



COLORADO

Department of Early Childhood

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Program/Division: DELLA - SACC

CDEC Tracking No.: 2023-09-002

CCR Number(s): 8 CCR 1402-1

SOS Tracking No.: TBD

RULEMAKING PACKET

Reason and Justification of the proposed rule or amendment(s):

Compliance with Federal and/or State laws, mandates, or guidelines ▾

Provide a description of the proposed rule or amendment(s) that is clearly and simply stated, and what CDEC intends to accomplish:

The Division of Early Learning, Licensing, and Administration (DELLA) recently conducted a comprehensive rule review to determine if the rules should be continued in their current form, modified, or repealed, consistent with the requirements of section 24-4-103.3, C.R.S. As a result of stakeholder engagement, some of the major areas of revisions incorporate federal requirements for staff, expanding qualification options; changes to staff-to-child ratios and substitute requirements; expanding health, safety, and professional development requirements; and clarifying requirements for school-age programs operated by a public school district, day camp programs, mobile day camps, outdoor day camps, and day camps providing overnight care.

In addition to the comprehensive rule review, the proposed revisions implement [Colorado Senate Bill 21-167](#) (SB21-167), concerning staffing flexibility during emergency circumstances; playground inspections; and self-administration of medication for asthma, and food allergies or anaphylaxis.

Statutory Authority: (Include Federal Authority, if applicable)

Sections 26.5-1-105(1), 26.5-5-314(1) and (2), 24-4-103, and 24-4-103.3, C.R.S.

Does the proposed rule or amendment(s) impact other State Agencies or Tribal Communities?

☐ Yes

☒ No

If Yes, identify the State Agency and/or Tribal Community and describe collaboration efforts:

Does the proposed rule or amendment(s) have impacts or create mandates

☐ Yes

☒ No

If Yes, provide description:

on counties or other governmental entities? (e.g., budgetary requirements or administrative burdens)	
Effective Date(s) of proposed rule or amendment(s): (<u>E</u> mergency/ <u>P</u> ermanent)	<input type="checkbox"/> Mandatory <input checked="" type="checkbox"/> Discretionary (E) Effective Date: N/A (P) Effective Date: 8/30/2024 (E) Termination Date: N/A
Is the proposed rule or amendment(s) included on the Regulatory Agenda?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If no, please explain:
Does the proposed rule or amendment(s) conflict, or are there inconsistencies with other provisions of law?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, please explain:
Does the proposed rule or amendment(s) create duplication or overlapping of other rules or regulations?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, explain why:
Does the proposed rule or amendment(s) include material that is incorporated by reference ¹ ?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If Yes, provide source: <ol style="list-style-type: none"> 1. Certificate of Immunization, defined in Colorado Department of Public Health and Environment regulation at 6 CCR 1009-2:VI(A), (May 15, 2023), no later editions or amendments are incorporated. These regulations are available from the Colorado Department of Public Health and Environment at no cost at https://www.coloradosos.gov/CCR/Welcome.do. These regulations are also available for public inspection and copying at the Colorado Department of Early Childhood, 710 S. Ash St., Denver, CO 80246, during regular business hours 2. The Certificate of Nonmedical Exemption and Education Module are herein incorporated by reference, no later editions or amendments

¹ Incorporation by Reference is all or any part of a code, standard, guideline, or rule that has been adopted by an agency of the United States, this state, or another state, or adopted or published by a nationally recognized organization or association, pursuant to section 24-4-103(12.5), C.R.S.

	<p>are incorporated. The Certificate and Education Module are available at no cost from the Colorado Department of Public Health and Environment at https://cdphe.colorado.gov/vaccine-exemptions. The Certificate is available for public copying and inspection at the Colorado Department of Early Childhood, 720 S. Ash St., Denver, CO 80246, during normal business hours.</p> <p>3. United States Department of Agriculture (USDA) Child and Adult Care Food Program meal pattern guidance and requirements published by the USDA Food Nutrition Service at https://www.cacfp.org/meal-pattern-guidance/ (April 2016) and 7 C.F.R. sections 210.10 and 226.20 (July 1, 2022), herein incorporated by reference. No later editions or amendments are incorporated. These regulations are available at no cost from the USDA Food Nutrition Service at https://www.ecfr.gov. These regulations are also available for public inspection and copying at the Colorado Department of Early Childhood, 710 S. Ash St., Denver, CO 80246, during regular business hours.</p> <p>4. Federal Motor Vehicle Safety Standards and Colorado child passenger safety laws</p>
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<p>Does the proposed rule or amendment(s) align with the department's rulemaking objectives?</p> <p>Choose all that apply.</p>	<table> <tr> <td><input checked="" type="checkbox"/></td><td>Reduce the administrative burden on families and providers accessing, implementing, or providing programs and/or services.</td></tr> <tr> <td><input checked="" type="checkbox"/></td><td>Decrease duplication and conflicts with implementing programs and providing services.</td></tr> <tr> <td><input checked="" type="checkbox"/></td><td>Increase equity in access and outcomes to programs and services for children and families.</td></tr> <tr> <td><input checked="" type="checkbox"/></td><td>Increase administrative efficiencies among programs and services provided by the department.</td></tr> <tr> <td><input checked="" type="checkbox"/></td><td>Ensure that rules are coordinated across programs and services so that programs are implemented and services are provided with improved ease of access, quality of family/provider experience, and ease of implementation by state, local, and tribal agencies.</td></tr> </table>	<input checked="" type="checkbox"/>	Reduce the administrative burden on families and providers accessing, implementing, or providing programs and/or services.	<input checked="" type="checkbox"/>	Decrease duplication and conflicts with implementing programs and providing services.	<input checked="" type="checkbox"/>	Increase equity in access and outcomes to programs and services for children and families.	<input checked="" type="checkbox"/>	Increase administrative efficiencies among programs and services provided by the department.	<input checked="" type="checkbox"/>	Ensure that rules are coordinated across programs and services so that programs are implemented and services are provided with improved ease of access, quality of family/provider experience, and ease of implementation by state, local, and tribal agencies.
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Rulemaking Proceedings

Type of Rulemaking: Emergency or Permanent ² [Permanent Tier I or Tier II]	<div>Permanent ▾</div> <div>Tier I ▾</div>
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² Tier I is used for proposed rule or amendment(s) that have substantive changes, require substantial stakeholder engagement, and will be considered at two Public Rulemaking Hearings (PRH). The first PRH is held for discussion, and the second PRH is held to consider adoption. Tier II is used for proposed rule or amendment(s) that include technical changes, do not require substantial stakeholder engagement, and will be considered at only one Public Rulemaking Hearing (PRH) for adoption.

Stakeholder Engagement:	<p>Stakeholder Meetings:</p> <ol style="list-style-type: none"> 1. September 7, 2023 12:00-1:00 PM 2. September 21, 2023 9:00 AM 3. October 11, 2023 2:30-3:30 PM 4. October 30, 2023- 12:00 -1:30 PM 5. November 8, 2023 12:00-2:00 PM 6. November 30, 2023- 9:00-10:30 AM 7. December 8, 2023- 11:00-12:30 PM 8. December 14, 2023- 9:00-11:00 AM <p>Proposed rules were emailed to stakeholders and posted on the website to solicit written feedback from February 12, 2024 through March 13, 2024.</p> <p>Rule Folder: https://drive.google.com/drive/u/0/folders/1jujcF58Gg4lHa2nkq7jqs6Li4lRHHh8Z </p>
Assistant Attorney General Review:	April 5, 2024 - April 24, 2024
RAC County Subcommittee Review Date (if required):	May 2, 2024
Rules Advisory Council (RAC) Review Date:	May 9, 2024
Public Rulemaking Hearing Date(s):	<p>May 16, 2024 (Discussion)</p> <p>June 27, 2024 (Adoption)</p>

Regulatory and Cost Benefit Analysis

1. **Community Impact:** Provide a description of the stakeholders that will be affected by the proposed rule or amendment(s), and identify which stakeholders will bear the costs, and those who will benefit. How will the proposed rule or amendment(s) impact particular populations, such as those experiencing poverty, immigrant/refugee communities, non-English speakers, and rural communities?

The proposed changes to the School-Aged Child Care rules impact School-Aged Child Care Centers and families with diverse backgrounds; including families experiencing poverty, immigrant/refugee communities, non-English speakers, and rural communities. There is a positive impact on these populations as the rules expand health, safety, and professional development requirements, modify staff-to-child ratios, add additional pathway options for Program Directors to support the well-being of children, and decrease barriers to operating programs.

Additionally, the Department will provide translated versions of the adopted rules, administrative guides, and supporting resources to Spanish speakers.

2. **Quality and Quantity:** Provide a description of the probable quantitative and qualitative impact on persons affected by the proposed rule or amendment(s), and comparison of the probable costs and benefits of implementation versus inaction. What are the short- and long-term consequences of the proposed rule or amendment(s).

The short- and long-term consequences of inaction would be noncompliance with federal and state law and requirements, additionally School-Age Child Care Centers and families with diverse backgrounds would not receive the benefits of flexibility created by these revisions.

3. **Potential Economic Benefits/Disadvantages:** What are the anticipated economic benefits of the proposed rule or amendment(s), such as: economic growth, creation of new jobs, and/or increased economic competitiveness? Are there any adverse effects on the economy, consumers, private markets, small businesses, job creation, and economic competitiveness?

This rule package is an economic benefit for both families and school-age child care centers, as it ensures that parents have safe child care options while at work. With this rule package, CDEC intends to expand qualification options by adding additional pathways. The proposed rules decrease barriers to operating programs, including modifying staff-to-child ratios and substitute requirements.

The additional health and safety requirements and training may be a barrier to programs operating due to the cost. In the few areas where additional requirements have been proposed, the Department has tried to minimize the impact by providing required training free of cost and allowing them to count for required ongoing professional development.

CDEC intends to expand health, safety, and professional development requirements, including child growth and development, injury prevention, playground safety, and mental and child care health consultation. CDEC also added specific sections in the regulations for school-age programs operated by public school districts and day camps, including mobile day camps, outdoor day camps, and day camps providing overnight care.

4. **Fiscal Impacts:** What are the anticipated direct and indirect costs for the state/department to implement, administer, and enforce the proposed rule or amendment(s)? What are the direct and indirect costs to each of the following entities to comply with the proposed rule or amendment(s)? For each, describe the impact or indicate “not applicable.”

Department	None. There are no costs to the Department for implementing these rules.
Local Governments/ Counties	None. The revised rules do not increase or create additional costs for counties or local governments.
Providers	Licensed School-Age Child Care Centers are governed by these rules and will both benefit from and bear the burden of these rules. There will be minimal cost to childcare providers as the additions to the package are training requirements in compliance with state and federal statutes. Training is available for free online in the Professional Development Information System (PDIS).
Community Partners (e.g., School	None. The revised rules do not increase or create additional costs for community partners.

Districts, Early Childhood Councils, etc.)	There will be minimal cost to licensed School-Aged Child Care Centers operating within school districts based on the increased training requirements to comply with state and federal statutes. Training is available for free online in the Professional Development Information System (PDIS).
Other State Agencies	None. The revised rules do not increase or create additional costs for State Agencies.
Tribal Communities	None. The revised rules do not increase or create additional costs for Tribal Communities.

5. **Evaluation:** How will implementation of the proposed rule or amendment(s) be monitored and evaluated? Please include information about measures and indicators that CDEC will utilize, including information on specific populations (identified above).

The Department will annually monitor programs for compliance with these regulations and provide a six (6) month period of consultation to support compliance. Compliance with children's health and safety must always be maintained.

6. **Comparative Analysis:** Provide at least two (2) alternatives to the proposed rule or amendment(s) that can be identified, including the costs and benefits of pursuing each of the alternatives.

There are no alternative solutions to these proposed rules because the revisions are compliant with the health and safety laws. The rules and requirements that were determined unnecessary were removed from the rule package.

7. **Comparative Analysis:** Are there less costly or less intrusive methods for achieving the purpose of the proposed rule or amendment(s)? Explain why those options were rejected.

There is no other option to achieve the objective of these revisions.