36. "Licensing representative" means a person employed by the Licensing Authority to investigate and monitor applicants and licensees.
37. "Licensing year" means a one-year time period that begins on the date an agency obtains its initial license to operate, and ends one year later.
38. "Living unit" means a specific grouping of children who are assigned to and share a distinct and common physical space within a facility.
39. "Maltreatment" means abuse, neglect, abandonment, or exploitation, of a child.
40. "Material change in licensing status" means, for the purpose of A.R.S. § 8-506.01,
  - a. Any of the following actions:
    - i. Denial, suspension, or revocation of an operating certificate;
    - ii. At any time following issuance of an initial license, imposition of provisional license status, in lieu of a reg-

- ular license as prescribed in R6-5-7419; or
- iii. A change in a term appearing on the face of a license or operating certificate, including: a.) Geographic area served; b.) Age, number, or gender of children served; or c.) Type of services offered;
- b. But does not include the act of placing an agency on a corrective action plan to bring the agency into compliance with licensing requirements as prescribed in R6-5-7418.
41. "Mechanical restraint" means:
- a. An article, device, or garment that:
- i. Restricts a child's freedom of movement or a portion of a child's body;
- ii. Cannot be removed by the child; and
- iii. Is used for the purpose of limiting the child's mobility;
- b. But does not include an orthopedic, surgical, or medical device which allows a child to heal from a medical condition or to participate in a treatment program.
42. "Medication" means an agent, such as a drug or remedy, used to prevent or treat disease, illness or injury, including both prescribed and over-the-counter agents.
43. "Mobile dwelling" means a structure, such as a trailer or recreational vehicle as defined in A.R.S. § 41-2142(30). Mobile dwelling does not mean a mobile, manufactured, prefabricated, or modular home as defined in A.R.S. § 41-2142(14), (24), or (26).
44. "Neglect" has the same meaning ascribed to it in A.R.S. § 8-546(A)(7).
45. "Non-ambulatory child" means a child who cannot walk due to a physical disability or impairment, rather than as a result of the child's normal age and developmental level.
46. "Onsite" means located on the physical property operated by the licensee for the purpose of the licensee's residential program and includes the contiguous area within:
- a. A single structure;
- b. A cluster of structures;
- c. A complex containing single or multiple family dwelling units with or without separate entrances for each unit;
- d. A campus containing any combination of the residences listed in subsections (a)-(c), as approved by the Licensing Authority.
- ~~46-47.~~ "Operating certificate" means a document that the Licensing Authority issues to a particular facility that is run by an agency holding a license, as prescribed in R6-5-7409.
- ~~47-48.~~ "Outdoor experience program" means a child welfare agency that is located in a cabin or portable structure such as a tent or covered wagon and primarily uses the outdoors to provide recreational and educational experiences in group living, either in a fixed campsite or in a program with an unfixed site, such as a wagon train or wilderness hike.
- ~~48-49.~~ "Out-of-home placement" means the placing of a child in the custody of an individual or agency other than with the child's parent or legal guardian and includes placement in temporary custody pursuant to Section 8-223, subsection B, paragraph 3 or subsection C, paragraph 2, voluntary placement pursuant to Section 8-546.05 or placement due to dependency actions. A.R.S. § 8-501(A)(7).
- ~~49-50.~~ "Overall time frame" means the number of days after receipt of an application for a license during which [the licensing authority] determines whether to grant or deny a license. The overall time frame consists of both the administrative completeness review time frame and the substantive review time frame. A.R.S. § 41-1072(2).
- ~~50-51.~~ Paid staff means:
- a. A licensee's paid employees who work at a facility;
- b. Any temporary worker or independent contractor the licensee uses as a temporary replacement for an employee who is sick, on leave, or unavailable; and
- c. Any independent contractor that the licensee retains to provide children in care with direct services at the facility.
- ~~51-52.~~ "Parent or parents" means the natural or adoptive parents of the child. A.R.S. § 8-501(A)(8).
- ~~52-53.~~ "Person" means an individual, partnership, joint stock company, business trust, voluntary association, corporation, or other form of business enterprise, including nonprofit or governmental organizations.
- ~~53-54.~~ "Personally identifiable information" means any information which, when considered alone, or in combination with other information, identifies, or permits another person to readily identify the person who is the subject of the information, and includes:
- a. Name, address, and telephone number;
- b. Date of birth;
- c. Photograph;
- d. Fingerprints;
- e. Physical description;
- f. School;
- g. Place of employment; and
- h. Unique identifying number, including:
- i. Social security number;

- ii. Driver's license number;
  - iii. License number; and
  - iv. Court case number.
- ~~54-55.~~ "Physical restraint" means the use of bodily force to restrict a child's freedom of movement, but does not include holding a child firmly enough to prevent the child from harming himself or herself, or others, but gently enough so that the child is not harmed by being held.
- ~~55-56.~~ "Placing agency or person" means the child placing agency, parent, or guardian, having legal custody of a child and who makes the decision to send the child to reside at a particular agency.
- ~~56-57.~~ "Potentially hazardous food" means a food that is:
- a. Natural or synthetic and capable of rapid and progressive growth of infectious or toxigenic microorganisms or the growth and production of *Clostridium botulinum*;
  - b. Of animal origin and is raw or has been heated;
  - c. Of plant origin and is heated or consists of raw seed sprouts;
  - d. A cut melon; or
  - e. A garlic and oil mixture.
- ~~57-58.~~ "Program director" means a person who meets the qualifications listed in R6-5-7432(B).
- ~~58-59.~~ "Relative" means a grandparent, great grandparent, brother or sister of whole or half blood, aunt, uncle, or first cousin. A.R.S. § 8-501(A)(11).
- ~~59-60.~~ "Residential environment" means a facility building or any portion of a facility building that is used for living, sleeping, counseling, dining, or academic purposes.
- ~~60-61.~~ "Restrictive behavior management" means a form of behavior control that is subject to limitations as prescribed in R6-5-7456(D).
- ~~61-62.~~ "Safeguard" means to use reasonable and developmentally appropriate measures to minimize the risk of harm to a child in care and to ensure that a child in care will not be harmed by a particular object, substance, or activity. Where a specific method is not otherwise prescribed in this Article, safeguarding may include:
- a. Locking up a particular substance or item;
  - b. Putting a substance or item beyond the reach of a child who is not mobile;
  - c. Erecting a barrier ~~which~~ that prevents a child from reaching a particular place, item, or substance;
  - d. Mandating the use of protective safety devices; ~~or~~
  - e. Providing staff supervision;
  - f. Providing a young adult with safety information and generalized instruction necessary to promote the safe and appropriate use of potentially dangerous objects.
- ~~62-63.~~ "Seclusion" means placing a child alone in a room with closed, locked doors that cannot be opened from the inside as prohibited by R6-5-7456(C)(5).
- ~~63-64.~~ "Service plan," which is sometimes described as a "case plan," means a goal-oriented, time-limited individualized program of action which:
- a. Describes the plans for treating and providing services to a child and the child's family, and
  - b. Is developed by a licensee in cooperation with a child's service team.
- ~~64-65.~~ "Service team" means the group of persons listed in R6-5-7441(E)(1) who participate in development and review of a child's service plan and discharge plan.
- ~~65-66.~~ "Shelter care facility" means an agency facility that receives children for temporary out-of-home care, 24 hours per day, when children request care, or are placed in care by a placing agency, a law enforcement agency, a parent, a guardian, or a court.
- ~~66-67.~~ "Significant person" means a person who is important or influential in a child's life and may include a family member or close friend.
- ~~67-68.~~ "Sleeping area" means a single bedroom, or a cluster of two or more bedrooms, located in an adjacent area of a dwelling.
- ~~68-69.~~ "Social worker" means a person with a bachelor's, master's, or doctoral degree in a field of organized work called social work, which is intended to advance the social conditions of a community through provision of counseling, guidance, and assistance, especially in the form of social services to individuals.
- ~~69-70.~~ "Staff" means a licensee's paid staff and unpaid staff.
- ~~70-71.~~ "Substantive review time frame" means the number of days after the completion of the administrative completeness review time frame during which [the licensing authority] determines whether an application or applicant for a license meets all substantive criteria required by statute or rule. Any public notice and hearings required by law shall fall within the substantive review time frame. A.R.S. § 41-1072(3).
- ~~71-72.~~ "Swimming pool" means any on-grounds, natural or man-made body of water that is used for the purposes of swimming, recreation, or physical therapy, and includes spas and hot tubs.
- ~~72-73.~~ "Threat" means an expression of intent to hurt, destroy, or take action prohibited by this Article or the licensee's policies, but does not include an expression of intent to impose a planned consequence for misbehavior if the conse-

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quence is not prohibited by this Article or the licensee's policies.

~~73-74.~~ "Transitional program" means services provided to a child who is being emancipated as an adult, or a person who has reached the age of 18 and is considered an adult as a matter of law, in order to assist the child or person in becoming independent.

~~74-75.~~ "Unpaid staff" means a licensee's volunteers, students, and interns who work, train, or assist at a facility.

~~75-76.~~ "Unusual incident" means one or more of the events listed in R6-5-7434(C), (D), (E), or (G).

~~76-77.~~ "Work day" means 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding Arizona state holidays.

~~78.~~ "Young adult" means an individual, age 16 to 21, who has been assessed and determined to be appropriate for preparation for adult self-sufficiency. The assessment or determination shall be made by:

- a. The placing agency, if the young adult is in the care, custody, and control of the State of Arizona;
- b. A parent or legal guardian of the young adult, if subsection (a) does not apply;
- c. The licensee, if subsections (a) and (b) do not apply.

**R6-5-7437. Staff Coverage; Staff-child Ratios**

- A. A licensee shall have a written plan to minimize the risk of harm to children. The written plan shall describe the staffing for each facility, for 24 hours per day, seven days per week. The staffing plan shall explain:
1. How staff coverage is assured:
    - a. When assigned staff are absent due to illness, vacation, or other leaves of absence; and
    - b. During emergencies when only one staff member is on duty; and
  2. The methods the licensee uses to assure adequate communication and support among staff to provide continuity of services to children.
- B. A licensee shall also have a written staffing schedule for each facility shift; the schedule shall document the staff actually on duty during each shift. The licensee shall retain the schedules in one designated location for at least two years.
- C. A licensee shall have at least the paid staff to child ratios prescribed in this subsection.
1. Age 12 and above:
    - a. At least one paid staff member for each 10 children when children are under the licensee's direct supervision and awake.
    - b. During sleep hours, at least one paid staff member in each building where children in care are sleeping.
  2. Age 6 through 11:
    - a. At least one paid staff member for each eight children when children are under the licensee's direct supervision and awake.
    - b. During sleep hours, at least one paid staff member in each building where children in care are sleeping.
  3. Age 3 through 5:
    - a. At least one paid staff member for each six children when children are under the licensee's direct supervision and awake.
    - b. At least one paid staff member in each building where children in care are sleeping.
  4. Under age 3:
    - a. At least one paid staff member for each five children when children are under the licensee's direct supervision and awake.
    - b. At least one paid staff member for each six children when children are sleeping.
  5. Nonambulatory children, under age 6: At least one paid staff member for each four children at all times.
  6. Young adults:
    - a. At least one paid staff member onsite for each 10 young adults when young adults are under the licensee's direct supervision and awake.
    - b. During sleep hours, at least one paid staff member onsite for each 20 young adults.
- D. For the purpose of the paid staff-child ratios ~~set forth~~ in subsection (C) ~~above~~:
1. Students and volunteers do not count as staff;
  2. A child who lives at the facility is counted as a child, unless the child is not in the care, custody, and control of the State of Arizona, and the child's parent is:
    - a. In care, residing in the same facility; and
    - b. Determined to be the child's primary caregiver by:
      - i. The placing agency;
      - ii. A court; or
      - iii. The licensee, when subsections (i) and (ii) do not apply; and
  3. When a child resides with a parent in a facility licensed under this Article, the licensee shall provide, at the Department's request, documentation of:
    - a. The custodial relationship between parent and child; and
    - b. If applicable, the determination that the parent is an acceptable primary caregiver for the child.
- ~~34.~~ Any paid staff member counted in the ratio must be someone who is qualified to provide direct child care as pre-

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scribed in R6-5-7432(E).

- E. A licensee shall not fall below the minimum paid staff-child ratios specified in subsection (C), and shall, notwithstanding those ratios, have paid staff:
  - 1. Sufficient to care for children as prescribed in this Article and in the licensee's own program description, statement of purpose, and policies;
  - 2. That take into account the following factors:
    - a. The ages, capabilities, developmental levels, and service plans of the children in care;
    - b. The time of day and the size and nature of the facility; and
    - c. The facility's history and the frequency and severity of unusual incidents, including runaways, sexual acting-out behavior, disciplinary problems, and injuries.
- F. A licensee shall have sufficient numbers of qualified staff to perform the fiscal, clerical, food service, housekeeping, and maintenance functions prescribed in this Article and in the licensee's own policies.
- G. A licensee shall make a good faith effort to employ staff who reflect the cultural and ethnic characteristics of the children in care.

**R6-5-7447. Sleeping Arrangements**

A licensee shall comply with the sleeping arrangement provisions in this Section.

- 1. A child age 6 or older shall not share a bedroom with a child of the opposite gender.
- 2. A child shall not share a bedroom with an adult unless one of the conditions listed in this subsection is met.
  - a. The child is younger than age 3.
  - b. The child's service plan contains specific reasons and authorization from the placing agency or person for a shared bedroom.
  - c. The child has a temporary need for special adult care during sleeping hours and the need is documented in the child's service plan.
  - d. The child has regularly shared a bedroom with another child in the licensee's care; the other child has reached age 18; and the placing agency and licensee agree that continuing the shared arrangement is in the best interests of both the child and the adult.
  - e. The child is sharing a room with his or her ~~mother~~ parent.
  - f. The sleeping area at the facility is a barracks which has been approved as described in R6-5-7461(B) and R6-5-7462(B), and a paid staff member sleeps in the same room to supervise the children in care.
- 3. Only children age 8 or older may sleep on the upper bed of a bunk bed.
- 4. If a child has a documented record of behavior that poses a risk to other children in care, the licensee, in consultation with the placing agency or person, shall develop special sleeping arrangements for that child, to minimize the risk of harm to other children. The licensee shall document the arrangements in the child's service plan.

**R6-5-7465. General Safety**

**A.** Ground Floor: A licensee shall house non-ambulatory children and children younger than 6 only on the ground floor.

**B.** Licensees that provide services to young adults:

- 1. A licensee that provides services to young adults shall provide adequate safety information and individualized instruction to promote the safe use of a substance or item that is:
  - a. Required to be safeguarded under this section, and
  - b. Necessary for the young adult's self-sufficiency, such as laundry and cleaning supplies, tools, and kitchen knives.
- 2. A licensee that provides services to young adults placed in care with their own children shall safeguard substances and items in a manner appropriate to protect the youngest child in residence.

**~~B.C.~~** Dangerous objects: A licensee shall safeguard all potentially dangerous objects, including:

- 1. Firearms and ammunition;
- 2. Recreation and hunting equipment;
- 3. Household and automotive tools;
- 4. Sharp objects such as knives, glass objects, and pieces of metal;
- 5. Fireplace tools, matches, and other types of lighters;
- 6. Machinery;
- 7. Electrical wires, boxes, and outlets;
- 8. Gas appliances;
- 9. Chemicals, cleaners, and toxic or flammable substances;
- 10. Swimming pools, ponds, spas, and other natural or artificial bodies of water; and
- 11. Motorized vehicles.

**~~C.D.~~** Water Temperature: A licensee shall maintain water that is accessible to children for personal use at a temperature at or below 120° F.



~~D~~E. Gas appliances:

1. A licensee shall have a licensed and bonded heating and cooling technician annually inspect all gas-fired devices at a facility. The licensee shall get a written report of the inspection for submission to the Licensing Authority at the time of license renewal.
2. A licensee shall equip all gas-fired devices with an automatic pilot gas shut-off control.
3. A licensee shall remove the valves from unused gas outlets and cap the disconnected gas line with a standard pipe cap.
4. A licensee shall not use unvented water heaters.
5. A licensee shall not use kerosene or gasoline for lighting, cooking, or heating.
6. If a licensee uses a natural or propane gas burning device inside a facility, the licensee shall:
  - a. Install, test, and check carbon monoxide monitoring equipment in a facility's residential environment according to the manufacturer's instructions;
  - b. Maintain the monitoring equipment in good working condition; and
  - c. At the facility, keep a copy of the manufacturer's instructions, and, for one year, a record of the tests.

~~E~~F. Finishes and surfaces:

1. A licensee shall not surface walls or ceilings with materials containing lead except as allowed by law for protection from wood, pellet, or peat burning stoves.
2. A licensee shall not have any walls, equipment, furnishings, toys, or decorations surfaced with lead paint.
3. A licensee that accepts children who are under age 6, developmentally disabled, or severely emotionally disturbed, shall maintain the facility free of lead paint hazards, including permanent removal of any paint that a child may ingest.

~~F~~G. Toxic and Flammable Substances:

1. A licensee shall ensure that any poisons and toxic or flammable substances used at a facility are used in a manner and under conditions that will not contaminate food or be hazardous to children.
2. A licensee shall ensure that containers of poisons and toxic or flammable substances are prominently and distinctly marked or labeled for easy identification of contents.
3. A licensee may burn trash only when:
  - a. Local authorities and ordinances allow burning;
  - b. The fire is at least 50 feet from any building used for children's residences; and
  - c. An adult supervises any child involved in the burning.
4. A licensee shall not use charcoal or gas grills indoors or on covered porches.

~~G~~H. Firearms, Weapons, and Recreational and Hunting Equipment:

1. A licensee shall ban firearms, explosives, and ammunition from a facility and grounds, except a licensee may allow the following:
  - a. Firearms maintained and used exclusively by trained security guards; and
  - b. Non-functional, permanently disabled firearms used for ceremonial purposes if such use is documented in the licensee's policy and procedures.
2. A licensee shall keep bows and arrows, knives, and other potentially hazardous hunting and recreational equipment in locked secure storage which is not accessible to children.

~~H~~I. Tools and Equipment: A licensee shall maintain lawn and garden equipment and maintenance tools and equipment safe and in good repair, and shall allow children to use them only under the supervision of staff. Depending on the developmental level of the child, the supervision need not be direct supervision.

~~I~~J. Telephone service:

1. A licensee shall equip each living unit with 24-hour telephone service or an intercom system linked to an outside telephone service, ~~or~~
2. A licensee that provides services to young adults shall provide a device in each living unit that allows a young adult to immediately summon on-duty staff or emergency services. In addition, the licensee shall provide a telephone onsite. The licensee shall provide written and verbal information to each young adult explaining how to summon assistance in the event of an emergency.
- 2-3. A licensee shall conspicuously post, adjacent to the telephone,
  - a. The address and telephone number of the facility; and
  - b. Emergency telephone numbers, including fire, police, physician, poison control, Child Protective Services, and ambulance.

~~J~~K. Smoking:

1. A licensee shall not expose a child in care to tobacco products or smoke.
2. A licensee shall not allow any person to use tobacco products inside buildings.
3. A licensee shall not allow a child in care to use or possess tobacco products.

~~K~~L. Animals:

1. The licensee shall not maintain, at a facility, any animal that poses a danger to children in care.

2. The licensee shall have written evidence that dogs kept at a facility have current vaccinations against rabies.