

West Virginia Department of
Human Services

Family Child Care Facility Information Packet

Section I.

Thank you for your inquiry about operating a family child care facility. You will find the following information and attachments included in this packet:

1. A description of the procedures to follow in applying for a license to operate a family child care facility.
2. Answers to some of the most commonly asked questions about regulations for a family child care facility.
3. Basic Information on Integrated Pest Management Plan development.
4. Information on Initial Inspection Request for the State Fire Marshal.

If you have any questions that have not been answered in this material, you may contact the person at the telephone number listed below for further information.

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Section II. How to Apply for a License

The West Virginia Department of Human Services is the agency designated by state law to coordinate the issuance of a license to operate a family child care facility. The Office of the State Fire Marshal, the Office of Environmental Health Services, and the Department of Agriculture cooperate with the DoHS in this process. Each of these offices has specific regulations that must be met before a license to operate a family child care facility can be issued by the designee of the Department of Human Services.

Once you have received information and the inspection reports from the Office of the State Fire Marshal and your county health department, and an integrated pest management plan approval letter from the Department of Agriculture, you should be in a much better position to make important financial decisions about proceeding with your proposed family child care facility.

Section III. Common Questions

Whenever “licensing regulations” are mentioned in this material, they refer to the regulations promulgated by the Bureau for Family Assistance, Division of Early Care and Education in the Department of Human Services and included in this packet.

1. WHAT IS A FAMILY CHILD CARE FACILITY?

- A. Any facility providing nonresidential child care for compensation for seven (7) to twelve (12) children, including all children 12 years of age and under.

- B. A family child care facility may be operated in the provider's home or in another building that meets the requirements.
- C. A family child care facility operating in West Virginia shall apply for and obtain a license before accepting children for care.
- D. The facility shall carry fire and liability insurance as a protection for the children in care and maintain a copy of the current policy on site.
- E. Any family child care facility which operates without a license is guilty of a misdemeanor under WV Code, and, upon conviction thereof, shall be punished by a fine of not more than \$500.
- F. Where a violation of West Virginia Code or of rules promulgated by the Department may result in serious harm to children under care, the secretary may seek injunctive relief against any family child care facility either through the attorney general or the appropriate county prosecuting attorney.
- G. A facility's policy must include a statement that the facility is operated on a nondiscriminatory basis in regard to race, color, sex, religion, national origin, marital status of the parents, and disability, except insofar as the child's needs cannot be met by the facility.

2. WHAT INSPECTIONS CAN BE ANTICIPATED?

- A. On-site inspections, made with or without prior notice, as a condition of licensing.
- B. Inspections to ensure compliance with all rules of the Division of Health. You may contact a sanitarian in your local county health department for information concerning environmental health regulations for family child care facilities and to arrange for a preliminary on-site inspection of your proposed facility.
- C. Inspections to ensure compliance with all rules of the State Fire Marshal. You may contact the Office of the State Fire Marshal, Inspection Division, at 304-558-2191 for information concerning their regulations for family child care facilities. To arrange for a preliminary on-site inspection of your proposed facility, you must complete the attached form and submit the \$25.00 fee to the State Fire Marshal's office. <https://firemarshal.wv.gov/page/regulatory-and-licensing-division>
- D. Integrated Pest Management Plan Approval from the Department of Agriculture, Pesticide Regulatory Program Supervisor. You may contact the Department of Agriculture, Pesticide Regulatory Programs Office at 304-558-2209 for information concerning integrated pest management plans and to obtain a Day Care Integrated Pest Management Plan Packet. The following are frequently asked questions regarding Integrated Pest Management Plans:

1. What is an Integrated Pest Management Plan? IPM, or Integrated Pest Management, is an environmentally sensitive approach to controlling pests. IPM identifies the pest and then discovers the cause of the infestation.

In some cases, a pesticide may need to be applied. Pesticide applications should be made only by a professional pest control firm or a trained applicator. You should request that they select the "least hazardous" material and apply it in a way that minimizes the exposure of children and staff.

2. Why do facilities have to have an IPM? In 1995, the West Virginia legislature passed a law requiring the use of IPM in all child care centers and facilities. The intent of the law was to reduce the exposure of children to

pesticides. The IPM rules define the types of pesticides that can be applied and restrict application times when children are present.

3. **How to develop an IPM plan:** Begin by contacting the Compliance Assistance staff at the West Virginia Department of Agriculture (WVDA) at 304-558-2209. Request a “Day Care IPM packet.” It will contain an IPM plan to fill out, a Best Management Practices guide, notification forms, and other information about IPM in day care centers. An inspection should be made of the facility for pests or pest-prone areas. This can be performed by the owner/operator with guidance from WVDA or a professional pest control company. West Virginia law requires monitoring for pests before pesticides are applied. Monitoring is done with stick traps that are checked at least once a month. Monitoring can be done by the facility owner/operator with guidance from WVDA or by a professional pest control company.
4. **What should be in an IPM file?** West Virginia requires the following to be kept in an IPM file in each child care facility:
 - a. The adopted integrated pest management plan.
 - b. Monitoring diagrams of the facility.
 - c. Treatment records for the facility, including a floor plan indicating treatment locations.
 - d. Copies of Pest Surveillance Data Sheets containing monthly monitoring observations.
 - e. Labels of pesticide products used at the center.
 - f. Consumer information or material safety data sheets of pesticide products used.
5. **Are facilities required to notify parents if a pesticide application becomes necessary?** West Virginia law requires facility operators to inform parents of the right to be notified of Level 3 and 4 pesticide applications when the child is enrolled. If a pesticide application becomes necessary, the facility operator must post the pesticide application notification at the sign-in station at least twenty-four (24) hours in advance of the application. Notification Request forms and Notice of Pesticide Application forms are available from WVDA.
6. **What types of control methods are available?** The least hazardous material shall be selected according to Section 7 of the West Virginia Department of Agriculture Title 61 Series 12J rules for Integrated Pest Management Programs. Furthermore, all pesticides, even over-the-counter products, are to be applied only by persons licensed as certified commercial or certified public applicators.

Control methods are grouped into four (4) levels according to the level of hazard they present to people. A higher level product will not necessarily provide better control of pests, but is potentially more toxic to children and child care staff. Facility owners should ask their pest control company to use Level 2 products whenever possible. EPA has recently linked some Level 3 products to developmental disabilities in children. Facility owners may wish to review the pesticide choice with the applicator or contact WVDA for advice on product selection.

- a. **Level 1 – Non-chemical Control Methods:** Level 1 methods are non-chemical controls such as a good water drainage, improved sanitation, and structural repairs. Sealing cracks and gaps to keep pests out, and mechanical controls such as screens on windows and doors are also effective non-chemical control methods.
- b. **Level 2 – Least Hazardous Materials:** The “least hazardous” pesticides are classified as Level 2 products. Level 2 products have a Caution signal word and are applied as contained bait stations, or as bait gels or dusts in cracks and crevices or wall voids.
- c. **Level 3 – Crack and Crevice and Spot Treatments:** Level 3 products are those with a Caution signal word but which are not baits and dusts as listed under Level 2. Level 3 products are to be applied only as crack and crevice or spot treatments. Use of Level 3 products requires a 4-hour re-entry period and notification of parents.
- d. **Level 4 – Broadcast Applications and Space Treatments:** Level 4 products are those with a Caution signal word applied by broadcast or baseboard application or space treatment. Products with a Warning or Danger signal word applied by any method are also classified as Level 4. The use of Level 4 products requires an 8-hour re-entry period and parental notification.

7. Is there anything else facility owners should do regarding pest management? Before hiring a pest control firm, you should check with WVDA to be sure the company is properly licensed to provide service in child care centers and facilities.

- E. Inspections by the Department of Human Services prior to issuance of a license.
- F. Other inspections as deemed appropriate by the secretary, who shall have immediate and open access to a facility and all aspects of the operation, including personnel, children in care, household members, child and personnel records, corporate, financial records, insurance policies, etc.

3. WHAT ARE SOME OF THE PHYSICAL REQUIREMENTS?

- A. Buildings and grounds are suitable for the purpose of child care, kept clean and in good repair, and present no hazard to a child's health and safety.
- B. For a facility caring for the maximum of twelve (12) children, usable floor space of thirty-five (35) square feet per child is available for children's activities, exclusive of halls, bathrooms, kitchen, office space, or storage areas.
- C. All facilities have a working telephone and emergency numbers posted at all times.
- D. Outdoor play areas shall meet the following requirements:
 - 1. Usable outdoor play space of seventy-five (75) square feet per child available on site or within walking distance.
 - 2. Play times may be staggered and space based on the number of children using the area at one time.
 - 3. Swings, slides, and climbing equipment shall not be placed on concrete or asphalt surfaces.
 - 4. Areas accessible to outdoor play areas that are unsafe (steep grades, cliffs, open pits, swimming pools, high voltage boosters, propane gas tanks, streets, roads, driveways, railroad tracks, parking lots, etc.) shall be fenced or have natural barriers at least three (3) feet high.
 - 5. Porches, balconies, decks, or platforms elevated over three (3) feet above the ground must have secure, child-proof railings and barriers.
- E. The facility shall also have sufficient space to provide the following:
 - 1. Separate indoor and outdoor play areas for infants and toddlers away from those used by older children.
 - 2. A quiet sleeping area with at least two (2) feet between infants cribs, beds, or cots.

4. HOW MANY CHILDREN CAN A FAMILY CHILD CARE FACILITY CARE FOR? A family child care facility shall have:

- A. No more than twelve (12) children in care at any one time, including the care giver's own children under the age of six (6) years.
- B. No more than four (4) children, ages birth to twenty-four (24) months, including the care giver's own children, under twenty-four (24) months of age.
- C. No more than two (2) infants or six (6) children in care at the same time unless two (2) staff are on duty to care for children. This means that a second staff person shall be on duty whenever the seventh (7th) child or the third (3rd) infant comes into care.

- D. No operator or staff person shall be used to meet staff/child ratios for more than two (2) consecutive eight (8) hour shifts of care.

5. WHAT ARE THE REGULATIONS FOR STAFF?

- A. OPERATOR REQUIREMENTS. The operator shall meet all of the requirements that apply to staff. In addition, the operator shall:

1. Be at least twenty-one (21) years of age.
2. Have a GED or high school diploma.
3. Have six (6) months of experience in caring for children in a licensed child care center, registered family child care home, Head Start, or other early childhood or school-age child care program.
4. Be certified in Cardiopulmonary Resuscitation (CPR) or first aid training that includes rescue breathing and first aid for choking.
5. Training Requirements:
 - a. The operator must complete at least fifteen (15) clock hours of child development training annually.
 - b. Over a four (4) year period, operators shall select training that addresses all of the Core Knowledge/Core Competencies.
 - c. Operators completing approved training modules lasting more than fifteen (15) hours may elect to apply training-module hours over and above fifteen (15) to the following year's training requirement. Training hours that may be carried over include hours earned through the West Virginia Infant and Toddler Professional Development Program, Components of Quality Care and Education Modules, the Apprentice for Child Development Specialist, or other coursework approved by the Department.
 - d. Complete the approved pre-service training, training in child abuse and neglect recognition and prevention, and medication administration.
6. The operator shall also:
 - e. Work on site to administer the facility's daily operation.
 - f. Maintain staff/child ratios.
 - g. Instruct staff in this rule and provide a copy for their use.
 - h. Be responsible for supervision of staff and maintaining staff/child ratios.
 - i. Be present at the facility or designate one adult who meets the same requirements to be in charge in the operator's absence.
 - j. Be responsible for recruitment, hiring and supervision of staff, enrollment and admissions, informing parents of the facility's policies and staff training.
 - k. Maintain adequate records on enrollment, finances, staff, and children.
 - l. Submit reports to the Department when requested.
 - m. Screening, scheduling and supervising the conduct of all staff, volunteers, and others in the facility.
 - n. Be responsible for all legal and financial obligations.
 - o. If the family child care facility operator and owner are separate individuals, the owner shall assume the same responsibility as the operator for the operation of the facility in compliance with this rule.

- B. STAFF REQUIREMENTS AND RESPONSIBILITIES. All staff working directly with children shall:

1. Be eighteen (18) years of age.
2. Be able to read and write and be able to understand and carry out all provisions of this rule.
3. Be physically and emotionally capable of performing activities related to providing child care.
4. Understand children and their developmental needs and relate to them with courtesy, respect, patience, affection, and respect for a child's family and culture.
5. Provide continuous supervision of young children, including during outdoor play, napping, field trips, and water activities, while realizing that children age nine (9) and up may need less direct adult supervision.
6. Carry out methods of guidance and discipline without recourse to physical or emotional punishment.
7. Recognize and act against hazards to children and react calmly in an emergency.
8. Have positive written responses from two (2) references.
9. Have a current health appraisal on file, including:
 - a. A physical examination and tuberculosis risk assessment, prior to employment and every two (2) years thereafter.

- b. An assessment of current immunization status and health related limitations or communicable diseases that may impair the person's ability to perform the job.
- 10. Have successfully completed CPR training or first aid training that includes rescue breathing and first aid for choking, or shall do so within the first six (6) months of employment.
- 11. Complete at least twelve (12) clock hours of training relevant to the provision of child care annually.
- 12. Complete the approved pre-service training, training in child abuse and neglect recognition and prevention, and medication administration.
- 13..Meet and abide by all other requirements listed in this rule, including those with regard to background checks.

C. REQUIREMENTS FOR VOLUNTEERS. A volunteer shall not be used to meet staff/child ratios. Volunteers shall:

- 1. Be at least sixteen (16) years of age.
- 2. Be supervised by the owner or adult staff person at all times.
- 3. Submit evidence of a negative TB risk assessment dated within the past twenty-four (24) months.
- 4. Receive orientation to the facility and its programs and policies.
- 5. Complete the approved pre-service training.
- 6. Be familiar with and meet the requirements of rules governing facilities.

D. REQUIREMENTS FOR SUBSTITUTES

- 1. The family child care facility shall have a substitute care giver to assist in an emergency situation when the operator or staff is unavailable.
- 2. A substitute may be used to allow for staff persons to take vacation, short term medical leave, or to take care of routine appointments.
- 3. Substitutes used more frequently than twenty (20), eight (8) hour days, per year shall meet all requirements listed for regular staff.
- 4. The facility shall notify parents in advance when using a substitute for non-emergency situations.
- 5. Substitutes used less than twenty (20), eight (8) hour days, per year shall meet the following requirements:
 - a. Be at least eighteen (18) years of age.
 - b. Be able to read and write.
 - c. Provide continuous supervision of young children including during outdoor play, napping, field trips, and water activities.
 - d. Carry out methods of guidance and discipline without recourse to physical or emotional punishment.
 - e. Recognize and act against hazards to children and react in a calm manner in an emergency.
 - f. Have successfully completed Cardiopulmonary Resuscitation (CPR) training or other first aid including rescue breathing and first aid for choking, or have a plan to do so within the first six (6) months of employment.
 - g. Have received, prior to caring for children, an orientation from the operator with regard to evacuation procedures, discipline, child abuse and neglect reporting, recognition of symptoms of childhood illness, medication administration and the requirements of the rule.
 - h. Complete the approved pre-service training

6. ARE BACKGROUND CHECKS REQUIRED?

- A. Criminal background checks shall be completed on all operators, care givers, employees, volunteers eighteen (18) and over and all adult household members/residents.
- B. The operator shall not knowingly hire or continue to employ any staff person nor permit a volunteer or household member to be in contact with children if these persons have been:
 - 1. Convicted of, indicted for, or admitted guilt to any felony offense or more than one (1) misdemeanor offense.

2. Involved in any criminal activity involving violence against a person, including adult or child abuse or neglect; possession, sale, or distribution of illegal drugs; gross irresponsibility or disregard for the safety of others, or fraud; or
 3. Determined to have abused or neglected an adult or child.
- C. A facility is not eligible for a license if a background check or complaint shows the operator or a household member have been found to have abused or neglected a child, or have a criminal background as defined in this rule.
- D. The operator, an employee, volunteer, or other household member or resident shall not have been diagnosed or under treatment for a serious mental illness which might create a risk to children.
- E. No operator, employee, volunteer, household member, or visitor to the facility shall be under the influence of alcohol or illegal drugs while children are in care.
- F. No person working directly with children in the home shall take any substance or medication that would impair his or her ability to care for children.
- G. Operators shall notify the department within twenty-four (24) hours if the operator, an employee, volunteer, household member, or anyone working directly with children is charged with a crime or alleged to have committed adult or child abuse or neglect.
7. WHAT ARE THE REQUIREMENTS CONCERNING GUIDANCE AND DISCIPLINE? The facility shall have a written policy on the guidance and discipline of children. Staff shall follow this policy in providing guidance and discipline with kindness and understanding. The policy shall:
- A. Use positive, developmentally appropriate methods of guidance and discipline to help a child develop self-control, self-esteem, self-direction, cooperation, respect for others, and to assume responsibility for his or her own acts.
- B. Establish simple and consistent rules for children and staff that set clear-cut limits of behavior.
- C. Encourage redirection of inappropriate behavior, rather than punishment.
- D. Timeouts may be used as a supplement to positive approaches to discipline, but shall be limited to brief periods of approximately one (1) minute for each year of a child's age.
- E. The following methods of punishment are prohibited:
1. Any form of physical punishment;
 2. Mental or emotional punishment;
 3. Chemical, mechanical, or physical restraints used for discipline or to control behavior;
 4. Restriction of a child's movements by binding, tying, or by confining a child in an enclosed area;
 5. Withholding or forcing meals, snacks, rest, or necessary toilet use;
 6. Any punishment of a child for lapses in toilet training, failure to eat, failure to go to sleep, or failure to complete a prescribed activity;
 7. Any form of treatment considered to be child abuse, sexual abuse, or child neglect as defined by state statute; and
 8. Any other form of punishment which humiliates or frightens a child.

8. WHAT FEES CAN BE CHARGED?

- A. The operator of a family child care facility is responsible for setting fees and developing written payment policies. Fees need to be competitive with other facilities in the community, but they also need to be sufficient to cover the facility's operating costs.
- B. The West Virginia Department of Human Services reimburses child care costs for families who meet certain eligibility criteria. Families receiving assistance in paying for child care cannot be charged any fees other than a one time registration fee, transportation fees, late fees, and fees for time not approved by the Agency. For more information about these programs, you may contact your local Department of Human Services office or the Resource and Referral Agency in your area.

9. IS A FAMILY CHILD CARE FACILITY REQUIRED TO SERVE MEALS?

- A. The facility shall provide nutritious meals and snacks that meet the standards of the United States Department of Agriculture.
- B. The following requirements apply to food services:
 - 1. No child shall be without a meal or snack for excessively long periods of time.
 - 2. In a facility open morning through afternoon, lunch and morning and afternoon snacks shall be served. If a facility serves breakfast to all children, a morning snack is not required.
 - 3. The facility shall serve a snack to school age children arriving after school.
 - 4. A complete meal shall be available for children whose planned attendance is prior to seven (7:00 a.m.) in the morning or after seven-thirty (7:30 p.m.) in the evening.
 - 5. Information provided by parents as to children's eating habits, food preferences, and special dietary needs shall be considered when planning menus.
 - 6. Children shall be encouraged to eat the food served but shall not be subject to coercion or forced feeding.
- C. The West Virginia Department of Education operates the Child & Adult Care Food Program. This program reimburses facilities operating in a home-based setting for serving meals to eligible children. Please note that facilities operated in sites such as store fronts, etc. may not be eligible for reimbursements from the Child & Adult Care Food Program. For more information and to determine if your facility is eligible for this assistance, you may contact your local Child Care Food Program Sponsor:

10. IS SMOKING PERMITTED?

- A. Neither the provider, staff, volunteers, household members, nor visitors are permitted to smoke cigarettes, cigars, or other tobacco products in the presence of children or on any playground facility when a child is present.
- B. All family child care facility operators must check their county ordinances to see if any smoking at all is permitted at a place of business.

11. WHAT ARE THE RESPONSIBILITIES OF A FAMILY CHILD CARE FACILITY OPERATOR?

- A. The facility shall verbally report to the department any serious occurrences affecting the operation of the facility within twenty-four (24) hours of the occurrence or by the next work day and follow up in writing within 72 hours. Reports shall include the following situations:
 - 1. Any accident, injury, or illness occurring while a child is in care and resulting in extensive medical care, hospitalization, or death.

2. Serious communicable disease of a child, operator, employee, or family member.
3. Any incident which results in legal action by or against the facility.
4. Serious violations of requirements by the facility operator or its employees which could result in harm to a child.
5. Any suspected child abuse or neglect by a parent, operator, employee, other care giver, or household member.

B. The facility shall also notify the department, in writing, of any occurrence affecting the operation of the facility. This includes, but is not limited to, the following:

1. Change of ownership, requiring a new application.
2. Change of operator and change in staff.
3. Closure.
4. Changes in operating hours and age range.
5. Additions to or reductions in space affecting the facility's capacity.
6. Additions such as a swimming pool.
7. Reductions such as removal of fences.
8. Change in the location of home, requiring a new application.
9. A disaster such as a fire or flood that damages the home.
10. A change in composition of the household.
11. Information that an employee has been indicted, arrested, or charged with a crime.

12. WHAT IS THE ROLE OF THE WEST VIRGINIA DEPARTMENT OF HUMAN SERVICES TO FAMILY CHILD CARE FACILITIES?

- A. The Secretary shall provide supervision to a facility to determine continuing compliance with the requirements of this rule through regular monitoring and announced and unannounced visits to the facility.
- B. An inspection of each facility shall occur at least once every year. The Secretary shall provide consultation to a facility to assist the facility in providing high quality care and services to children.

13. WHERE CAN I SUBMIT MY APPLICATION?

A. Application can be submitted by printing the application and mailing to the following address:

WV DoHS/ Division of Early Care and Education
Attn: Sawyer Holstine
350 Capital St, 5th Floor
Charleston, WV, 25301

B. Application can be submitted by scanning and emailing to the following email address:

eceproviders@wv.gov