

NOTICE OF PROPOSED EXPEDITED RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 3. DEPARTMENT OF HEALTH SERVICES – CHILD CARE GROUP HOMES

PREAMBLE

<u>1.</u>	<u>Article, Part, or Section Affected (as applicable)</u>	<u>Rulemaking Action</u>
	R9-3-101.	Amend
	R9-3-201.	Amend
	R9-3-202.	Amend
	R9-3-205.	Amend
	R9-3-301.	Amend

2. **Citations to the agency’s statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**

Authorizing statutes: A.R.S. §§ 36-132(A)(1) and 36-136(G)

Implementing statutes: A.R.S. §§ 36-897.01 through 36-897.03 and 46-811

3. **Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed expedited rule:**

Notice of Rulemaking Docket Opening: 26 A.A.R. 2809, October 30, 2020

4. **The agency’s contact person who can answer questions about the rulemaking:**

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5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, under A.R.S § 41- 1027, to include an explanation about the rulemaking:

The Department licenses child care group homes under Arizona Revised Statutes (A.R.S.) Title 36, Chapter 7.1, Article 3, and has adopted rules for child care group homes in Arizona Administrative Code Title 9, Chapter 3. The Department in this expedited rulemaking clarifies requirements for personnel, volunteers, and others providing services for enrolled children who attend licensed child care group home to ensure the health and safety of the enrolled children. To ensure that the Article 3 rules are not outdated, the amended rules will comply with Laws 2020, Ch. 86 and the Child Care and Development Block Grant Act of 2014 (P.L. 113-186) by specifying all child care personnel and volunteers shall have both a valid fingerprint clearance card issued and a background check conducted pursuant to P.L. 113-186 before starting employment or volunteer work. The current Article 3 rules contains requirements for fingerprint checks and state criminal registry verification. To ensure consistency and compliance with the P.L. 113-186, the Department plans to add requirements for background check verification that includes: the state sex offender registry, the state child abuse and neglect registries and databases, the National Crime Information Center, and the National Sex Offender Registry. Amending Article 3 will make the rules consistent with A.R.S. § 46-811, eliminate confusion related to child care fingerprinting and background check requirements, and ensure the health and safety for enrolled children attending a child care group homes. The proposed amendments will conform to rulemaking format and style requirements of the Governor's Regulatory Review Council and the Office of the Secretary of State.

6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

The Department did not review or rely on any study for this rulemaking.

7. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state.

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

Under A.R.S. § 41-1055(D)(2), the Department is not required to provide an economic, small business, and consumer impact statement.

9. The agency's contact person who can answer questions about the economic, small business, and consumer impact statement:

Not applicable

10. Where, when, and how persons may provide written comments on the proposed rule:

Close of record: January 20, 2022 at 4:00 p.m.

A person may submit written comments on the proposed expedited rules no later than the close of record to either of the individuals listed in item 4.

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

There are no other matters prescribed by statutes applicable specifically to the Department or this specific rulemaking.

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

The Department pursuant to A.R.S. § 36-897.01 is required to provide licensure for child care facilities and retains the authority to deny, revoke, or suspend an applicant or a child care group homes licensee's ability to operate. The Department does not use a general permit. The Department believes that under A.R.S. § 41-1037(A)(3) that a general permit is not applicable.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

A.R.S. § 46-811 provides the Department authority to require background checks for staff members and volunteers specified in the Child Care and Development Block Grant Act of 2014 (P. L. 113 – 186). The Department in this rulemaking adds background checks consistent with P. L. 113 – 186. The Department is not aware of any other federal laws applicable to the subject of this Article 3 rulemaking.

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

No such analysis was submitted.

12. **A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**

None

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

TITLE 9. HEALTH SERVICES
CHAPTER 3. DEPARTMENT OF HEALTH SERVICES – OCCUPATIONAL LICENSING
CHILD CARE GROUP HOMES

Sections

- R9-3-101. Definitions
- R9-3-201. Application for a Certification
- R9-3-202. ~~Fingerprinting and Central Registry Requirements~~ Fingerprinting and Background Check
- R9-3-205. Changes Affecting a Certificate
- R9-3-301. Certificate Holder and Provider Responsibilities

ARTICLE 1. GENERAL

R9-3-101. Definitions

In addition to the definitions in A.R.S. § 36-897 and unless the context indicates otherwise, the following definitions apply in this Chapter:

1. “Abuse” has the meaning in A.R.S. § 8-201.
2. “Accident” means an unexpected occurrence that:
 - a. Causes physical injury to an enrolled child, and
 - b. May or may not be an emergency.
3. “Accredited” means approved by the:
 - a. New England, Commission of Institution of Higher Education
 - b. Middle States, Commission of Higher Education
 - c. North Central, the Higher Learning Commission
 - d. Northwest Association of Schools and Colleges,
 - e. Commission on Colleges, or
 - f. Western Association of Colleges and Schools.
4. “Activity” means an action planned by a certificate holder or staff member and performed by an enrolled child while supervised by a staff member.
5. “Adaptive device” means equipment used to augment an individual’s use of the individual’s arms, legs, sight, hearing, or other physical part or function.
6. “Adult” means an individual 18 years of age or older.
7. “Age-appropriate” means consistent with a child’s age and age-related stage of physical growth and mental development.
8. “Applicant” means an individual or business organization requesting one of the following:
 - a. A certificate under R9-3-201, or
 - b. Approval of a change affecting a certificate under R9-3-205.
9. “Application” means the documents that an applicant is required to submit to the Department to request a certificate or approval of a request for a change affecting a certificate.
10. “Background check” means results identified in searches of the following according to A.R.S. § 46-811(A) and consistent with the Child Care and Development Block Grant Act of 2014 (P.L. 113-186):
 1. The state sex offender registry within this state and each state where a staff member resided during the preceding five years;

2. The state-based child abuse and neglect registries and databases within this state and each state where a staff member resided during the preceding five years;
 3. The National Crime Information Center; and
 4. The National Sex Offender Registry established under the Adam Walsh Child Protection and Safety Act of 2006 (42 A.S.C. 16901 et seq).
- ~~10.11.~~ “Business organization” has the same meaning as “entity” in A.R.S. § 10-140.
- ~~11.12.~~ “Calendar day” means each day, not including the day of the act, event, or default from which a designated period of time begins to run, but including the last day of the period unless it is a Saturday, Sunday, or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, or legal holiday.
- ~~12.13.~~ “Capacity” means the maximum number of enrolled children authorized by the Department to be present at a child care group home during hours of operation.
- ~~13.14.~~ “Certificate holder” means a person to whom the Department has issued a certificate.
- ~~14.15.~~ “Change in ownership” means a transfer of controlling legal or controlling equitable interest and authority in the operation of a child care group home.
- ~~15.16.~~ “Child” means any individual younger than 13 years of age.
- ~~16.17.~~ “Child care experience” means an individual’s documented work with children in:
- a. A child care facility or a child care group home that was licensed, certified, or approved by a state in the United States or by one of the Uniformed Services of the United States;
 - b. A public school, a charter school, a private school, or an accommodation school; or
 - c. A public or private educational institution authorized under the laws of another state where instruction was provided for any grade or combination of grades between pre-kindergarten and grade 12.
- ~~17.18.~~ “Child care services” means the range of activities and programs provided by a certificate holder to an enrolled child, including personal care, supervision, education, guidance, and transportation.
- ~~18.19.~~ “Child with special needs” means:
- a. A child with a documented diagnosis from a physician, physician assistant, or registered nurse practitioner of a physical or mental condition that substantially limits the child in providing self-care or performing manual tasks or any other major life function such as walking, seeing, hearing, speaking, breathing, or learning;

- b. A child with a “developmental disability” as defined in A.R.S. § 36-551; or
 - c. A “child with a disability” as defined in A.R.S. § 15-761.
- ~~19.20.~~ “Clean” means:
- a. To remove dirt or debris by methods such as washing with soap and water, vacuuming, wiping, dusting, or sweeping; or
 - b. Free of dirt and debris.
- ~~20.21.~~ “Communicable disease” has the meaning in A.A.C. R9-6-101.
- ~~21.22.~~ “Compensation” means money or other consideration, including goods, services, vouchers, time, government or public expenditures, government or public funding, or another benefit, that is received as payment.
- ~~22.23.~~ “Controlling person” has the meaning in A.R.S. § 36-881.
- ~~23.24.~~ “Corporal punishment” means any physical act used to discipline a child that inflicts pain to the body of the child, or that may result in physical injury to the child.
- ~~24.25.~~ “CPR” means cardiopulmonary resuscitation.
- ~~25.26.~~ “Credit hour” means an academic unit earned through an accredited college or university for completing the equivalent of one hour of class time each week during a semester or equivalent shorter course term, as designated by the accredited college or university.
- ~~27.~~ “DES” means the Arizona Department of Economic Security.
- ~~26.28.~~ “Designated agent” means an individual who is authorized by an applicant or certificate holder to receive communications from the Department, including legal service of process, and to file or sign documents on behalf of the applicant or certificate holder.
- ~~27.29.~~ “Developmentally appropriate” means consistent with a child’s physical, emotional, social, cultural, and cognitive development, based on the child’s age and family background and the child’s personality, learning style, and pattern and timing of growth.
- ~~28.30.~~ “Discipline” means the on-going process of helping a child develop self-control and assume responsibility for the child’s own actions.
- ~~29.31.~~ “Documentation” means information in written, photographic, electronic, or other permanent form.
- ~~32.~~ “DPS” means the Arizona Department of Public Safety.
- ~~30.33.~~ “Emergency” means a potentially life-threatening occurrence involving an enrolled child or staff member that requires an immediate response or medical treatment.
- ~~31.34.~~ “Endanger” means to expose an individual to a situation where physical or mental injury to the individual may occur.
- ~~32.35.~~ “Enrolled child” means a child:

- a. Who is not a resident; and
 - b. Who has been placed by a parent or guardian to receive child care services regardless of payment.
- ~~33.~~36. “Fall zone” means the surface under and around a piece of equipment onto which a child falling from or exiting from the equipment would be expected to land.
- ~~34.~~37. “Field trip” means travel for a specific activity to a location away from an area of the child care group home approved for providing child care services.
38. “Fingerprint clearance” means results identified in a search of the Federal Bureau of Investigation fingerprint check using the Integrated Automated Fingerprint Identification System according to A.R.S. § 41-1758.02 and consistent with the Child Care and Development Block Grant Act of 2014 (P.L. 113-186).
- ~~35.~~39. “Food” means a raw, cooked, or processed edible substance or ingredient, including a beverage, used or intended for use in whole or in part for human consumption.
- ~~36.~~40. “Guidance” means the ongoing direction, counseling, teaching, or modeling of generally accepted social behavior through which a child learns to develop and maintain the self-control, self-reliance, and self-esteem necessary to assume responsibilities, make daily living decisions, and live according to generally accepted social behavior.
- ~~37.~~41. “Hazard” means a source of endangerment.
- ~~38.~~42. “High school equivalency diploma” means:
- a. A document issued by the Arizona State Board of Education under A.R.S. § 15-702 to an individual who passes a general educational development test or meets the requirements of A.R.S. § 15-702(B);
 - b. A document issued by another state to an individual who passes a general educational development test or meets the requirements of a state statute equivalent to A.R.S. § 15-702(B); or
 - c. A document issued by another country to an individual who has completed that country’s equivalent of a 12th grade education, as determined by the Department based upon information obtained from American or foreign consulates or embassies or other governmental entities.
- ~~39.~~43. “Hours of operation” means the specific days of the week and time period during a day when a certificate holder provides child care services on a regular basis.
- ~~40.~~44. “Illness” means physical manifestation or signs of sickness such as pain, vomiting, rash, fever, discharge, or diarrhea.
- ~~41.~~45. “Immediate” or “Immediately” means without restriction, delay, or hesitation.

- ~~42.46.~~ “Inaccessible” means:
- a. Out of an enrolled child’s reach, or
 - b. Locked.
- ~~43.47.~~ “Individual plan” means a written description of the daily activities required for an enrolled child with special needs.
- ~~44.48.~~ “Infant” means a child 12 months of age or younger.
- ~~45.49.~~ “Infestation” means the presence of lice, pinworms, scabies, or other parasites.
- ~~46.50.~~ “Licensed applicator” means an individual who complies with A.A.C. R3-8-201(C).
- ~~47.51.~~ “Mat” means a foam pad that has a waterproof cover.
- ~~48.52.~~ “Mechanical restraint” means a device, article, or garment attached or adjacent to a child’s body that the child cannot easily remove and that restricts the child’s freedom of movement or normal access to the child’s body, but does not include a device, article, or garment:
- a. Used for orthopedic purposes, or
 - b. Necessary to allow a child to heal from a medical condition.
- ~~49.53.~~ “Medication” means a substance prescribed by a physician, physician assistant, or registered nurse practitioner or that is available without a prescription for the treatment or prevention of illness or infestation.
- ~~50.54.~~ “Menu” means a written description of food that a child care group home provides and serves as a meal or snack.
- ~~51.55.~~ “Modification” means the substantial improvement, enlargement, reduction, alternation, or other substantial change in the facility or another structure on the premises at a child care group home.
- ~~52.56.~~ “Motor vehicle” has the meaning in A.R.S. § 28-101.
- ~~53.57.~~ “Neglect” has the meaning in A.R.S. § 8-201.
- ~~54.58.~~ “Outbreak” has the meaning in A.A.C. R9-6-101.
- ~~55.59.~~ “Parent” means:
- a. A natural or adoptive mother or father,
 - b. A legal guardian appointed by a court of competent jurisdiction, or
 - c. A “custodian” as defined in A.R.S. § 8-201.
- ~~56.60.~~ “Perishable food” means food that becomes unfit for human consumption if not stored to prevent spoilage.
- ~~57.61.~~ “Person” has the meaning in A.R.S. § 1-215.
- ~~58.62.~~ “Personal items” means those articles of property that belong to an enrolled child and are

brought to the child care group home for that enrolled child's exclusive use, such as clothing, a blanket, a sheet, a toothbrush, a pacifier, a hairbrush, a comb, a washcloth, or a towel.

- ~~59-63.~~ "Physician" means an individual licensed as a doctor of:
- a. Allopathic medicine under A.R.S. Title 32, Chapter 13;
 - b. Naturopathic medicine under A.R.S. Title 32, Chapter 14;
 - c. Osteopathic medicine under A.R.S. Title 32, Chapter 17;
 - d. Homeopathic medicine under A.R.S. Title 32, Chapter 29; or
 - e. Allopathic, naturopathic, osteopathic, or homeopathic medicine under the laws of another state.
- ~~60-64.~~ "Physician assistant" means:
- a. The same as in A.R.S. § 32-2501, or
 - b. An individual licensed as a physician assistant under the laws of another state.
- ~~61-65.~~ "Positioning device" means a belt or harness that prevents an enrolled infant's movement.
- ~~62-66.~~ "Premises" means a child care group home's residence and the surrounding property, including any structures on the property, that can be enclosed by a single unbroken boundary line that does not encompass property owned or leased by another person.
- ~~63-67.~~ "Registered nurse practitioner" means:
- a. The same as in A.R.S. § 32-1601, or
 - b. An individual licensed as a registered nurse practitioner under the laws of another state.
- ~~64-68.~~ "Regular basis" means at recurring, fixed, or uniform intervals.
- ~~65-69.~~ "Residence" means a dwelling, such as a house, used for human habitation.
- ~~66-70.~~ "Resident" means an individual who receives child care services and uses a child care group home as the individual's principal place of habitation for 30 calendar days or more during the calendar year.
- ~~67-71.~~ "Sanitize" means to use heat, a chemical agent, or a germicidal solution to disinfect and reduce pathogen counts, including bacteria, viruses, mold, and fungi.
- ~~68-72.~~ "School-age child" means a child who attends:
- a. A public school, as defined for "school" in A.R.S. § 15-101; or
 - b. A private school, as defined in A.R.S. § 15-101.
- ~~69-73.~~ "Separate" means to exclude a child from and have the child physically move away from other children, while keeping the child under supervision.

- ~~70.~~74. “Signed” means affixed with an individual’s signature or, if the individual is unable to write the individual’s name, with a symbol representing the individual’s signature.
- ~~71.~~75. “Sippy cup” means a lidded drinking container that is designed to be leak-proof or leak-resistant and from which a child drinks through a spout or straw.
- ~~72.~~76. “Space utilization” means the designated use of specific areas on the premises for providing child care services.
- ~~73.~~77. “Staff member” means an individual who works at a child care group home providing child care services, regardless of whether compensation is received by the individual in return for providing child care services, and includes a provider.
- ~~74.~~78. “Supervision” means:
- a. For a child who is awake, knowledge of and accountability for the actions and whereabouts of the child, including the ability to see or hear the child at all times, to interact with the child, and to provide guidance to the child;
 - b. For a child who is asleep, knowledge of and accountability for the actions and whereabouts of the child, including the ability to see or hear the child at all times and to respond to the child;
 - c. For a staff member who is not an adult, knowledge of and accountability for the actions and whereabouts of the staff member and the ability to interact with and provide guidance to the staff member; or
 - d. For an individual other than a child or staff member, knowledge of and accountability for the actions and whereabouts of the individual, including the ability to see and hear the individual when the individual is in the presence of an enrolled child and the ability to intervene in the individual’s actions to prevent harm to enrolled children.
- ~~75.~~79. “Swimming pool” has the meaning in A.A.C. R18-5-201.
- ~~76.~~80. “Training” means instruction received through:
- a. Completion of a live or computerized conference, seminar, lecture, workshop, class, or course; or
 - b. Watching a video presentation.
- ~~77.~~81. “Week” means a seven-day period beginning on Sunday at 12:00 a.m. and ending on Saturday at 11:59 p.m.
- ~~78.~~82. “Working day” means the period between 8:00 a.m. and 5:00 p.m. on a Monday, Tuesday, Wednesday, Thursday, or Friday that is not a state holiday.

ARTICLE 2. CERTIFICATION

R9-3-201. Application for a Certificate

An applicant for a certificate shall:

1. Be at least 21 years of age, and
2. Submit to the Department an application packet containing:
 - a. An application on a form provided by the Department that contains:
 - i. The applicant's name and date of birth;
 - ii. The name to be used for the child care group home, if any;
 - iii. The address and telephone number of the residence;
 - iv. The mailing address of the applicant, if different from the address of the residence;
 - v. The applicant's contact telephone number, if different from the telephone number of the residence;
 - vi. The applicant's e-mail address, if applicable;
 - vii. The name of the provider, if different from the applicant;
 - viii. The requested capacity for the child care group home;
 - ix. The anticipated hours of operation for the child care group home;
 - x. Whether the applicant agrees to allow the Department to submit supplemental requests for information;
 - xi. Whether the applicant or any controlling person has been denied a certificate or license to operate a child care group home or child care facility in this state or another state or has had a certificate or license to operate a child care group home or child care facility revoked in this state or another state and, if so:
 - (1) The name of the individual who had the certificate or license denied or revoked,
 - (2) The reason for the denial or revocation,
 - (3) The date of the denial or revocation, and
 - (4) The name and address of the certifying or licensing agency that denied or revoked the certificate or license;
 - xii. A statement that the applicant has read and will comply with A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter;
 - xiii. A statement that the applicant has sufficient financial resources to comply with A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter;

- xiv. A statement that the information provided in the application packet is accurate and complete; and
- xv. The applicant's signature and date the applicant signed the application;
- b. A copy of the applicant's:
 - i. U.S. passport,
 - ii. Birth certificate,
 - iii. Naturalization documents, or
 - iv. Documentation of legal resident alien status;
- c. ~~A copy of the applicant's valid fingerprint clearance card issued, both front and back, according to A.R.S. Title 41, Chapter 12, Article 3.1;~~
A copy of the applicant's valid:
 - i. DPS fingerprint clearance card, front and back, issued according to A.R.S. Title 41, Chapter 12, Article 3.1; and
 - ii. DES background check issued according to A.R.S. § 46-811(A);
- d. A copy of the form required in A.R.S. § 36-897.03(B) for the applicant;
- e. A document issued by the Department showing that the applicant has completed Department-provided orientation training that included the Department's role in certifying and regulating child care group homes under A.R.S. Title 36, Chapter 7.1, Article 4, and this Chapter;
- f. A floor plan of the residence where child care services will be provided, showing:
 - i. The location and dimensions of each room in the residence, with designation of the rooms to be used for providing child care services;
 - ii. The location of each exit from the residence;
 - iii. The location of each sink and toilet available for use by enrolled children;
 - iv. The location of each smoke detector in the residence; and
 - v. The location of each fire extinguisher in the residence;
- g. A site plan of the premises showing:
 - i. The location and dimensions of the outdoor activity area;
 - ii. The height of the fence around the outdoor activity area;
 - iii. The location of each exit from the outdoor activity area;
 - iv. The location of the residence;
 - v. The location of each swimming pool, if applicable;

- vi. The location and height of the fence around each swimming pool, if applicable; and
- vii. The location and dimensions of any other building or structure on the premises, if applicable;
- h. If the child care group home is located within one-fourth of a mile of agricultural land:
 - i. The names and addresses of the owners or lessees of each parcel of agricultural land located within one-fourth mile of the child care group home, and
 - ii. A copy of an agreement complying with A.R.S. § 36-897.01(B) for each parcel of agricultural land;
- i. The applicable fee in R9-3-203; and
- j. If the applicant is a business organization, a form provided by the Department that contains:
 - i. The name, street address, city, state, and zip code of the business organization;
 - ii. The type of business organization;
 - iii. The name, date of birth, title, street address, city, state, and zip code of the designated agent;
 - iv. The name, date of birth, title, street address, city, state, and zip code of each other controlling person;
 - v. A copy of the business organization's articles of incorporation, articles of organization, partnership documents, or joint venture documents, if applicable; and
 - vi. Documentation of good standing issued by the Arizona Corporation Commission and dated no earlier than three months before the date of the application, if applicable.

R9-3-202. ~~Fingerprinting and Central Registry Requirements~~ Fingerprinting and Background Checks

- A. A certificate holder shall ensure that:
 - 1. A staff member completes, signs, dates, and submits to the certificate holder before the staff member's starting date of employment or volunteer service:
 - a. The form required in A.R.S. § 36-897.03(B); and
 - b. If required by A.R.S. § 8-804, the form in A.R.S. § 8-804(I); and

2. An adult resident completes, signs, dates, and submits to the certificate holder before the resident's starting date of residency or the date of certification of the child care group home the form required in A.R.S. § 36-897.03(B).

B. ~~A certificate holder shall maintain documentation of a valid fingerprint clearance card issued under A.R.S. § 41-1758.03.~~

A certificate holder shall for each staff member maintain a valid DPS fingerprint clearance card issued under A.R.S. § 41-1758.02 and a valid DES background check issued under A.R.S. § 46-811.

C. ~~Except as provided in A.R.S. § 41-1758.03, a certificate holder shall ensure that a staff member or adult resident submits a copy of:~~

1. ~~A valid fingerprint clearance card, front and back, issued under A.R.S. Title 41, Chapter 12, Article 3.1; or~~
2. ~~The fingerprint clearance card application that was submitted to the Department of Public Safety under A.R.S. § 41-1758.02:~~
 - a. ~~For the staff member, within seven working days after the staff member's starting date of employment or volunteer service; and~~
 - b. ~~For the adult resident, within seven working days after before the resident's starting date of residency or the date of certification of the child care group home.~~

Except as provided in A.R.S. § 41-1758.03, a certificate holder shall ensure that a staff member, before starting date of employment or volunteer service, and an adult resident, before starting date of residency or the date of certification of the child care group homes, submits a copy of a valid:

1. DPS fingerprint clearance card, front and back, and
2. DES background check.

D. A certificate holder shall ensure that each individual who is a staff member or an adult resident submits to the certificate holder a copy of the individual's valid DPS fingerprint clearance card and DES background check each time the fingerprint clearance card and DES background check is issued or renewed.

E. ~~If a staff member or resident possesses a fingerprint clearance card that was issued before the staff member or resident became a staff member or resident at the child care group home, a A certificate holder shall:~~

1. ~~Contact the Department of Public Safety within seven working days after the individual becomes a staff member or resident to determine whether the fingerprint clearance card is valid; and~~

Contact DPS and DES to determine whether the fingerprint clearance card and background check is valid before the staff member or resident begins providing child care services; and

- ~~2.~~ ~~Document this determination, including the name of the staff member or resident, the date of contact with the Department of Public Safety and whether the fingerprint clearance card is valid.~~

Document this determination, including the name of the staff member or resident, the date of contact with DPS and DES, and whether the fingerprint clearance card and background check are valid.

F. If required by A.R.S. § 8-804, before an individual's starting date of employment or volunteer service, a certificate holder shall comply with the submission requirements in A.R.S. § 8-804(C) for the individual.

G. A certificate holder shall not allow an adult individual to be a staff member or a resident if the individual:

1. Has been denied a fingerprint clearance card under A.R.S. Title 41, Chapter 12, Article 3.1, and has not received an interim approval under A.R.S. § 41-619.55;
2. Has been denied a background check that indicates the adult individual is not eligible for employment due to violations identified pursuant to A.R.S. § 46-811;
- ~~2-3.~~ Receives an interim approval under A.R.S. § 41-619.55 but is subsequently denied a good cause exception under A.R.S. § 41-619.55 and a fingerprint clearance card under A.R.S. Title 41, Chapter 12, Article 3.1;
- ~~3-4.~~ Is a parent or guardian of a child adjudicated to be a dependent child as defined in A.R.S. § 8-201;
- ~~4-5.~~ Has been denied a certificate to operate a child care group home or a license to operate a child care facility for the care of children in this state or another state;
- ~~5-6.~~ Has had a license to operate a child care facility or certificate to operate a child care group home in this state or another state revoked for reasons related to the endangerment of the health and safety of children;
- ~~6-7.~~ If applicable, has stated on the form required in A.R.S. § 8-804(I) that the individual is currently under investigation for an allegation of abuse or neglect or has a substantiated allegation of abuse or neglect and has not subsequently received a central registry exception according to A.R.S. § 41-619.57; or
- ~~7-8.~~ If applicable, is disqualified from employment or volunteer service as a staff member according to A.R.S. § 8-804 and has not subsequently received a central registry

exception according to A.R.S. § 41-619.57.

H. Prior to a staff member's or adult resident's 18th birthday, the staff member or adult resident shall provide to the certificate holder copies of a valid DPS fingerprint clearance card and a valid DES background check document specified in subsection (C) and (D).

I. Beginning January 30, 2022, certificate holders, staff members, and adult residents shall comply with A.R.S. § 46-811(A) and subsection (C)(2) by November 1, 2022.

R9-3-205. Changes Affecting a Certificate

A. For an intended change in a certificate holder's name or the name of a child care group home:

1. The certificate holder shall send the Department written notice of the name change at least 30 calendar days before the intended date of the name change; and
2. Upon receipt of the written notice required in subsection (A)(1), the Department shall issue an amended certificate that incorporates the name change but retains the anniversary date of the certificate.

B. At least 30 calendar days before the date of an intended change in a child care group home's space utilization or capacity, a certificate holder shall submit to the Department a written request for approval of the intended change that includes:

1. The certificate holder's name;
2. The child care group home's name, if applicable;
3. The name, telephone number, e-mail address, and fax number of a point of contact for the request;
4. The child care group home's certificate number;
5. The type of change intended:
 - a. Space utilization, or
 - b. Capacity;
6. A narrative description of the intended change; and
7. The following additional information, as applicable:
 - a. If requesting a change in capacity, the square footage of the outdoor activity area and the square footage of the indoor areas where child care services will be provided;
 - b. If requesting a change that involves a modification of the residence that requires a building permit, a copy of the building permit;
 - c. If requesting a change in space utilization that affects individual rooms:
 - i. A floor plan of the residence that complies with ~~R9-3-201(2)(f)~~R9-3-201(2)(g) and shows the intended changes, and

- ii. The square footage of each affected room; and
 - d. If requesting a change in space utilization that affects the outdoor activity area:
 - i. A site plan of the premises that complies with ~~R9-3-201(2)(g)~~R9-3-201(2)(h) and shows the intended changes, and
 - ii. The square footage of the intended outdoor activity area.
- C. The Department shall review a request submitted under subsection (B) according to R9-3-102. If the intended change is in compliance with A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter, the Department shall send the certificate holder an approval of the request and, if necessary, an amended certificate that incorporates the change but retains the anniversary date of the current certificate.
- D. A certificate holder shall not implement any change in subsection (B) until the Department issues an approval or amended certificate.
- E. At least 30 calendar days before the date of a change in ownership:
 - 1. A certificate holder shall send the Department written notice of the change in ownership; and
 - 2. A person planning to assume operation of a child care group home shall obtain a new certificate as specified in R9-3-201 before beginning operation of the child care group home.
- F. A certificate holder changing a child care group home's location shall:
 - 1. Apply for a new certificate as prescribed in R9-3-201, and
 - 2. Obtain a new certificate from the Department before beginning operation of the child care group home at the new location.
- G. Within 30 calendar days after the date of a change in the business organization information provided under ~~R9-3-201(2)(j)~~R9-3-201(2)(k), other than a change in ownership, a certificate holder that is a business organization shall send the Department written notice of the change.

ARTICLE 3. OPERATING A CHILD CARE GROUP HOME

R9-3-301. Certificate Holder and Provider Responsibilities

- A. A certificate holder shall:
 - 1. Designate a provider who:
 - a. Lives in the residence;
 - b. Is 21 years of age or older;
 - c. Has a high school diploma, high school equivalency diploma, associate degree, or bachelor degree;

- d. Meets one of the following:
 - i. Has completed at least three credit hours in child growth and development, nutrition, psychology, or early childhood education;
 - ii. Has completed at least 60 hours of training in child growth and development, nutrition, psychology, early childhood education, or management of a child care business; or
 - iii. Has at least 12 months of child care experience; and
 - e. Has completed Department-provided orientation training that includes the Department's role in certifying and regulating child care group homes under A.R.S. Title 36, Chapter 7.1, Article 4 and this Chapter;
- 2. Ensure that each staff member is 16 years of age or older;
 - 3. Ensure that each resident 12 years of age or older and each staff member submits, on or before the starting date of residency, employment, or volunteer services, one of the following as evidence of freedom from infectious active tuberculosis:
 - a. Documentation of a negative Mantoux skin test or other tuberculosis screening test recommended by the U.S. Centers for Disease Control and Prevention, administered within 12 months before the starting date of residency, employment, or volunteer service, that includes the date and the type of tuberculosis screening test; or
 - b. If the resident or staff member has had a positive Mantoux skin test or other tuberculosis screening test, a written statement that the resident or staff member is free from infectious active tuberculosis that is signed and dated by a physician, physician assistant, or registered nurse practitioner within six months before the starting date of residency, employment, or volunteer service; and
 - 4. Ensure that the provider:
 - a. Supervises or assigns an adult staff member to supervise each staff member who is not an adult;
 - b. Maintains on the premises a file for each staff member, for 12 months after the date the staff member last worked at the child care group home, containing:
 - i. The staff member's name, date of birth, home address, and telephone number;
 - ii. The staff member's starting date of employment or volunteer service;
 - iii. The staff member's ending date of employment or volunteer service, if applicable;

- iv. The staff member's written statement attesting to current immunity against measles, rubella, diphtheria, mumps, and pertussis;
 - v. The form required in A.R.S. § 36-897.03(B);
 - vi. For an adult staff member, a copy of the staff member's valid fingerprint clearance card issued under A.R.S. Title 41, Chapter 12, Article 3.1;
 - vii. Documents required by subsection (A)(3);
 - viii. Documentation of the requirements in A.R.S. § 36-897.03(C);
 - ix. If applicable:
 - (1) The form required in A.R.S. § 8-804(I);
 - (2) Documentation of the submission required in A.R.S. § 8-804(C) and the information received as a result of the submission; and
 - (3) Documentation of the completion of the Department-provided orientation training specified in subsection (A)(1)(e), if applicable;
 - x. Documentation of the training required in R9-3-302; and
 - xi. Documentation of a high school diploma, high school equivalency diploma, associate degree, or bachelor degree, if applicable;
- c. Maintains on the premises a file for each resident, for 12 months after the date the resident last resided at the child care group home, containing:
- i. The resident's name and date of birth;
 - ii. The resident's relationship to the provider;
 - iii. The date the resident began residing at the child care group home;
 - iv. The date the resident last resided at the child care group home, if applicable;
 - v. A written statement by the resident or, if the resident is a minor, the provider attesting to the resident's current immunity against measles, rubella, diphtheria, mumps, and pertussis;
 - vi. If the resident is an adult, the form required in A.R.S. § 36-897.03(B);
 - vii. If the resident is an adult, the documents required by R9-3-202(C)(2) or R9-3-202(D); and
 - viii. If the resident is 12 years of age or older, the documents required by subsection (A)(3);

- d. Prepares a dated attendance record for each day and ensures that each staff member records on the attendance record the staff member's start time and end time of providing child care services for the child care group home;
- e. Maintains on the premises the dated attendance record required in subsection (A)(4)(d) for 12 months after the date on the attendance record;
- f. Except as specified in R9-3-408, provides child care services only in areas:
 - i. Designated as provided in ~~R9-3-201(2)(f)(i) or R9-3-201(2)(g)(i)~~R9-3-201(2)(g)(i) or R9-3-201(2)(g)(i), or
 - ii. Approved under R9-3-205(C);
- g. Does not engage in outside employment during hours of operation or operate another business at or out of the residence during hours of operation;
- h. Does not allow another staff member to engage in or operate another business at or out of the residence during the staff member's assigned work hours at the child care group home;
- i. Does not allow the operation of another business on the premises during hours of operation unless the operation of the business does not involve persons coming onto the premises during hours of operation because of the business; and
- j. Does not allow the cultivation of medical marijuana on the premises.

B. A certificate holder shall ensure that all of the records required to be maintained by this Chapter either are written in English or, if written in a language other than English, include an English translation.

C. A certificate holder shall:

- 1. Secure and maintain general liability insurance of at least \$100,000 for the child care group home; and
- 2. Maintain on the premises documentation of the insurance coverage required in subsection (C)(1).

D. A certificate holder shall ensure that:

- 1. While acting on behalf of the certificate holder when the provider is not present at the child care group home, an adult staff member with a high school diploma or high school equivalency certificate and one of the following is on the premises:
 - a. At least six months of child care experience;
 - b. Two or more credit hours in child growth and development, nutrition, psychology, or early childhood education; or

- c. At least 30 hours of training in child growth and development, nutrition, psychology, or early childhood education; and
 - 2. At least one adult staff member, in addition to the provider or the staff member specified in subsection (D)(1), is on the premises when six or more enrolled children are at the child care group home.
- E.** A certificate holder shall ensure that a parent, an individual designated in writing by the parent, or legal guardian of an enrolled child is allowed immediate access during hours of operation to the areas of the premises where the enrolled child is receiving child care services.
- F.** A certificate holder shall:
 - 1. Prepare a document that includes the following information:
 - a. The name and contact telephone number of the provider;
 - b. The hours of operation of the child care group home;
 - c. Charges, fees, and payment requirements for child care services;
 - d. Whether medications are administered at the child care group home and, if so, a description of what the parent is required to give to the child care group home;
 - e. Whether enrolled children go on field trips under the supervision of a staff member;
 - f. Whether the child care group home provides transportation for enrolled children to or from school, a school bus stop, or other locations;
 - g. The mechanism by which a staff member will verify that an individual contacting the child care group home by telephone claiming to be the parent of an enrolled child is the enrolled child's parent;
 - h. A statement that a parent has access to the areas on the premises where the parent's enrolled child is receiving child care services;
 - i. A statement that inspection reports for the child care group home are available for review at the child care group home; and
 - j. The local address and contact telephone number for the Department; and
 - 2. Ensure that a staff member provides the document required in subsection (F)(1) to a parent of an enrolled child.
- G.** A certificate holder shall ensure that a staff member posts in a place that can be conspicuously viewed by individuals entering or leaving the child care group home:
 - 1. The child care group home certificate;
 - 2. The name of the provider;

3. The name of the staff member designated to act on behalf of the certificate holder when the provider is not present at the child care group home;
 4. The hours of operation for the child care group home;
 5. The weekly activity schedule required in R9-3-401(B)(4)(b);
 6. The amount of time in minutes enrolled children may watch television, videos, or DVDs at the child care group home; and
 7. The weekly menu, required in R9-3-406(F), before the first meal or snack of the week.
- H.** A certificate holder shall ensure that a staff member supervises any individual who is not a staff member and is on the premises where enrolled children are present.
- I.** A certificate holder shall ensure that a staff member who has current training in first aid and CPR is present during hours of operation when an enrolled child is on the premises or on a trip away from the premises under the supervision of a staff member.
- J.** A certificate holder shall ensure that if a staff member or resident lacks documentation of immunization or evidence of immunity that complies with A.A.C. R9-6-704 for a communicable disease listed in A.A.C. R9-6-702:
1. The staff member or resident is excluded from the child care group home between the start and end of an outbreak of the communicable disease at the child care group home, or
 2. The child care group home is closed until the end of an outbreak at the child care group home.
- K.** Within 72 hours after changing a provider, a certificate holder shall send the Department written notice of the change, including the name of the new provider.
- L.** Except as provided in subsections (M) and (N), a certificate holder shall notify the Department in writing of a planned change in a child care group home's hours of operation at least three calendar days before the date of the planned change, including:
1. The certificate holder's name;
 2. The child care group home's certificate number; and
 3. The current and intended hours of operation.
- M.** A certificate holder is not required to notify the Department of a change in a child care group home's hours of operation when the change in the child care group home's hours of operation is due to the occurrence of a state or federal holiday on a day of the week the child care group home regularly provides child care services.
- N.** When the premises of a child care group home are left unoccupied during hours of operation or the child care group home is temporarily closed due to an unexpected event, a certificate holder shall ensure that a staff member notifies the Department before leaving the child care group home

unoccupied or closing the child care group home, stating the period of time during which the child care group home will be unoccupied or closed.