

Department of Children and Families

Public Hearing Summary

School-Age Child Care Programs and Other Child Care Licensing Updates

DCF 250, 251, and 252

CR 21-100

A public hearing was held via Zoom on January 5, 2022. Comments were received from the following:

1. Wisconsin After-School Network
Randy Neve
Marshfield
2. Wisconsin State Alliance of YMCAs
Jennie Melde
LaCrosse
3. Courtney Zwick
School-age program
New Glarus
4. Angela Bohnert
School-age program
River Falls
5. Leslie Thomas
School-age program
Somerset
6. Milwaukee Child Care Alliance
Christine Larson Salerno
7. Supporting Families Together Assn.
Penny Chase
Madison
8. Wisconsin Early Childhood Assn.
Cassandra Perenchio
Madison
9. City of Madison Child Care Unit
Monty Marsh
10. Reach Dane Satellite FCC System
Amy Christianson
Madison
11. Vision Forward Association
Tracey Stanislawski, Early Ed. Manager
New Berlin
12. Karen Sheets
Group child care center
Tomah
13. Jessica Howe
Group child care center
West Bend
14. Angel Berry
Group child care center
Sheboygan
15. Maegen Johnson
Group child care center
Milwaukee
16. Brooke Skidmore
Group child care center
New Glarus
17. Melissa Frankiewicz
Group child care center
Racine
18. Mary Olson
Family child care center
Stevens Point
19. Yimma Davila-Castro
Family child care center
Milwaukee

20. Mary Parish
Family child care center
Columbus
21. Kelly Summerfield
Family child care center
Onalaska
22. Jennifer Osowski
Family child care center
Stevens Point
23. Corrine Hendrickson
Family child care center
New Glarus
24. Tammy Dannhoff
Family child care center
Oshkosh
25. Collette Kraft
Family child care center
Ashland
26. Stephanie Winkel
Family child care center
Neenah
27. Julia Langer, parent
Green Bay
28. Dunn County Health Dept.
Jeff Robb
Environmental Health Manager
29. American Lung Assn.--Wisconsin
Molly Collins
Brookfield
30. Tanya Schlam, Ph.D
31. American Association of Radon
Scientists and Technologists
Jane Malone
National Policy Director
32. Ryan R. Stewart
Radon mitigation specialist
Roberts
33. Radon Man of Wisconsin
Radon mitigation specialist
Mandi Bird
Wausau

Summary of Public Hearing Comments and Department Responses

Comment number designates commenter specified on pages 1-2.

DCF 251.094 and 251.095 School-age programs; general

Comment (1): The proposed rules will strengthen and clarify the rules governing after-school programs and improve the quality of after-school programs.

Comment (2): The proposed school-age rules will help improve the quality and accessibility of child care across the state. The definitions for positions and qualifications better represent the school-age field. Accepting and requiring coursework and experience in school-age areas ensures a quality program for school-age children.

Comment (18): The workgroup on school-age care worked hard to make recommendations that would make school-age care more accessible while maintaining the quality standards already in place. I am pleased to see many of our recommendations reflected in the proposed rule.

Comment (4): The requirements for school-age programs should be simplified. School-age programs in school buildings should have the same background check requirements as school staff. There should be reduced staff requirements since no academics are taught.

Comment (5): I understand and agree that school-age programs should be monitored by DCF licensing, but the licensing requirements for programs operated by a school district need to better align with what is required by DPI for public school. School-age child care programs involve the same children in the same building and, in some cases, the same staff as the public school. School-age child care programs have a difficult time finding staff and have high staff turnover. In particular, school-age programs operated by school districts should not be required to do fingerprint-based background checks, and staff who work in the school should not be required to take the class *Introduction to the School-Age Care Profession*.

Department response:

- A workgroup convened by the Wisconsin Afterschool Network submitted recommended rule changes to the department intended to make ch. DCF 251 better reflect the needs of providers and children in school-age child care programs. Many of the workgroup's recommendations are in the proposed rules.
- The background check requirements for staff in licensed child care programs are in federal law at 45 CFR 98.43.
- Under s. DCF 251.02 (2), a center may request an exception to a rule requirement by submitting the request with a justification and alternative that meets the intent of the requirement. The department may grant an exception if it determines that granting the exception will not jeopardize the health, safety, or welfare of any child served by the center. A school-age program operated by a school district that is hiring a staff person who is an experienced school employee could consider submitting a request for an exception to the introductory training requirement for this person.

DCF 251.094 (2) and (3) Staff in school-age programs; school-age administrator and school-age director

Comment (14): Is it a requirement that every group center with any number of school age children in care have a school-age administrator and a school-age director or can these tasks continue to be handled by the center director?

Department response: Section DCF 251.094 applies to staff in school-age programs serving only school-age children. One individual could be both school-age administrator and the school-age director for a school-age program if the individual meets the qualifications for both of these positions.

Rule addition: DCF 251.094 (2m) SCHOOL-AGE ADMINISTRATOR AND SCHOOL-AGE DIRECTOR. An individual may perform the duties of both a school-age administrator under sub. (2) (a) and a school-age director under sub. (3) (a) if the individual meets the qualifications for both positions under subs. (2) (b) to (e) and (3) (b) to (d).

Comment (6): School age directors and administrators should be required to take a child development course as additional training if their education was not in a youth-related field.

Department response: A school-age administrator is responsible for overall organizational management, including personnel, finance, physical plant, and the implementation of policies and procedures. The department does not agree that a child development course is necessary to successfully perform these duties.

A school-age director is responsible for the management and implementation of the school-age program, supervision of staff, oversight for regulatory compliance, and development of policies and procedures. School-age directors are required to have at least 240 hours of experience as a school-age program leader, public or private school teacher, student teacher, coach, camp counselor, mentor in a community-based organization, or equivalent in another approved setting. The department does not agree that a child development course is necessary to successfully perform these duties because the director will have hands-on experience in the field prior to being qualified as a director.

DCF 251.094 (3) (b) Staff in school-age programs; school-age director; up to 5 school-age program sites

Comment (6): The rule says a person can be a school-age director for up to 5 program sites. Is this limit affected by the number of children and staff at each program site?

Department response: The rule applies to the number of program sites only and is not affected by the number of children or staff at each program site. The department worked with the Wisconsin Afterschool Network in creating this requirement.

DCF 251.094 (4) (b) 3. and (c) 4. Staff in school-age programs; school-age program leader

Comment (1) and (2): The hours of experience required to be a school-age program leader should be reduced from 240 to 180 hours.

Department response: The department is already decreasing the number of required hours of experience from 320 hours to 240 hours for school-age program leaders/child care teachers. The department does not believe it is in the best interest of children in care to decrease this requirement by an additional 60 hours.

Comment (1) and (2): To be in keeping with the knowledge base of the other educational options, the noncredit course *Introduction to the School Age Care Profession* should be required in combination with 2 hours of higher education in the specified subject areas.

Department response: **The department agrees.**

Revised rule: DCF 251.094 (4) (c) 4. Note: The noncredit course approved by the department to meet the entry level training requirement for a school-age program leader in combination with 2 credits from an institution of higher education is *Introduction to the School-Age Care Profession*.

DCF 251.094 (5) Staff in school-age programs; school-age group leader

Comment (6): Do a school-age program leader and a school-age group leader need to be in the same physical room for supervision purposes or can they be both working the same shift but in two different places?

Department response: Under s. DCF 251.094 (5), a school-age group leader works under the supervision of a school-age program leader. Section DCF 251.03 (31) provides that supervision of staff may include provision of instructions to carry out activities for limited periods of time out of sight or hearing of the supervisor.

Under s. DCF 251.095 (2m), school-age children must generally be supervised by a school-age program leader. An exception in s. DCF 251.095 (2m) (d) allows a school-age group leader to provide sole supervision for a group of school-age children for no more than 45 minutes if there is a qualified school-age program leader or child care teacher on the premises.

DCF 251.094 (6) Staff in school-age programs; school-age program aide

Comment (3), (5): Allowing 16- and 17-year-olds to be school-age program aides would be very helpful. It would be a good fit for a high school student.

Comment (5), (6): What can a school-age program aide do and not do? Do they count in ratios?

Department response: Under s. DCF 251.03 (27r), a school-age program aide is a person who works under the direct supervision of a school-age program leader and assists with daily activities and maintenance of the school-age program, such as preparing and participating in program activities and cleaning the premises. School-age program aides may not be counted in staff ratios.

Rule addition: DCF 251.094 (6) (c) A school-age program aide may not be counted in staff-to-child ratios in Table DCF 251.055.

DCF 251.095 (2m) (b) Additional requirements, modifications, and exceptions for school-age programs; supervision; sight or sound

Comment (8): Out of sight children could be harmed before a sound is heard. For example, sight and sound supervision allows staff to watch for warning signs of bullying and prevent it from happening.

Department response: The department agrees to continue to require sight and sound supervision for children ages 5 and 6 in school-age programs.

Revised rules: DCF 251.095 (2m) (b) Notwithstanding s. DCF 251.055 (1) (a), each child 7 years of age and older shall be supervised by a school-age program leader or child care teacher who is within sight or sound of the child to guide the child’s behavior and activities, prevent harm, and ensure safety, except as provided in pars. (d) to (f).

Note: DCF 251.055 (1) (a) requires sight and sound supervision.

In s. DCF 251.095 (2m) (e) and (f), “a child 8 years of age or older” has been changed to “a child 7 years of age or older.”

DCF 251.095 (5m) (a) 1. and (b) 3. Additional requirements, modifications, and exceptions for school-age programs; exceptions and modifications for school-age programs in school buildings; immunization records; personnel records to site within 2 hours

Comment (1) and (2): School-age programs in school buildings should be exempt from the requirement to maintain documentation of a child’s immunization records. The exception for school-age programs in school buildings should not be limited to programs that have approved access to the school’s vaccination records.

Department response: Under 45 CFR 98.41 (a) (1) (i) (A), the department is required to review the immunization and health records of children in care. A school-age program must be able to provide children’s immunization records to the licensing specialist for review.

Comment (1) and (2): In multi-site agencies, it may be difficult for the main office to deliver personnel files to the program location within a 2-hour time frame. Can the wording read: “within 2 hours of the request or personnel records may be viewed by the licensing representative at the administrative office at any time”?

Department response: The department believes it is reasonable to require that personnel records be maintained in an electronic format at the program site or that the administrative office delivers paper records to the program site within 2 hours after a licensing specialist’s request. A note will be added to clarify that the records at the program site may be electronic.

Rule addition: DCF 251.095 (5m) (b) 3. Note: The required records may be in an electronic format at the school-age program site.

DCF 251.095 (5m) (a) 5. and 8. and (b) 1. Additional requirements, modifications, and exceptions for school-age programs; exceptions and modifications for school-age programs in school buildings; exceptions-radon and well water tests; modification-notice of closure

Comment (6): Are radon testing and nitrate testing required for school-age programs in school buildings that are currently in use as school building?

Department response: No, the exceptions to the requirements for radon testing and private well water testing are specified in s. DCF 251.095 (5m) (a) 5. and 8.

Comment (6): Do school-age only programs need to provide at least 10 days advance notice of closure and traditional group centers need to provide at least 20 days advance notice of closure?

Department response: Yes, if the school-age program is in a school building. Section DCF 251.095 (5m) (b) 2. modifies s. DCF 251.04 (3) (h) for school-age programs in school buildings that are currently in use as school buildings.

DCF 250, Family Child Care Centers; DCF 251, Group Child Care Centers; and DCF 252, Day Camps for Children

DCF 250.04 (3) (Lm), 251.04 (3) (dm), and 252.41 (2) (q), Operational requirements; reports; notice of closure

Comment (8): The notice of closure requirement is unclear when the provider is not sure how long the closure will last. It would help to add more specificity such as “after the center or provider realizes the closure will last longer than two weeks.”

Department response: **The department agrees** clarification is needed.

Revised rules: DCF 250.04 (3) (Lm), 251.04 (3) (dm), and 252.41 (2) (q) Unexpected closures lasting more than 2 weeks, within 24 hours after the center [camp] has been closed for a 2-week period.

DCF 250.06 (6) Physical plant and equipment; water testing; adding lead test to DCF 250.06 (6) for private well water; clarifying DCF 250.06 (6), 251.06 (6), and 252.43 (4)

Comment (18): The lead water test will add \$57 to my current water test fee. Family child care centers are already financially burdened and the industry is not meeting the demand for child care within the communities we serve.

Department response: The department understands the concern about the additional cost of testing private well water for lead, but lead in water is a significant health and safety risk for children in care and the staff members caring for them. A lead test will be required once every 5 years.

Comment (28): We support testing drinking water for bacteria, nitrates, and lead. Bacteria, nitrates, and lead in drinking water are concerning for all individuals, but even more so for young children as they can have a serious broad range of health effects including on growth and development.

Rule rewrite: Sections DCF 250.06 (6), 251.06 (6), and 252.43 (4) have been rewritten for clarity. See the language in the rule text.

DCF 250.07 (2) (b), 251.07 (2) (a) 1. and (c), and 252.44 (2) (b) Program; child guidance; time-out period

Comment (9): Time-outs are not an effective method of behavior guidance. If time-outs remain in the rule, it should require that the child not be isolated or removed from the classroom setting. If caregivers are in need of additional adult support, the adults should come to the classroom setting.

Department response: **The department agrees** to include the suggested language and to clarify the rules on time-out periods.

Rule addition and rewrite: DCF 251.07 (2) (a) 1. In this subsection, a “time-out period” means a break from the large group that a child care worker offers a child to provide the child an opportunity to calm and regain composure while being supported by the child care worker.

(c) A center may use a time-out period to handle a child’s unacceptable behavior only if all of the following conditions are met:

1. The child is 3 years of age or older.
2. The child care worker offers the child the time-out period in a non-humiliating manner.
3. The time-out period does not exceed 3 minutes.
4. The child is not isolated.
5. The child is not removed from the classroom setting.
6. If the child care worker needs additional adult support, another child care worker comes to the classroom setting.

DCF 250.07 (2) (b) and 252.44 (2) (b) have been rewritten with similar language.

DCF 250, Family Child Care Centers and DCF 251, Group Child Care Centers

DCF 250.05 (3) (gm) and 251.05 (3) (gm) Staff; qualifications of staff; program aide

Comment (6), (13), (17): Please specify what program aides can and cannot do. Do they count in staff ratios?

Department response: Program aides in family child care centers and group child care centers may not be counted in staff ratios.

Rule additions: DCF 250.03 (26m) “Program aide” means a person who works under the supervision of a provider and assists with daily activities and maintenance of the program, such as preparing and participating in program activities and cleaning the premises.

DCF 250.05 (3) (gm) 4. and DCF 251.05 (3) (gm) 4. A program aide may not be counted in the required staff-to-child ratios under Table DCF 250.055 [Table 251.055].

Comment (19): What classes must a program aide complete before beginning work?

Department response: In a family child care center, a program aide is not required to complete any classes prior to beginning work. None of the training requirements in s. DCF 250.05 (3) apply to program aides because they do not provide care and supervision of children, are not counted in staff ratios, and are not providers as defined in s. DCF 250.03 (27).

Under s. DCF 250.05 (4) (a), an orientation is required for all new employees in a family center before the individual begins to work with children in care. Under s. DCF 251.05 (4) (a), all new employees in a group center are required to complete an orientation within their first week at the center.

In a group center, s. DCF 251.05 (3) (c) requires CPR training within 3 months after beginning to work with children in care for “all employees in regular contact with children.” Section DCF 251.05 (3) (cm) requires training on child abuse and neglect reporting requirements within one week after hire for “each employee or volunteer who comes in contact with children in care” in a group center.

Sections DCF 250.05 (3) (gm) and 251.05 (3) (gm) require completion of any of the following within 6 months after assuming the position of program aide:

- An assistant child care teacher training program approved by the Wisconsin department of public instruction.
- The noncredit course *Introduction to the Child Care Profession*.

Rule withdrawal: The department removed the program aide qualification option of “at least 10 hours of department-approved training in early childhood education” that was in the

hearing version of the proposed rule because there is no existing course that would fulfill this option. The withdrawn language was in ss. DCF 250.05 (3) (gm) 3. b. and 251.05 (3) (gm) 3. b. in the hearing version of the proposed rule. There is an existing 10-hour course on the care of school-age children that may be completed to qualify as a school-age program aide.

DCF 250.05 (4) (a) 8. and 251.05 (4) (a) 10. Staff; staff development; orientation; child abuse and neglect laws

Comment (6): I see DCF 251.05 (4) 10. in the orientation section is repealed. Are centers no longer required to train on child abuse and neglect laws and center reporting procedures?

Department response: Training on child abuse and neglect laws and center reporting procedures is still required. In the current rules, the training requirements are separated into 2 sections, orientation and operating requirements. The proposed rules move the training requirements to one section at ss. DCF 250.05 (3) (fm) and 251.05 (3) (cm).

DCF 250.05 (4) (c) 2. and 251.05 (4) (c) 6. Staff; staff development; continuing education; independent reading and viewing and web-based training with no certificate of completion

Comment (8), (13): We oppose the proposal to allow independent reading and web-based training for all of the required continuing education hours. There needs to be accountability through verification that the continuing education has actually been completed.

Department response: The COVID-19 pandemic has highlighted difficulties many child care programs have had accessing continuing education opportunities. The proposed rules will improve access by allowing more flexibility on the time, location, and delivery methods of the educational opportunities and by allowing more affordable options.

DCF 250.06 (2) (n) and 251.06 (2) (p) Physical plant and equipment; protective measures; radon testing and mitigation

Comment (7), (18): Please clarify who will conduct the radon test and what the cost is to programs.

Comment (18), (22), (23), (24): I am concerned about the cost of radon testing and mitigation.

Comment (18), (22): Why are family centers required to test for radon every 2 years while group centers are required to test only every 5 years?

Comment (28), (29), (30), (31), (32), (33): I support requiring child care facilities to test for radon and to mitigate if radon levels are above the level determined unsafe by the EPA. Radon can damage lung tissue and lead to lung cancer later in life. Radon is the second leading cause of lung cancer in the U.S.

Comment (31), (33): Children get higher doses because of their lung size.

Comment (31): According to data reported to the U.S. Centers for Disease Control and Prevention, 48% of radon tests conducted in Wisconsin buildings between 1999 and 2015 were above the EPA action level of 4 picocuries of radon per liter of air.

Comment (29): Ideally, testing and mitigation services should be done by a certified radon mitigation specialist.

Comment (31): The rule should require that measurement and mitigation of radon be performed according to the applicable EPA-recognized standards of practice. This includes retesting every 5 years, or to verify continued effectiveness of a mitigation system or efforts, every 2 years.

The rule should require that measurement and mitigation of radon, including follow-up testing, be performed by a certified radon professional.

The rule should require providers to provide a copy of radon test results to parents.

Comment (26): If a center already has a radon removal unit in it, will they still need to incur the cost of having it tested by a company? Or will a licensing specialist be able to read the radon equipment to ensure that there isn't radon in the house?

Comment (28): After a mitigation system is installed, the facility should be allowed to remove the posting of their radon levels as long as they continue to test. Also, the testing required after mitigation should not be left up to the contractor, the state should outline testing requirements.

Department response: The department has worked closely with the Department of Health Services, Bureau of Environmental and Occupational Health, to understand the risks radon gases pose to individuals, specifically to children, and the actions recommended by the Environmental Protection Agency (EPA).

The revised rule clarifies that radon testing may be performed by the center. Inexpensive testing kits are available for purchase at local radon information centers, hardware stores, or online. The testing frequency in the rule is in line with the EPA recommendation of testing every 2 years in residential buildings and every 5 years in commercial buildings. The group rule has been revised to require a test every 2 years for group centers that are in residential buildings.

A radon mitigation system must be installed if the radon levels exceed 4 picocuries per liter of air, which is the action level specified by the EPA. The licensee is required to notify the parents of children in care if the test results indicate radon gas levels that exceed 4 picocuries per liter of air, but the revised rule does not specify the format of the notice.

Funding for activities related to radon mitigation is available under Payment Program A of the Child Care Counts: Stabilization Payment Program, which will provide monthly payments to eligible regulated child care providers through January 2024 to support costs to remain in regulatory compliance, enhance health and safety practices, and promote continuous quality improvement. More information about the Child Care Counts: Stabilization Payment Program can be found on the department's website: <https://dcf.wisconsin.gov/covid-19/childcare/payments>.

Revised rules: DCF 250.06 (2) (p) and 251.06 (2) (p) 1. a. Each licensee shall test or have a test conducted for radon gas levels in the lowest level of the center that is used by children in care for at least 7 hours per week. The test shall be conducted for a minimum of 48 hours with the center's windows closed.

b. In a center licensed prior to the effective date of this subd. 1. [LRB inserts date], the test for radon gas levels shall be conducted no later than 6 months after the effective date of this subd. 1. [LRB inserts date].

c. In a center licensed on or after the effective date of this subd. 1. [LRB inserts date], the test for radon gas levels shall be conducted within 6 months prior to providing care for children.

2. The licensee shall submit a copy of the radon test results under subds. 1. and 6. to the department within 5 days after receipt.

3. The lowest level of a center that is used by children in care for at least 7 hours per week may not have radon gas levels that exceed 4 picocuries per liter of air, except as provided in subd. 4. b.

4. If the levels of radon gases exceed 4 picocuries per liter of air in the lowest level of the center, the licensee shall do all of the following:

a. Notify the parents of children in care.

b. Have a radon mitigation system installed, test the radon gas levels in the center following the procedures specified in subd. 1. a., and submit radon test results that meet the standard in subd. 3. to the department within 12 months after the date of the test under subd. 1.

DCF 250.07 (2) (p) 5. The licensee shall test radon gas levels in the center every 2 years after the test under subd. 1. or, if a radon mitigation system was installed, every 2 years after the test under subd. 4. b. The test shall be conducted following the procedures specified in subd. 1. a.

DCF 251.07 (2) (p) 5. a. In this subdivision, “commercial building” means a building that is not a residential building and that meets the definition of a “place of employment” or “public building” under s. 101.01 (11) or (12), Stats.

b. In this subdivision, “residential building” means a building that meets the definition of a “dwelling” in s. 101.61 (1), Stats.

c. The licensee of a center in a commercial building shall test radon gas levels in the center every 5 years after the test under subd. 1. or, if a radon mitigation system was installed, every 5 years after the test under subd. 4. b. The test shall be conducted following the procedures specified in subd. 1. a.

d. The licensee of a center in a residential building shall test radon gas levels in the center every 2 years after the test under subd. 1. or, if a radon mitigation system was installed, every 2 years after the test under subd. 4. b. The test shall be conducted following the procedures specified in subd. 1. a.

Note: For more information, contact the state radon office or local radon information center at <https://www.dhs.wisconsin.gov/radon/infocenters.htm>.

DCF 250.06 (4) (a) and 251.06 (4) (j) Physical plant and equipment; fire protection; smoke detectors

Comment (7): How will a licensing specialist determine if a smoke detector is installed according to the manufacturer’s instructions?

Department response: Licensing specialists will be instructed to investigate only if the installation seems improper, such as too close to a window or door where a draft could prevent the smoke detector from working properly. This change was requested by regional licensing managers in response to demonstrated issues.

Rule rewrite: DCF 250.06 (4) (a) and 251.06 (4) (j) have been rewritten for clarity. See the language in the rule text.

DCF 250.06 (12) (a) (intro.) and 4. and 251.06 (12) (a) 2. and 6. Physical plant and equipment; swimming pools; 5-foot fence

Comment (20), (25): I installed a 4-foot fence around my pool based on the licensing rule at that time. I should not be required to now install a 5-foot fence at significant additional cost.

Department response: **The department agrees** and is withdrawing this proposal.

Rule revision: The proposed change from a 4- to 5-foot fence has been withdrawn in s. DCF 250.06 (12) (a) (intro.) and 4. and s. DCF 251.06 (12) (a) 2. and 6.

Comment (8): We encourage the addition of language that denotes the door and lock as “child-proof” to ensure proper safety measures are in place.

Department response: Section DCF 250.06 (12) (a) 3. and the proposed s. DCF 251.06 (12) (a) 5. provide that “Locks shall be located so that the locks cannot be opened by children.” This language is sufficient to accomplish the intent.

DCF 250.07 (6) (h) 4m. and 251.07 (6) (g) 8. Program; health precautions; dressed appropriately for outdoors; maintain selection of outdoor garments

Comment (8): We support more specificity, like being “clothed in seasonally appropriate wear to protect from the elements.”

Comment (12): It is the family’s responsibility to provide the garments that a child needs. If a child does not have the proper attire for outside play, we contact the family and ask them to bring it in.

Comment (18), (21): This requirement is unreasonable. It would require providers to have and store every item of outdoor wear children might need and have all different sizes. Children change constantly.

Comment (23), (24): Requiring children to be “dressed appropriately” for the outdoors is too subjective and will depend on each licensor’s interpretation.

Department response: **The department agrees** and is withdrawing the requirement to maintain a selection of outdoor garments. This language will continue to be a recommendation in rule commentary.

Rule revision and withdrawal: Section DCF 250.07 (6) (h) 4m. has been modified to read: “Children shall be clothed in seasonally appropriate clothing when outdoors.” Section DCF 251.07 (6) (g) 8. in the hearing version of the proposed rule has been withdrawn.

DCF 250.09 (1) (c) 4g. and 251.09 (1) (m) Additional requirements for infant and toddler care; [electronic] audio monitoring device when child under one year of age placed to sleep

Comment (8): Is a device with video and audio required and can it be used in lieu of a caregiver being present?

Comment (12): There is no need for an electronic device if children under 1 year of age are sleeping within sight and sound of a provider.

Comment (13), (14): Please specify the types of electronic monitoring device the rule requires. A baby monitor with video and sound, a baby monitor with sound, CCTV, an app on an electronic device?

Comment (14): Is this only while the infant is sleeping? Does it need to be recording? Is this always or for cases when a provider would be out of sight of the sleeping child?

Comment (18): This requirement forces providers to invest in expensive video monitoring equipment for infant sleeping areas. Providers will also need to have wi-fi and a cell phone. Is there any evidence that audio monitors have been harmful to children?

Comment (27): I am the parent of an infant who died in child care when she rolled on her side and the provider did not hear her. I am speaking in support of requiring electronic video and audio monitoring. Sound monitoring alone is not enough because it is a matter of opinion. There is too much room for error. My daughter's provider thought she would be able to hear her.

I think the benefits of video and audio monitoring outweigh any burden, but I did investigate the cost of a monitoring system. They range from \$50 to \$200. If a provider chooses a monitoring system that cost \$125, it would cost \$3.37/month over a 3-year lifespan, which is probably a conservative estimate of the lifespan. My family, including my 2 other children, have to live our entire lives affected by this trauma. You don't get a do-over.

Department response: The department agrees that additional monitoring is needed when children under one year of age are placed to sleep to ensure safe sleep practices and prevent tragedies. Oftentimes, providers think they are within sound supervision of a child when they are not. Noise created by other children in care can interfere or the provider may just be too far away from the child.

Under the revised rule, an audio monitoring device, such as a baby monitor, will be required in any room or area where children under one year of age are placed to sleep. Baby monitors are portable and have adjustable volume, which will help providers ensure that they can always hear the children.

Under the current supervision rules, sight or sound provision is always allowed in family centers and is allowed during naptime when children are sleeping in group centers. The proposed rules create an exception to the sight or sound supervision rules with cross-references to the rules requiring sound supervision with an audio monitor in an area or room where children under one year of age are placed to sleep.

The department will be recommending video monitoring in rule commentary. The department is not requiring video monitoring at this time, in part, due to concern that inexpensive video monitors are of low quality and may not add anything to the supervision of children under one year of age who are placed to sleep.

Revised rules: DCF 250.09 (1) (c) 4g. and 251.09 (1) (m) An audio monitoring device shall be used in any area or room where children under one year of age are placed to sleep.

DCF 250.03 (34) "Supervision" means guidance of the behavior and activities of children while awake and asleep for their health, safety, and well-being by a provider who is within sight or sound of the children, except as specified in ss. DCF 250.055 (1) (m) and (n), 250.07 (7) (e), and 250.09 (1) (c) 4g.

DCF 251.055 (2) (g) 1. One child care worker shall be within sight or sound of each group of sleeping children, except as provided in s. DCF 251.09 (1) (m).

DCF 250.09 (3) (f) and 251.09 (3) (a) 7. Additional requirements for infant and toddler care; discard leftover milk or formula within 2 hours after each feeding

Comment (12): I disagree with discarding milk or formula. If it is properly kept in a refrigerator there is no reason this milk cannot be saved. Formula is too expensive and breastmilk is “golden” to mothers who may have trouble producing milk.

Department response: The proposed rule is based on a recommendation that appears in both *Caring for Our Children: National Health and Safety Standards Guidelines for Early Care and Education Programs* and the Center for Disease Control guidelines and recommendations on proper storage and preparation of breast milk.

DCF 250, Family Child Care Centers

DCF 250.04 (2) (g) Operational requirements; administration; insurance coverage

Comment (19): Is insurance mandatory or optional for family child care centers?

Department response: The licensee of a family child care center is required to maintain liability insurance on the child care business only if cats or dogs are allowed in areas accessible to children during the hours of operation. When insurance is required, the insurance policy must indicate the number of children covered and the dates of coverage. If cats or dogs are not allowed, insurance is optional.

DCF 250.11 (2) (ar) 1. Licensing administration; general conditions for approval of a license; limit to 2 centers per licensee with an exception for current centers

Comment (10): As a system that accredits family child care programs for the City of Madison, we have seen that a sole business owner can successfully operate multiple high-quality family child care programs. It seems arbitrary to limit family providers to 2 centers and not limit group providers.

Department response: The family center rules are less complex than the group center rules because family centers are intended to be primarily individuals providing child care in their own homes. There are currently 2 licensees in the state that operate more than 2 family child care centers, and they will be allowed to retain their centers.

DCF 251, Group Child Care Centers

DCF 251.04 (4) (c) Operational requirements; parents; conferences

Comment (2): We do not support the proposed change to DCF 251.04 (4) (c) that would require center staff to “offer conferences at least twice each year” to parents. The rule should continue to require centers to “make opportunities available at least twice each year” for parent and staff communication.

Department response: This department’s intent has been that center staff offer conferences for parent-staff communication at least twice each year. The language change in the proposed rule is a clarification of this intent.

Comment (6): Is the requirement to offer conferences at least 2 times per year applicable to school-age programs?

Department response: Yes

DCF 251.05 (2) (a) 4. c. Staff; staff records; Registry certificate

Comment (12): I am glad to see that the rule only requires an employee to obtain an initial copy of the Registry certificate. If the Registry level does not change, employees should not be paying money every year to renew.

Department response: The department has not required more than an initial Registry certificate. The proposed rule is repealing a provision that allows the department to require a new Registry certificate upon a significant rule revision. This provision has never been implemented and is being repealed to avoid confusion.

The department does recommend that staff obtain a new Registry Certificate when credit-based instruction has been completed and the staff member is eligible for a higher Registry Career Level. The individual could receive an increased REWARD stipend and the program may be eligible for a higher YoungStar rating.

DCF 251.05 (3) (e) Staff; qualifications of staff; reduction of hours of experience required to be the director of a center with 50 or fewer children from 320 to 240 hours

Comment (8), (13): We oppose decreasing the hours of experience required to qualify as a director.

Department response: The department understands the concerns with reducing hours of experience to qualify as a director. This reduction of the costs and burdens for child care professionals is intended to help increase child care capacity and improve parents' ability to access child care throughout the state.

DCF 251.05 (3) (f) Staff; qualifications of staff; decrease in hours of experience required to be a child care teacher from 320 to 240 hours

Comment (8): We oppose decreasing the hours of experience required to qualify as a child care teacher.

Comment (13): I do not think this should be decreased. 320 hours is not a lot of time. A teacher needs the experience before being left alone with children. I have hired many with degrees that still cannot teach younger children. This is their opportunity to gain experience to be able to properly care for children on their own and they definitely need as much time as possible.

Department response: The department understands the concerns with reducing the hours of experience required to qualify as a child care teacher. This reduction in the costs and burdens facing potential child care teachers may lead to more child care workers and increased child care capacity. The difficulties parents are having finding child care are widely known and are having a ripple effect on the economy.

Comment (16): A person with a bachelor's degree should not have to work as an assistant teacher to get experience before becoming a child care teacher.

Department response: The department recognizes the importance of both formal education and experience in an early childhood setting prior to being the sole caregiver for a group of children.

DCF 251.05 (3) (gr) Staff; qualifications of staff; meal preparation personnel

Comment (2): We support the repeal of s. DCF 251.06 (9) (g) 1. a. and d., regarding the minimum age requirement and training requirements for meal preparation personnel.

Comment (6): Are there no longer any age restrictions for meal preparation personnel?

Department response: The minimum age and training requirements for meal preparation personnel have been moved from the kitchen section in s. DCF 251.06 (9) (g) to the staff qualifications section in s. DCF 251.05 (3) (gr). The minimum age for meal preparation personnel has been reduced from 18 to 17 years of age. The training requirements have been reduced from 4 hours annually to 4 hours prior to beginning work and one hour annually, except in school-age programs where meal preparation personnel are only required to complete one hour of training annually.

DCF 251.05 (4) (c) 1. Staff development; continuing education; reduction from 25 to 15 hours annually for staff who work 20 or more hours per week

Comment (2), (5), (12): We support the reduction in required continuing education from 25 to 15 hours annually.

Comment (8), (11), (13): We oppose this change. The field is constantly changing.

Comment (17): I am uneasy about reducing the continuing education requirement when we are trying to raise the level of professionalism for child care. I would hate to backslide.

Department response: This reduction of costs and burdens for child care professionals is intended to increase child care capacity and improve parents' ability to access child care throughout the state.

DCF 251.05 (4) (c) 2m. Staff development; continuing education; ratio for staff who work fewer than 8 months

Comment (1) and (2): DCF 251.05 (4) (c) 2m. Each administrator, center director, child care worker, school-age administrator, or school-age director who works fewer than 8 months per year shall participate in at least 2 hours of continuing education per month of employment as an administrator, center director, child care worker, school-age administrator, or school-age director. To clarify, can the statement read instead of "at least" be changed to the "equivalent of" 2 hours per month?

Department response: **The department agrees** and will also include examples in rule commentary.

Revised rule: DCF 251.05 (4) (c) 2m. Each administrator, center director, child care worker, school-age administrator, or school-age director who works fewer than 8 months per year shall participate in the equivalent of at least 2 hours of continuing education per month of employment as an administrator, center director, child care worker, school-age administrator, or school-age director.

Table DCF 251.055 Supervision and grouping of children; staff ratio and maximum group size; include children age 5 to 6 years with children 6 years and over

Comment (2): We support including children age 5 to 6 years with children 6 years and over for staff ratios and group size.

Comment (8), (9): We oppose this change. At age 5, children are experiencing transitions and need a more intensive relationship with caregivers than children at age 6.

Department response: Most group child care settings serve children ages 5 and 6 in the same classroom or in combination with children age 7 and older. The proposed rule will simplify ratio and group size calculations. This change was recommended by the Wisconsin Afterschool Network workgroup.

DCF 251.06 (1) (b) Physical plant and equipment; building; repeal of requirement for building inspection report specifying which rooms are approved for children under 30 months

Comment (7): We strongly support the repeal of this building inspection report.

Comment (13): It is important to know which rooms are the shortest distance to fire exits.

Department response: Building inspectors in some areas of the state have refused to sign these approval forms. Providers and applicants in these areas have incurred financial hardship to hire an architect to make this determination and some applicants have withdrawn their application.