

**ARTICLE 67:42**

**REGULATORY ADMINISTRATION**

Chapter

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- 67:42:02 Adult foster care, Repealed.
- 67:42:03 Family day care homes, Repealed.
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## CHAPTER 67:42:01

### PROVISIONS AND SCOPE OF SERVICES

#### Section

67:42:01:01	Definitions.
67:42:01:02	Application of chapter 67:42:01.
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67:42:01:24	Transportation.
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67:42:01:29	Repealed.
67:42:01:30	Repealed.
67:42:01:31	Repealed.
67:42:01:32	Repealed.
67:42:01:33	Repealed.
67:42:01:34	Annual audit.
67:42:01:35	Insurance.

67:42:01:36

Repealed.

67:42:01:37

Telephones.

**67:42:01:01. Definitions.** Terms used in this article mean:

(1) "Alternative care," care provided in family foster homes, group care centers for minors, group care centers meeting the qualifications of residential treatment centers as defined in § 67:42:08:01, independent living preparation programs, and intensive residential treatment centers;

(2) "Applicant," an individual, agency, institution, or organization which submits to the department an application for a license as provided in this article;

(3) "Case plan," a plan written in cooperation with a client which explains the client's social, psychological, medical, or economic problems, contains solutions to the problems, and describes the necessary steps and schedule to resolve the problems;

(4) "Client," a person receiving assistance or service from the department;

(5) "Department," the Department of Social Services;

(6) "Employee applicant," an individual applying to a provider for employment;

(7) "Facility," a family foster home, group care center for minors, residential treatment center, child placement agency, independent living preparation program, or intensive residential treatment center licensed under the provisions of this article;

(8) "Household member," a person who uses a facility as a permanent or part-time residence and who may have contact with children placed in the facility;

(9) "License," the document described in SDCL 26-6-15 which certifies that a provider meets applicable licensing standards contained in this article;

(10) "Provider," an individual, agency, institution, or organization providing any of the services covered in this article;

(11) "Provider applicant," an individual, agency, institution, or organization applying to be a provider under this article;

(12) "Reasonable and prudent parent standard," the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interest of a child while at the same time encouraging the emotional and developmental growth of the child, that a caregiver shall use when determining whether to allow a child in foster care or a child care institution under the responsibility of the state to participate in extracurricular, enrichment, cultural and social activities;

(13) "Staff member" or "staff person," an employee or volunteer of a facility; and

(14) "Volunteer applicant," an individual applying to provide voluntary services for a provider.

**Source:** 4 SDR 2, effective July 25, 1977; 6 SDR 31, effective September 30, 1979; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983; 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 20 SDR 223, effective July 7, 1994; 21 SDR 206, effective June 4, 1995; 31 SDR 40, effective September 29, 2004; 32 SDR 33, effective August 31, 2005; 39 SDR 220, effective June 27, 2013; 42 SDR 97, effective January 4, 2016.

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16.

~~67:42:07:04.01~~ 67:42:01:06.01. Reasonable and prudent parent standard requirements. The provisions of the reasonable and prudent parent standard ~~for group care centers requires~~ apply to facilities regulated by chapters 67:42:07, 67:42:08, 67:42:09, 67:42:13, and 67:42:15 and require:

(1) Each facility ~~will~~ shall have ~~onsite~~ at least one official onsite who, with respect to any child placed at the child care institution, is designated to be the caregiver who is authorized to apply the reasonable and prudent parent standard to decisions involving the participation of the child in age or developmentally-appropriate activities;

(2) Each designated official ~~will~~ shall be provided with training in how to use and apply the reasonable and prudent parent standard; ~~and~~

(3) A facility is not liable for harm caused to a child in an out of home placement if the child participates in an activity approved by the facility and the parent or guardian, provided that the facility has acted in accordance with the reasonable and prudent parent standard; and

(4) A child's treatment plan or case plan shall demonstrate implementation of the reasonable and prudent parent standard.

**Source:** 42 SDR 97, effective January 4, 2016; transferred from 67:42:07:04.01.

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(3)(6)(11).

**Cross Reference:** Reasonable and prudent parent standard, § 67:42:01:01(12).

Treatment plan, § 67:42:07:05 (group care centers for minors).

Treatment plan, § 67:42:08:05 (residential treatment centers).

Foster care services, § 67:42:09:17 (child placement agencies).

Case plan requirements, § 67:42:13:03 (independent living preparation).

Treatment plan, § 67:42:15:10 (intensive residential treatment centers).



**CHAPTER 67:42:03**

**FAMILY DAY CARE HOMES**

**(Repealed)**

Section

67:42:03:01	Definitions, <u>Repealed</u> .
67:42:03:02 to 67:42:03:04	Repealed.
67:42:03:04.01	Maximum number of children allowed, <u>Repealed</u> .
67:42:03:05	Repealed.
67:42:03:06	Qualifications of a family day care provider, <u>Repealed</u> .
67:42:03:07	Repealed.
67:42:03:07.01	Qualifications of helpers, <u>Repealed</u> .
67:42:03:07.02	Training, <u>Repealed</u> .
67:42:03:07.03	Helper records and hiring requirements, <u>Repealed</u> .
67:42:03:07.04	Repealed.
67:42:03:07.05	Repealed.
67:42:03:07.06	Orientation, <u>Repealed</u> .
67:42:03:08	Health standards and immunizations for children, <u>Repealed</u> .
67:42:03:08.01	Medications, <u>Repealed</u> .
67:42:03:09	Repealed.
67:42:03:09.01	Reporting suspected child abuse and neglect, <u>Repealed</u> .
67:42:03:10 to 67:42:03:11.01	Repealed.
67:42:03:11.02	Smoke detectors and fire extinguishers, <u>Repealed</u> .
67:42:03:11.03	Emergency preparedness and response, <u>Repealed</u> .

67:42:03:11.04	Repealed.
67:42:03:11.05	Water source and temperature, <u>Repealed</u> .
67:42:03:11.06	Heating, ventilating, and lighting, <u>Repealed</u> .
67:42:03:11.07	Electrical outlet covers, <u>Repealed</u> .
67:42:03:11.08	Food quality and storage, <u>Repealed</u> .
67:42:03:11.09	Insect and rodent control, <u>Repealed</u> .
67:42:03:11.10	Railings, <u>Repealed</u> .
67:42:03:12	Sanitation requirements, <u>Repealed</u> .
67:42:03:13	Nutrition requirements, <u>Repealed</u> .
67:42:03:14	Repealed.
67:42:03:15	Presence of the provider, <u>Repealed</u> .
67:42:03:16	Discipline, <u>Repealed</u> .
67:42:03:17	Playground area and equipment, <u>Repealed</u> .
67:42:03:18	Parental observation, <u>Repealed</u> .
67:42:03:19	Handwashing, <u>Repealed</u> .
67:42:03:20	Water safety, <u>Repealed</u> .
67:42:03:21	Other hazardous conditions, <u>Repealed</u> .
67:42:03:22	Pets, <u>Repealed</u> .
67:42:03:23	Sleeping arrangements, <u>Repealed</u> .

**67:42:03:01. Definitions.** Terms used in this chapter mean:

~~—— (1) "Family day care," the provision of regular care and supervision of no more than 12 children, including the provider's own children who are under the age of six years, for part of a 24-hour period as a supplement to regular parental care; and~~

~~—— (2) "Helper," an employee or volunteer present in the facility to assist with the care of children; or an employee or volunteer who, upon request of the provider, substitutes for the provider to care for children no more than 12 hours per week Repealed.~~

**Source:** 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983; 15 SDR 162, effective May 4, 1989; 39 SDR 220, effective June 27, 2013; 43 SDR 31, effective September 12, 2016.

~~—— **General Authority:** SDCL 26-6-16.~~

~~—— **Law Implemented:** SDCL 26-6-16.~~

~~—— **Cross-References:** Family day care defined — Number of children allowed, SDCL 26-6-14.1; Unregistered family day care defined — Number of children allowed, SDCL 26-6-14.8.~~

**67:42:03:02. Licensure of family day care.** Repealed.

**Source:** 4 SDR 2, effective July 25, 1977; repealed, 6 SDR 31, effective September 30, 1979.

**67:42:03:03. Approval of in-home care and family day care in a relative's home.** Repealed.

**Source:** 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; repealed, 10 SDR 48, effective November 21, 1983.

**67:42:03:04. Status and number of children cared for.** Repealed.

**Source:** 4 SDR 2, effective July 25, 1977; repealed, 6 SDR 31, effective September 30, 1979.

**67:42:03:04.01. Maximum number of children allowed.** ~~A family day care provider may care for a maximum of 12 children, including the provider's own children who are under the age of six years. No more than four of the 12 children may be under the age of two years, and no more than two of these four children may be under the age of one unless there is a helper in the home. If a helper is present in the home, no more than eight of the twelve children may be under the age of two and no more than four of the eight may be under the age of one Repealed.~~

**Source:** 6 SDR 31, effective September 30, 1979; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983; 15 SDR 162, effective May 4, 1989; 21

SDR 206, effective June 4, 1995; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013; 43 SDR 31, effective September 12, 2016.

— ~~General Authority:~~ SDCL 26-6-16.

— ~~Law Implemented:~~ SDCL 26-6-14.1, 26-6-14.2, 26-6-16.

— ~~Cross Reference:~~ Additional number of children in day care — Staff-to-child ratios, SDCL 26-6-15.1.

**67:42:03:05. License for specific children.** Repealed.

**Source:** 4 SDR 2, effective July 25, 1977; repealed, 6 SDR 31, effective September 30, 1979.

**67:42:03:06. Qualifications of a family day care provider.** ~~A family day care provider must be at least 18 years of age and shall demonstrate the ability to provide care for children that attends to the child's physical growth and development and to the physical, emotional, cognitive, and social needs of the child.~~

— ~~The provider's family and household composition and relationships may not adversely affect a child in care~~ Repealed.

**Source:** 4 SDR 2, effective July 25, 1977; repealed, 7 SDR 66, 7 SDR 89, effective July 1, 1981; readopted, 15 SDR 162, effective May 4, 1989; 20 SDR 223, effective July 7, 1994; 21 SDR 206, effective June 4, 1995; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013.

— ~~General Authority:~~ SDCL 26-6-16.

— ~~Law Implemented:~~ SDCL 25-7A-56, 26-6-16, 26-6-23.2.

**67:42:03:07. Age and family composition.** Repealed.

**Source:** 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983; repealed, 15 SDR 162, effective May 4, 1989.

**67:42:03:07.01. Qualifications of helpers.** ~~A family day care helper must be at least 14 years old. A helper under the age of 18 may be included in the adult-child ratio only if there is another adult present in the home. A helper who is under the age of 18 may not be left alone on the premises with children in care.~~

— ~~A helper must meet the requirements of §§ 67:42:03:07.02, 67:42:03:07.03 and 67:42:03:07.06.~~

— ~~A volunteer filling the position of a helper must meet the requirements of this section~~ Repealed.

**Source:** 15 SDR 162, effective May 4, 1989; 21 SDR 206, effective June 4, 1995; 39 SDR 220, effective June 27, 2013; 43 SDR 31, effective September 12, 2016.

- ~~— **General Authority:** SDCL 26-6-16.~~
- ~~— **Law Implemented:** SDCL 26-6-16(1).~~

~~**67:42:03:07.02. Training.** A family day care provider and helper shall participate in a minimum of six hours of training every year. Three of the six hours of annual training may be from reading sources or televised or video programming. The training must be obtained from at least three of the following areas:~~

- ~~— (1) Child growth and development;~~
- ~~— (2) Detecting and reporting child abuse and neglect;~~
- ~~— (3) Guidance and behavior management;~~
- ~~— (4) Food handling techniques;~~
- ~~— (5) Identification and prevention of communicable diseases;~~
- ~~— (6) Program health and safety;~~
- ~~— (7) Nutrition for children;~~
- ~~— (8) Program management and regulation;~~
- ~~— (9) Communication and relations with staff;~~
- ~~— (10) Cultural diversity;~~
- ~~— (11) Learning environments;~~
- ~~— (12) Age appropriate activities and planning;~~
- ~~— (13) Professionalism;~~
- ~~— (14) Partnerships with parents;~~
- ~~— (15) Inclusion of all children; and~~
- ~~— (16) Basic first aid.~~

~~— Before an initial registration is issued, the applicant must complete and become certified in infant child cardio-pulmonary resuscitation (CPR) through an entity that provides the applicant with hands on skills testing as part of the training. The CPR certification must remain valid at all times.~~

~~— Any individual supervising children around a body of water and any helper being left alone to supervise children must meet the training and certification requirements for CPR as contained in this section.~~

~~— Before the department renews the registration certificate, the family day care provider shall supply the department with documented evidence that the provider and helper have completed the required training Repealed.~~

**Source:** 15 SDR 162, effective May 4, 1989; 21 SDR 206, effective June 4, 1995; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013.

- ~~— **General Authority:** SDCL 26-6-16.~~
- ~~— **Law Implemented:** SDCL 26-6-16.~~

~~— **Cross Reference:** Water safety, § 67:42:03:20.~~

**67:42:03:07.03. Helper records and hiring requirements.** ~~A family day care provider shall maintain a record on each helper. The record must include the helper's name, age, address, telephone number, training, dates of employment and separation, and a statement signed by the helper which defines child abuse and neglect and outlines the helper's responsibility to report all incidents of child abuse or neglect under the provisions of SDCL 26-8A-3 and 26-8A-8. The facility shall make the personnel records available to the department for verification of the contents. The personnel records must be kept for six months after the helper's employment ends.~~

~~Before hiring a helper to work at the facility, the provider shall contact references which may include the individual's former employers. The references may not be related to the prospective helper. References must be in the form of a documented conversation or written letter and must be on record before hiring the individual Repealed.~~

**Source:** 21 SDR 206, effective June 4, 1995; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013; 43 SDR 31, effective September 12, 2016.

~~**General Authority:** SDCL 26-6-16.~~

~~**Law Implemented:** SDCL 26-6-16(1).~~

**67:42:03:07.04 Staff health requirements.** Repealed.

**Source:** 21 SDR 206, effective June 4, 1995; repealed, 39 SDR 220, effective June 27, 2013.

**67:42:03:07.05. Qualifications of substitute providers.** Repealed.

**Source:** 39 SDR 220, effective June 27, 2013; 43 SDR 31, effective September 12, 2016.

**67:42:03:07.06. Orientation.** ~~The provider and each helper shall have documented completion of orientation training within 90 days after the date of registration or date of hire in at least the following areas:~~

- ~~(1) Prevention and control of infectious diseases;~~
- ~~(2) Prevention of sudden infant death syndrome and use of safe sleep practices;~~
- ~~(3) Administration of medication;~~
- ~~(4) Prevention of and response to an emergency due to food and allergic reactions;~~
- ~~(5) Building and physical premises safety;~~
- ~~(6) Prevention of shaken baby syndrome and abusive head trauma;~~
- ~~(7) Emergency preparedness and response planning for an emergency resulting from a natural disaster or man-caused event;~~
- ~~(8) Handling and storage of hazardous materials and the appropriate disposal of bio contaminants;~~
- ~~(9) Precautions in transporting a child;~~
- ~~(10) Recognition and reporting of child abuse and neglect;~~
- ~~(11) First aid; and~~

~~—— (12) Child development.~~

~~—— In addition, a provider shall become certified in cardiopulmonary resuscitation (CPR) prior to initial registration. A helper shall become certified in CPR before being left alone with a child. A helper shall become certified in CPR within 90 days after the date of hire. CPR training shall include hands-on skill testing. CPR certification shall remain valid at all times.~~

~~—— Orientation training may count toward the required annual training for the provider in the initial year of registration, and for each helper or substitute during the first year of employment Repealed.~~

~~Source: 43 SDR 31, effective September 12, 2016; 45 SDR 82, effective December 10, 2018.~~

~~—— **General Authority:** SDCL 26-6-16.~~

~~—— **Law Implemented:** SDCL 26-6-16(1)(3).~~

~~**67:42:03:08. Health standards and immunizations for children.** Before admitting a child for care in a family day care home, the provider shall require a child's parent or guardian to submit a written statement signed by a licensed physician, physician's assistant, certified nurse practitioner, or community health nurse or an immunization record from the South Dakota Immunization Information System showing the immunization status of the child and verifying that the child meets the minimum immunization requirements for the child's age as recommended by the South Dakota Department of Health.~~

~~—— The operator shall ensure that immunization levels of all children are current. For children who begin the series late or are more than one month behind in immunizations, the immunization levels of these children must show current progress toward achieving adequate immunization levels as recommended by a physician, physician's assistant, certified nurse practitioner, or community health nurse. Immunization levels may be verified by an annual audit conducted by the Department of Health.~~

~~—— If a child suffers an illness during the day, the child must be separated from other children and the child's parents must be notified. The provider shall notify the Department of Health if any child in the family day care home contracts a communicable disease. The provider shall follow the Department of Health's recommendations for addressing a situation involving a communicable disease. The family day care home must have on file the name, address, and telephone number of each child's source of regular health supervision as well as other emergency medical information.~~

~~—— A child is exempt from meeting the minimum age-specific immunization levels if the child's parent or guardian has certification from a licensed physician stating that the physical condition of the child is such that a test or immunization would endanger the child's life or health or if the child's parent or guardian has signed a written statement that the child is an adherent to a religious doctrine whose teachings are opposed to such tests and immunizations.~~

~~Written permission from parents or guardians allowing for the child's emergency medical care must be obtained and maintained by the operator Repealed.~~

~~**Source:** 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 15 SDR 162, effective May 4, 1989; 21 SDR 206, effective June 4, 1995; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013; 43 SDR 31, effective September 12, 2016.~~

~~**General Authority:** SDCL 26-6-16.~~

~~**Law Implemented:** SDCL 26-6-16.~~

~~**Cross-References:** Tests and immunizations for communicable diseases required for admission to school or early childhood program—Exceptions—Rules, SDCL 13-28-7.1; Records on children in care of agencies—Information confidential, SDCL 26-6-20; Definition of "communicable disease," § 44:20:01:01.~~

~~**67:42:03:08.01. Medications.** Medications may only be administered with the written consent of the parent or guardian and only if the consent lists the name of the medication and the date or dates the medication is to be administered. Any medication administered to a child must be documented to include the dose, name of child, time and date administered, and signature of the person administering the medication. This documentation shall be available to the child's parent or guardian and must be kept for six months. Medications must be kept in their original container with the original label. The label must contain legible directions for use, the expiration date, the child's name, and the physician's name. Medications must be stored in a place which is inaccessible to children. Medication requiring refrigeration must be placed in another container which is not absorbent and labeled "medication." Repealed.~~

~~**Source:** 15 SDR 162, effective May 4, 1989; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013.~~

~~**General Authority:** SDCL 26-6-16.~~

~~**Law Implemented:** SDCL 26-6-16.~~

~~**67:42:03:09. Reporting and maintenance of records.** Repealed.~~

~~**Source:** 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; repealed, 15 SDR 162, effective May 4, 1989.~~

~~**67:42:03:09.01. Reporting suspected child abuse and neglect.** A family day care provider must comply with SDCL 26-8A-3 and 26-8A-8 by immediately reporting any suspected incident of child abuse or neglect to the department, police, sheriff, or states attorney and cooperate fully in the investigation of any incident Repealed.~~

~~**Source:** 15 SDR 162, effective May 4, 1989.~~

~~**General Authority:** SDCL 26-6-16.~~

~~**Law Implemented:** SDCL 26-6-16, 26-8A-3, 26-8A-8.~~



~~—— Cross Reference: Reporting of incidents or changes in circumstances, § 67:42:01:12.~~

**67:42:03:10. Location of family day care home.** Repealed.

**Source:** 4 SDR 2, effective July 25, 1977; repealed, 7 SDR 66, 7 SDR 89, effective July 1, 1981.

**67:42:03:11. Physical requirements of family day care home.** Repealed.

**Source:** 4 SDR 2, effective July 25, 1977; repealed, 7 SDR 66, 7 SDR 89, effective July 1, 1981.

**67:42:03:11.01. Indoor play space.** Repealed.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; repealed, 10 SDR 48, effective November 21, 1983.

**67:42:03:11.02. Smoke detectors and fire extinguishers.** ~~A family day care home must have a working smoke detector on each level of the building. Audible alarm indicating devices must be designed and distributed so as to be effectively heard above the maximum noise level obtained under normal conditions of occupancy.~~

~~—— A fully charged, portable fire extinguisher with a minimum 2A rating, as identified on the extinguisher label, must be kept near the food processing area Repealed.~~

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 21 SDR 206, effective June 4, 1995; 31 SDR 40, effective September 29, 2004.

~~—— **General Authority:** SDCL 26-6-16.~~

~~—— **Law Implemented:** SDCL 26-6-16.~~

**67:42:03:11.03. Emergency preparedness and response.** ~~The provider shall have a written emergency preparedness and response plan that includes procedures carried out before, during, and after a natural, or man-caused event that include: evacuation, relocation, shelter-in-place, lock-down procedures, procedures for communication and reunification with families, continuity of operations, and accommodation of infants and toddlers, children with disabilities and children with chronic medical conditions. Every helper shall be made aware of the emergency preparedness plan and procedures.~~

~~—— The provider shall conduct at least four fire drills and one tornado drill each year. The tornado drill shall be conducted at the beginning of summer. The provider shall maintain written documentation as evidence that the drills were conducted.~~

~~—— Each level of the family day care home used for the care of children must have two exits which are separate and remote from each other. Each of these exits must provide unobstructed travel to the outside. One of these exits must be a standard-sized door that~~

meets the applicable code for the structure. The other exit may be a window which is easy to open from the inside without the use of tools.

~~— A window used as an exit in a family day care home must provide a clear opening at least 20 inches wide and 24 inches high and must be at least 5.0 square feet in area. There may be no more than 44 inches between the floor and the bottom of the window. If more than 44 inches exists between the floor and the bottom of the window, a stable and permanent platform must be used that raises the level of the floor such that the distance is 44 inches or less between the bottom of the window and the platform landing.~~

~~— If storm windows, screens, or burglar guards are used, they must be provided with quick opening devices which may be easily opened from the inside.~~

~~— No room or space may be occupied for living or sleeping purposes which is accessible only by a ladder, by a folding stair, or through a trap door Repealed.~~

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983; 15 SDR 162, effective May 4, 1989; 21 SDR 206, effective June 4, 1995; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013; 43 SDR 31, effective September 12, 2016.

~~— **General Authority:** SDCL 26-6-16.~~

~~— **Law Implemented:** SDCL 26-6-16(1)(6).~~

#### **67:42:03:11.04. Artificial lighting.** Repealed.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 21 SDR 206, effective June 4, 1995; repealed, 31 SDR 40, effective September 29, 2004.

**67:42:03:11.05. Water source and temperature.** ~~Water must derived from a community water system or from a water system that is tested at least annually by the Department of Agriculture and Natural Resources or a laboratory certified by the Department of Health to conduct such tests. The water must be tested for bacteria and nitrate levels and must be safe for consumption. The provider must maintain written documentation of the test results.~~

~~— Hot water from plumbing fixtures normally utilized by children in care may not exceed 120 degrees Fahrenheit Repealed.~~

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 15 SDR 162, effective May 4, 1989; 21 SDR 206, effective June 4, 1995; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013; 43 SDR 31, effective September 12, 2016; SL 2021, ch 1, §§ 8, 19, effective April 19, 2021.

~~— **General Authority:** SDCL 26-6-16.~~

~~— **Law Implemented:** SDCL 26-6-16.~~

~~— **Cross-Reference:** Drinking water standards, ch 74:04:12.~~

**67:42:03:11.06. Heating, ventilating, and lighting.** ~~The family day care provider shall ensure that heating, ventilating, and lighting facilities are adequate for the protection of the children's health.~~

~~Unvented fuel fired room heaters may not be used. A guard must be provided to protect the children from and restrict their access to hot surfaces and open flames Repealed.~~

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983; 15 SDR 162, effective May 4, 1989; 21 SDR 206, effective June 4, 1995; 39 SDR 220, effective June 27, 2013.

~~**General Authority:** SDCL 26-6-16.~~

~~**Law Implemented:** SDCL 26-6-16.~~

**67:42:03:11.07. Electrical outlet covers.** ~~In family day care homes caring for children aged four years and younger, unused electrical outlets must be covered by Underwriter's Laboratory approved electrical outlet covers.~~

~~There may be no bare or exposed electrical wires present within the home Repealed.~~

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983; 15 SDR 162, effective May 4, 1989; 21 SDR 206, effective June 4, 1995.

~~**General Authority:** SDCL 26-6-16.~~

~~**Law Implemented:** SDCL 26-6-16.~~

**67:42:03:11.08. Food quality and storage.** ~~The family day care provider shall comply with the following provisions:~~

~~(1) Food must be free from spoilage, filth, or other contamination and must be safe for human consumption;~~

~~(2) Fluid milk and fluid milk products used or served must be pasteurized and must meet Grade A quality as defined by SDCL 39-6-1;~~

~~(3) During storage, preparation, and serving, food must be protected from potential contamination;~~

~~(4) Food which is removed from the original container or package in which it was obtained must be stored in a clean, covered, nonabsorbent container; and~~

~~(5) Refrigeration facilities must be provided to assure the maintenance of potentially hazardous foods at 41 degrees Fahrenheit or below during storage. Frozen foods must be kept frozen and must be stored at a temperature of 0 degrees Fahrenheit or below Repealed.~~

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 15 SDR 162, effective May 4, 1989; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013.

— ~~General Authority: SDCL 26-6-16.~~

— ~~Law Implemented: SDCL 26-6-16.~~

— ~~Cross Reference: Potentially hazardous food, § 44:02:07:18.~~

~~67:42:03:11.09. Insect and rodent control. A family day care provider must take effective measures to minimize the presence of rodents and insects on the premises. Doors and windows used for outside ventilation must be screened and in good repair. Repealed.~~

~~Source: 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983; 15 SDR 162, effective May 4, 1989; 31 SDR 40, effective September 29, 2004.~~

— ~~General Authority: SDCL 26-6-16.~~

— ~~Law Implemented: SDCL 26-6-16.~~

~~67:42:03:11.10. Railings. All floor and wall openings, open-sided areas, platforms, and decks which are 30 inches or more above the adjacent ground level must be guarded by a railing or barrier. The railing or barrier must be constructed to prevent a child from crawling or falling through or becoming entrapped. Repealed.~~

~~Source: 7 SDR 66, 7 SDR 89, effective July 1, 1981; 15 SDR 162, effective May 4, 1989; 20 SDR 206, effective June 4, 1995; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013.~~

— ~~General Authority: SDCL 26-6-16.~~

— ~~Law Implemented: SDCL 26-6-16.~~

~~67:42:03:12. Sanitation requirements. A family day care home must be kept clean, neat, and free of litter and rubbish.~~

— ~~If care is provided to infants, the home must have a diaper changing table or pad that has a surface that is easily cleanable and nonabsorbent. The table or pad must be cleaned after each use with a solution of one ounce of household bleach to one quart of water.~~

— ~~If a toy comes in contact with a child's saliva or other bodily fluids it must be sanitized with a solution of one ounce of household bleach to two gallons of water or washed and rinsed in a mechanical dishwasher.~~

— ~~If a provider finds a product that the provider prefers to use instead of bleach, the provider shall submit the product label to the department. The department, in consultation with the Department of Health, shall review the product and make a determination of whether the product and the provider's established procedures for using the product is an effective and acceptable disinfectant for a child care program.~~

— ~~Hazardous cleaning solutions, chemicals, and poisons must be labeled and kept in an enclosed cabinet that is not accessible to children. The program shall have procedures in place for the handling and storage of hazardous materials and the disposal of bio contaminants.~~

~~Garbage and refuse must be kept in durable, easily cleanable containers that do not leak and do not absorb liquids. Garbage and refuse must be disposed of often enough to prevent the development of odor and the attraction of insects and rodents Repealed.~~

**Source:** 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983; 15 SDR 162, effective May 4, 1989; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013; 43 SDR 31, effective September 12, 2016.

~~**General Authority:** SDCL 26-6-16.~~

~~**Law Implemented:** SDCL 26-6-16(2).~~

~~**67:42:03:13. Nutrition requirements.** If a child is in family day care during the home's regular meal time, the child must be offered a meal which consists of a variety of foods which supplies at least one-third of the child's daily nutritional needs. Nutritious midmorning, midafternoon, and evening snacks must be served between meals as long as there are at least two hours between each meal and snack. Breakfast may be substituted for the midmorning snack. The provider shall prepare and post menus of the meals available at the home for the week and shall record on the menu the food actually served. The provider shall retain the menus for a period of six months after the week for which it was prepared.~~

~~The provider shall have a written plan for prevention and response to emergencies due to food and allergic reactions.~~

~~Infants must be fed according to their individual schedule and must be held while bottle feeding Repealed.~~

**Source:** 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 15 SDR 162, effective May 4, 1989; 21 SDR 206, effective June 4, 1995; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013; 43 SDR 31, effective September 12, 2016.

~~**General Authority:** SDCL 26-6-16.~~

~~**Law Implemented:** SDCL 26-6-16(6)(9).~~

**67:42:03:14. Program standards for family day care.** Repealed.

**Source:** 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; repealed, 10 SDR 48, effective November 21, 1983.

~~**67:42:03:15. Presence of the provider.** Whenever a child is in care during the day, the provider or a substitute provider must be present in the family day care home and awake and alert to the needs of the child. Whenever a child is in care during the night, the provider or substitute provider must be present in the family day care home and accessible and responsive to a child who awakens during the night and requires attention. When a substitute provider is to be used, the provider must notify the child's parent.~~

~~—— If the child is three years of age or older, the provider may supervise outdoor activities from inside the home if the child playing outside is within the provider's line of sight.~~

~~—— If providing care for a child under the age of three, the provider or substitute provider must meet the following additional requirements:~~

~~—— (1) Must be on the same level of the home as the child or be able to hear the child and expeditiously respond to the child's needs;~~

~~—— (2) Must provide each child with a daily opportunity to freely move about in a safe, clean, and uncluttered area; and~~

~~—— (3) Must provide direct supervision when the child is outside Repealed.~~

~~**Source:** 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 21 SDR 206, effective June 4, 1995; 31 SDR 40, effective September 29, 2004.~~

~~—— **General Authority:** SDCL 26-6-16.~~

~~—— **Law Implemented:** SDCL 26-6-16.~~

~~—— **Cross References:** Qualifications of helpers, § 67:42:03:07.01; Definition of "substitute provider," § 67:42:01:01; Water safety, § 67:42:03:20.~~

~~**67:42:03:16. Discipline.** Discipline techniques used must offer clear-cut limits and direction to help a child to develop self-control and respect for the rights of others. Discipline techniques must be appropriate to the child's age and developmental level. Separation, when used as discipline, must be within sight and hearing range of a staff member responsible for caring for children. Discipline may not be delegated to older children or peers. Humiliating or frightening punishment such as the following are prohibited:~~

~~—— (1) Spanking, hitting, pinching, biting, shaking, or inflicting any other unusual physical punishment;~~

~~—— (2) Verbal abuse, threats, or derogatory remarks about self or family;~~

~~—— (3) Restriction of movement or confinement. A child may not be isolated in a locked room or closet;~~

~~—— (4) Punishment for lapses in toilet training;~~

~~—— (5) Withholding or forcing of meals, snacks, or naps; and~~

~~—— (6) Use of substances such as soap, pepper, or hot pepper sauce for punishment of undesirable behaviors Repealed.~~

~~**Source:** 10 SDR 48, effective November 21, 1983; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013.~~

~~—— **General Authority:** SDCL 26-6-16.~~

~~—— **Law Implemented:** SDCL 26-6-16.~~

~~**67:42:03:17. Playground area and equipment.** The playground must be kept free of litter, trash, weeds, and other hazardous materials such as lawn care equipment, tools, abandoned household appliances, flammable materials, and abandoned automobiles.~~

~~Playground equipment must be installed according to the manufacturer's recommendations and maintained in good repair.~~

~~— The department may require a provider to fence in the playground area if conditions or circumstances have the potential to cause injury or be a life-threatening situation to children~~  
Repealed.

~~Source:~~ 15 SDR 162, effective May 4, 1989; 21 SDR 206, effective June 4, 1995; 31 SDR 40, effective September 29, 2004.

~~— General Authority:~~ SDCL 26-6-16.

~~— Law Implemented:~~ SDCL 26-6-16.

~~— Cross Reference:~~ Water safety, § 67:42:03:20.

~~**67:42:03:18. Parental observation.** Family day care providers must allow a parent to observe the parent's child at any time and immediately on request~~  
Repealed.

~~Source:~~ 15 SDR 162, effective May 4, 1989.

~~— General Authority:~~ SDCL 26-6-16.

~~— Law Implemented:~~ SDCL 26-6-16.

~~**67:42:03:19. Handwashing.** A family day care provider must wash his or her hands after using the restroom, after changing a diaper, after working with soiled clothing or bedding, and before handling food.~~

~~— The provider must ensure that a child's hands are washed before and after meals and after the child has used the bathroom~~  
Repealed.

~~Source:~~ 15 SDR 162, effective May 4, 1989; 21 SDR 206, effective June 4, 1995.

~~— General Authority:~~ SDCL 26-6-16.

~~— Law Implemented:~~ SDCL 26-6-16.

~~**67:42:03:20. Water safety.** Children may not play in areas where there is any body of water unless they are under constant supervision. A body of water includes pools, hot tubs, fish ponds, ditches, animal watering tanks, tubs, pails, sinks, toilets, or any other area which presents a drowning risk to young children.~~

~~— Swimming pools located on the premises of the provider's home and not emptied after each use must be secured on all sides with a fence that is at least five feet high and constructed to discourage climbing. A wall of the home may not be considered as one side of the fence if that area of the house has access to the pool area. Exits from and entrances to the pool must have self-closing, latching gates that must be latched and locked at all times when day care children are present. If the home has a hot tub, the tub must be covered with a safety cover approved by the American Society for Testing and Materials (ASTM)~~  
Repealed.

**Source:** 21 SDR 206, effective June 4, 1995; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013.

~~General Authority:~~ SDCL 26-6-16.

~~Law Implemented:~~ SDCL 26-6-16.

**67:42:03:21. Other hazardous conditions.** ~~The department may direct a provider to remove or correct hazardous conditions or circumstances not covered in this chapter if the department considers the conditions or circumstances to have the potential to cause injury or illness to the children in care. Hazardous conditions may not be accessible to children. Examples of items that may result in a hazardous condition include the following:~~

- ~~(1) Firearms including pellet guns, BB guns, and cap guns;~~
- ~~(2) Ammunition;~~
- ~~(3) Archery bows and arrows;~~
- ~~(4) Matches and lighters;~~
- ~~(5) A trampoline; and~~
- ~~(6) Cords from curtains or blinds Repealed.~~

**Source:** 21 SDR 206, effective June 4, 1995; 31 SDR 40, effective September 29, 2004.

~~General Authority:~~ SDCL 26-6-16.

~~Law Implemented:~~ SDCL 26-6-16.

**67:42:03:22. Pets.** ~~If a pet is present at the family day care home, indoors or outdoors, the provider must ensure that the following requirements are met:~~

- ~~(1) The pet must be in good health, show no evidence of carrying any disease, and be a friendly companion to the children and parents;~~
- ~~(2) Wild or dangerous animals such as ferrets, lizards, or other reptiles must be kept in a covered glass container or tank that is inaccessible to children;~~
- ~~(3) Potentially aggressive animals such as pitbulls and rottweilers must be confined and kept away from the children;~~
- ~~(4) Dogs or cats must be immunized for any disease that can be transmitted to humans and must be maintained on a flea, tick, and worm control program;~~
- ~~(5) The provider must have documentation, signed by a veterinarian, that the pet has had the required immunizations and that the immunizations are current;~~
- ~~(6) The pet's living quarters must be kept clean;~~
- ~~(7) Litter boxes must be covered and kept clean in order to eliminate odor; and~~
- ~~(8) The pet's food supply may not be accessible to the children Repealed.~~

**Source:** 31 SDR 40, effective September 29, 2004.

~~General Authority:~~ SDCL 26-6-16.

~~Law Implemented:~~ SDCL 26-6-16.



**67:42:03:23. Sleeping arrangements.** ~~Each child must be provided with or must bring a mat or blanket to be used during nap or rest periods. A provider may not allow a child to nap or rest directly on bare or carpeted floors.~~

~~— If nighttime care is provided, the provider shall provide a cot or bed for each child in nighttime care.~~

~~— Cribs and mattresses must be maintained in good repair. Stackable cribs may not be used.~~

~~— Soft bedding materials that could pose a suffocation hazard may not be used in cribs or playpens.~~

~~— Infants must be placed on their backs for sleeping Repealed.~~

**Source:** 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013; 43 SDR 31, effective September 12, 2016.

~~— **General Authority:** SDCL 26-6-16.~~

~~— **Law Implemented:** SDCL 26-6-16.~~

## CHAPTER 67:42:07

### GROUP CARE CENTERS FOR MINORS

#### Section

67:42:07:01	Definitions.
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67:42:07:25	Physical requirements for room used for seclusion.
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67:42:07:27	Placement in seclusion or restraint -- Limits.
67:42:07:28	Review and evaluation of treatment plan.
67:42:07:29	Written policy requirements.

**67:42:07:04.01. Reasonable and prudent parent standard requirements.** The reasonable and prudent parent standard for group care centers requires:

~~(1) Each facility will have onsite at least one official who, with respect to any child placed at the child care institution, is designated to be the caregiver who is authorized to apply the reasonable and prudent parent standard to decisions involving the participation of the child in age or developmentally appropriate activities;~~

~~(2) Each designated official will be provided with training in how to use and apply the reasonable and prudent parent standard; and~~

~~(3) A facility is not liable for harm caused to a child in an out of home placement if the child participates in an activity approved by the facility, provided that the facility has acted in accordance with the reasonable and prudent parent standard Transferred to § 67:42:01:06.01.~~

**Source:** 42 SDR 97, effective January 4, 2016.

**General Authority:** ~~SDCL 26-6-16.~~

**Law Implemented:** ~~SDCL 26-6-16.~~

**Cross Reference:** Reasonable and prudent parent standard, § 67:42:01:01(12).

**CHAPTER 67:42:10**

**LICENSED DAY CARE PROGRAMS**

**(Repealed)**

Section

- 67:42:10:00 Definitions, Repealed.
- 67:42:10:01 Statement defining purpose and function, Repealed.
- 67:42:10:02 Qualifications for director or proprietor, Repealed.
- 67:42:10:02.01 Qualifications for individual responsible for program planning and staff supervision, Repealed.
- 67:42:10:03 Transferred.
- 67:42:10:04 Repealed.
- 67:42:10:05 Qualifications of staff members, Repealed.
- 67:42:10:06 Staff development and training, Repealed.
- 67:42:10:06.01 Staff orientation, Repealed.
- 67:42:10:07 Staff-child ratio, Repealed.
- 67:42:10:08 Repealed.
- 67:42:10:09 Staff records and hiring requirements, Repealed.
- 67:42:10:10 Program standards, Repealed.
- 67:42:10:11 Standards for discipline, Repealed.
- 67:42:10:12 Parental involvement, Repealed.
- 67:42:10:13 Nutrition requirements, Repealed.
- 67:42:10:14 Health standards and immunizations for day care children, Repealed.
- 67:42:10:15 Medications, Repealed.

- 67:42:10:16 Building plans, Repealed.
- 67:42:10:17 Compliance with environmental health standards required --  
Environmental health survey, Repealed.
- 67:42:10:18 Fire and life safety, Repealed.
- 67:42:10:19 Physical standards for facility, Repealed.
- 67:42:10:20 Night-time care, Repealed.
- 67:42:10:21 Repealed.
- 67:42:10:22 Staff responsibility for reporting suspected incidents of child abuse  
or neglect, Repealed.
- 67:42:10:23 Center procedures for handling suspected in-house child abuse,  
Repealed.
- 67:42:10:24 Storage for personal items, Repealed.
- 67:42:10:25 Staff person trained in first aid and CPR must be on site during hours  
of operation, Repealed.

**67:42:10:00. Definitions.** ~~Terms used in this chapter mean:~~

~~—— (1) "Day care center," a facility for the care and supervision of 21 or more children on a regular basis for part of a day as a supplement to regular parental care;~~

~~—— (2) "Day care program" or "program," refers to both day care centers and group family day care homes; and~~

~~—— (3) "Group family day care home," a facility where regular supervision of 13 to 20 children is provided for part of a 24-hour period as a supplement to regular parental care~~  
Repealed.

~~**Source:** 12 SDR 209, effective July 6, 1986; 15 SDR 162, effective May 4, 1989; 39 SDR 220, effective June 27, 2013.~~

~~—— **General Authority:** SDCL 26-6-16.~~

~~—— **Law Implemented:** SDCL 26-6-16.~~

**67:42:10:01. Statement defining purpose and function.** ~~A licensed day care program shall submit to the department a statement of its purpose and function, the maximum number of children to be cared for, proposed age levels, its hours of service, and a description of the day care program~~  
Repealed.

~~**Source:** SL 1975, ch 16, § 1; transferred from § 67:14:19:13, 4 SDR 10, effective August 28, 1977; transferred from § 67:41:04:05, 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 209, effective July 6, 1986; 39 SDR 220, effective June 27, 2013.~~

~~—— **General Authority:** SDCL 26-6-16.~~

~~—— **Law Implemented:** SDCL 26-6-16.~~

**67:42:10:02. Qualifications for director or proprietor.** ~~The director or proprietor of a day care program must be at least 18 years of age.~~

~~—— The director shall demonstrate the ability to provide care for children that attends to the child's physical growth and development and to the physical, emotional, cognitive, and social needs of the child~~  
Repealed.

~~**Source:** SL 1975, ch 16, § 1; transferred from § 67:14:19:16, 4 SDR 10, effective August 28, 1977; transferred from § 67:41:04:07, 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 209, effective July 6, 1986; 20 SDR 223, effective July 7, 1994; 21 SDR 206, effective June 4, 1995; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013.~~

~~—— **General Authority:** SDCL 26-6-16.~~

~~—— **Law Implemented:** SDCL 25-7A-56, 26-6-16.~~

~~—— **Cross Reference:** Staff records and qualifications, § 67:42:10:09.~~

**67:42:10:02.01. Qualifications for individual responsible for program planning and staff supervision.** ~~The individual responsible for planning and implementing the program of the day care center and for supervising staff must be at least 18 years of age, may not have on record a substantiated report of child abuse or neglect, and must meet one of the following requirements:~~

- ~~—— (1) Have a bachelor's degree in the field of education or human development and at least two years of experience in a child care setting;~~
- ~~—— (2) Have a bachelor's degree in elementary education and at least two years of experience in a child care setting if the center cares for preschool-aged children;~~
- ~~—— (3) Have a bachelor's degree in elementary education if the center cares for school-aged children only;~~
- ~~—— (4) Have a bachelor's degree in the field of early childhood education;~~
- ~~—— (5) Have an associate of arts degree in the field of early childhood development;~~
- ~~—— (6) Be certified as a child development associate;~~
- ~~—— (7) Have a prekindergarten teacher endorsement;~~
- ~~—— (8) Hold certification in a Montessori teacher training program and have at least one year of experience in Montessori school or child care setting; or~~
- ~~—— (9) Have a child development technician diploma.~~

~~—— The department may waive the requirements of this section if an individual met the requirements of this section before September 29, 2004 Repealed.~~

~~**Source:** 12 SDR 209, effective July 6, 1986; 21 SDR 206, effective June 4, 1995; 31 SDR 40, effective September 29, 2004.~~

~~—— **General Authority:** SDCL 26-6-16.~~

~~—— **Law Implemented:** SDCL 26-6-16.~~

~~—— **Note:** Information relating to certification as a child development associate may be obtained from the South Dakota Department of Social Services, Office of Child Care Services, 700 Governors Drive, Pierre, South Dakota 57501 (1-800-227-3020).~~

**67:42:10:03. Transferred to § 67:42:10:10.**

**67:42:10:04. Responsibilities of and qualifications for teacher. Repealed.**

~~**Source:** SL 1975, ch 16, § 1; 1 SDR 30, effective October 13, 1974; transferred from § 67:14:19:17, 4 SDR 10, effective August 28, 1977; transferred from § 67:41:04:08, 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 209, effective July 6, 1986; 20 SDR 223, effective July 7, 1994; repealed, 31 SDR 40, effective September 29, 2004.~~

~~**67:42:10:05. Qualifications of staff members.** A child care worker must be at least 18 years old and must work under the supervision of an individual who meets the requirements of § 67:42:10:02.01. A child care worker may be included in the staff child ratio.~~



~~— A secondary child care worker must be at least 14 years old and may be counted in the staff-child ratio only when under the direct and constant supervision of a teacher, the center director, or a child care worker and when there are at least two adults present in the center. A secondary child care worker may not be left alone with children in care.~~

~~— The provisions of §§ 67:42:10:06 and 67:42:10:09 apply to child care workers, secondary child care workers, and support staff such as cooks, bus drivers, and others who have contact with children.~~

~~— The provisions of § 67:42:10:09 apply to auxiliary staff, which includes those individuals such as cooks, janitors, and secretaries who provide assistance with the operation of the program but do not have direct contact with children in care.~~

~~— A volunteer filling any of these positions must meet the applicable requirements~~  
Repealed.

**Source:** SL 1975, ch 16, § 1; transferred from § 67:14:19:18, 4 SDR 10, effective August 28, 1977; transferred from § 67:41:04:09, 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 209, effective July 6, 1986; 15 SDR 162, effective May 4, 1989; 20 SDR 223, effective July 7, 1994; 21 SDR 206, effective June 4, 1995; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013.

~~— **General Authority:** SDCL 26-6-16.~~

~~— **Law Implemented:** SDCL 26-6-16.~~

~~— **Cross-References:** Revocation or refusal to issue or renew license or registration for child abuse or violence, SDCL 26-6-23.1.~~

**67:42:10:06. Staff development and training.** ~~Each program must have and implement a written training plan. Each staff member for a group family day care home shall participate in 10 hours of training annually. Each staff member for a day care center shall participate in 20 hours of training annually. Training must be obtained in the following areas:~~

- ~~— (1) Child growth and development;~~
- ~~— (2) Detecting and reporting child abuse and neglect;~~
- ~~— (3) Guidance and behavior management;~~
- ~~— (4) Food handling techniques;~~
- ~~— (5) Identification and prevention of communicable diseases;~~
- ~~— (6) Program health and safety;~~
- ~~— (7) Nutrition for children;~~
- ~~— (8) Program management and regulation;~~
- ~~— (9) Communication and relations with staff;~~
- ~~— (10) Cultural diversity;~~
- ~~— (11) Learning environments;~~
- ~~— (12) Age appropriate activities and planning;~~
- ~~— (13) Professionalism;~~
- ~~— (14) Partnerships with parents;~~

- ~~—— (15) Inclusion of all children; and~~
- ~~—— (16) Basic first aid.~~

~~—— Instruction provided to staff members or volunteers while performing their job may not be used to meet the requirements of this rule.~~

~~—— The number of training hours required of staff who are not full time employees must be proportionate to the number of hours worked.~~

~~—— Before an initial license is issued, the director or a designated staff person shall complete class instruction in basic first aid. In addition, if not already certified, the director shall become certified in infant child cardiopulmonary resuscitation (CPR). CPR shall be obtained through an entity that provides hands on skills testing as part of the training. Each staff person shall maintain a valid certification in CPR at all times Repealed.~~

**Source:** SL 1975, ch 16, § 1; transferred from § 67:14:19:19, 4 SDR 10, effective August 28, 1977; transferred from § 67:41:04:10, 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 209, effective July 6, 1986; 21 SDR 206, effective June 4, 1995; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013; 43 SDR 31, effective September 12, 2016.

~~—— **General Authority:** SDCL 26-6-16.~~

~~—— **Law Implemented:** SDCL 26-6-16(1)(6)(10).~~

**67:42:10:06.01. Staff orientation.** ~~The program shall provide for orientation of all staff, and documentation of such, to occur within 90 days after the date of employment, in at least the following areas:~~

- ~~—— (1) Prevention and control of infectious diseases;~~
- ~~—— (2) Prevention of sudden infant death syndrome and use of safe sleep practices;~~
- ~~—— (3) Administration of medication;~~
- ~~—— (4) Prevention of and response to an emergency due to food and allergic reactions;~~
- ~~—— (5) Building and physical premises safety;~~
- ~~—— (6) Prevention of shaken baby syndrome and abusive head trauma;~~
- ~~—— (7) Emergency preparedness and response planning for an emergency resulting from a natural disaster or man-caused event;~~
- ~~—— (8) Handling and storage of hazardous materials and the appropriate disposal of bio contaminants;~~
- ~~—— (9) Precautions in transporting a child;~~
- ~~—— (10) Recognition and reporting of child abuse and neglect;~~
- ~~—— (11) First aid;~~
- ~~—— (12) Cardiopulmonary resuscitation (CPR). CPR certification is required prior to a staff member being left unsupervised to care for children; and~~
- ~~—— (13) Child development.~~

~~—— Orientation training may count toward the required annual training for each staff person during the person's first year of employment Repealed.~~

**Source:** 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013; 43 SDR 31, effective September 12, 2016; 45 SDR 82, effective December 10, 2018.

~~General Authority:~~ SDCL 26-6-16.

~~Law Implemented:~~ SDCL 26-6-16(1)(3)(6)(10).

~~Cross References:~~ Staff development and training, § 67:42:10:06; Staff person trained in first aid and CPR must be on site during hours of operation, § 67:42:10:25.

**67:42:10:07. Staff-child ratio.** A program must maintain the following ratio for staff and children present:

~~(1) For children up to three years of age, one staff person to every five children, or fraction thereof;~~

~~(2) For children three to six years of age, one staff person to every 10 children, or fraction thereof; and~~

~~(3) For children six years of age or older, one staff person to every 15 children, or fraction thereof.~~

~~The staff-child ratio of mixed age groups must meet the requirements of the age grouping that comprises the majority of the children except when children under three years of age are present. When three or more children under the age of three years are present in the mixed age group, the staff-child ratio for children under three years of age must be maintained.~~

~~There may be no more than 20 children in an activity grouping.~~

~~There must be a list of adults who would be available within 15 minutes of the facility in case of an emergency. This list must be posted next to the center's telephone and must include the adults' telephone numbers. Children of staff members who are also in care or are supervised at the facility must be included in determining group size and the staff-child ratio.~~  
Repealed.

**Source:** SL 1975, ch 16, § 1; transferred from § 67:14:19:20, 4 SDR 10, effective August 28, 1977; transferred from § 67:41:04:11, 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 209, effective July 6, 1986; 21 SDR 206, effective June 4, 1995; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013.

~~General Authority:~~ SDCL 26-6-16.

~~Law Implemented:~~ SDCL 26-6-16.

~~Cross Reference:~~ Additional number of children in day care — Staff to child ratios, SDCL 26-6-15.1.

**67:42:10:08. Staff health requirements.** Repealed.

**Source:** SL 1975, ch 16, § 1; transferred from § 67:14:19:24, 4 SDR 10, effective August 28, 1977; transferred from § 67:41:04:16, 7 SDR 66, 7 SDR 89, effective July 1,

1981; 12 SDR 209, effective July 6, 1986; 15 SDR 162, effective May 4, 1989; 21 SDR 206, effective June 4, 1995; repealed, 39 SDR 220, effective June 27, 2013.

**67:42:10:09. Staff records and hiring requirements.** ~~A program shall maintain a record on each staff member. The record must include the staff member's name, age, address, telephone number, education and work experience, in-service and orientation training, hours of work, and dates of employment and separation. The program shall make the personnel records available to the department for verification of the contents. The program shall retain personnel records for six months after the staff member's employment ends.~~

~~— Before hiring an individual, the program shall contact at least three references which may include the individual's former employers. The contacts must relate to the individual's character and competence. The references may not be related to the prospective staff member and must be individuals who have known the prospective staff member prior to the time of application. References must be in the form of a documented conversation or written letter and must be on record before hiring the individual.~~

~~— Before hiring an individual to work at the center, the center shall comply with the screening requirements of § 67:42:16:04 Repealed.~~

**Source:** SL 1975, ch 16, § 1; transferred from § 67:14:19:29, 4 SDR 10, effective August 28, 1977; transferred from § 67:41:04:20, 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 209, effective July 6, 1986; 20 SDR 223, effective July 7, 1994; 21 SDR 206, effective June 4, 1995; 24 SDR 76, effective December 11, 1997; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013; 45 SDR 82, effective December 10, 2018.

~~— **General Authority:** SDCL 26-6-16(1).~~

~~— **Law Implemented:** SDCL 26-6-16(1), 26-6-23.2.~~

**67:42:10:10. Program standards.** ~~Each program shall have written policies regarding the following:~~

~~— (1) Admission and termination of service;~~

~~— (2) Fee, payment, and refund policies;~~

~~— (3) Health program policies for children, including the need for a current immunization record, the reporting of contagious diseases, and the storage and administration of medications;~~

~~— (4) Responsibility to report and the procedures for reporting suspected child abuse or neglect within the program;~~

~~— (5) Nutrition policies, including the time meals are served, a description of a balanced meal, the program's position concerning food brought from home, the storage of food brought from home, and the feeding of infants;~~

~~—— (6) Transportation policies, including use of seatbelts and whether transportation is provided;~~

~~—— (7) An emergency preparedness and response plan;~~

~~—— (8) Discipline policies, including the forms of discipline used and those prohibited;~~

~~—— (9) Reporting changes in circumstances such as a change of facility location, the felony conviction of a staff member, or involvement with the Division of Child Protection Services or law enforcement concerning investigations of child abuse or neglect;~~

~~—— (10) Program activities, including a daily schedule of activities and programs;~~

~~—— (11) Personnel policies and staff qualifications;~~

~~—— (12) Prevention of shaken baby syndrome and abusive head trauma;~~

~~—— (13) Prevention and response to an emergency due to food and allergic reactions; and~~

~~—— (14) Handling and storage of hazardous materials and the disposal of bio contaminants.~~

~~—— In addition, there must be a written program of activities planned according to the developmental level of each group of children. The program shall provide each child with experiences which encourage self-esteem and positive self-image, social interaction, self-expression and communication skills, creative expression, large and small muscle development, and intellectual growth. The program schedule must be planned to provide a flexible balance of active and quiet activities, individual and group activities, and indoor and outdoor activities.~~

~~—— Children must be given attention on a one-to-one basis by staff members.~~

~~—— Each program shall have safe, non-toxic play materials and equipment for creative activity, dramatic play, language arts, and large and small muscle development and coordination Repealed.~~

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; written policies requirement transferred from § 67:42:10:03, 12 SDR 209, effective July 6, 1986; 14 SDR 98, effective January 18, 1988; 21 SDR 206, effective June 4, 1995; 24 SDR 76, effective December 11, 1997; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013; 43 SDR 31, effective September 12, 2016.

~~—— **General Authority:** SDCL 26-6-16(2)(6)(7)(9)(12).~~

~~—— **Law Implemented:** SDCL 26-6-16(2)(6)(7)(9)(12).~~

— ~~**Cross-Reference:** Application and plan Health and safety requirements, 42 U.S.C. § 9858c(c)(2)(I).~~

~~**67:42:10:11. Standards for discipline.** Each program shall have a written policy on the discipline techniques to be used for a child in care. Discipline techniques used must offer clear cut limits with positive guidance and direction to help a child to develop self-control and respect for the rights of others. Discipline techniques must be appropriate to the child's age and developmental level. Separation, when used as discipline, must be within sight or hearing range of a staff member responsible for caring for children. Discipline may not be delegated to older children or peers. Use of humiliating or frightening punishment such as the following are prohibited:~~

- ~~— (1) Spanking, hitting, pinching, biting, shaking, or inflicting any other unusual physical punishment;~~
- ~~— (2) Verbal abuse, threats, or derogatory remarks about self or family;~~
- ~~— (3) Restriction of movement or confinement. A child may not be isolated in a locked room or closet;~~
- ~~— (4) Punishment for lapses in toilet training;~~
- ~~— (5) Withholding or forcing of meals, snacks, or naps to correct behavior; and~~
- ~~— (6) Use of substances such as soap, pepper, or hot pepper sauce for punishment of undesirable behaviors Repealed.~~

~~**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013.~~

~~**General Authority:** SDCL 26-6-16.~~

~~**Law Implemented:** SDCL 26-6-16.~~

~~**67:42:10:12. Parental involvement.** Parents must be allowed to observe their own child or children in the facility at any time and immediately upon request Repealed.~~

~~**Source:** 4 SDR 10, effective August 28, 1977; transferred from § 67:41:04:13, 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 209, effective July 6, 1986; 39 SDR 220, effective June 27, 2013.~~

~~**General Authority:** SDCL 26-6-16.~~

~~**Law Implemented:** SDCL 26-6-16.~~

~~**67:42:10:13. Nutrition requirements.** If a child is at the program during the program's regular meal time, the program shall offer the child a meal which consists of a variety of foods and supplies at least one third of the child's daily nutritional needs. Nutritious midmorning, midafternoon, and evening snacks must be served between meals. Breakfast may be substituted for the midmorning snack. A program preparing food must meet the food service requirements contained in chapter 67:42:11. A program may serve food prepared in another facility if that facility complies with the food service requirements of chapter 67:42:11 and a copy of that facility's current food service license issued by the Department of Health is kept on file.~~

~~— The program must post a weekly menu which indicates the meals to be served that week. The program must record on the weekly menu the food actually served. Each weekly menu must be retained for inspection for six months after the week for which it was prepared.~~

~~— Infants must be fed according to their individual schedule and must be held while bottle feeding.~~

~~— Meals, snacks, and formulas which are prepared by the child's parents and served by the program must be stored according to § 67:42:11:16 until consumed and disposed of Repealed.~~

**Source:** SL 1975, ch 16, § 1; 1 SDR 30, effective October 13, 1974; transferred from § 67:14:19:22, 4 SDR 10, effective August 28, 1977; transferred from § 67:41:04:14, 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 209, effective July 6, 1986; 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 21 SDR 206, effective June 4, 1995; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013; 43 SDR 31, effective September 12, 2016.

~~— **General Authority:** SDCL 26-6-16.~~

~~— **Law Implemented:** SDCL 26-6-16(6)(9)(12).~~

**67:42:10:14. Health standards and immunizations for day care children.** ~~Before a child may be admitted to a program, the program shall require a child's parent or guardian to submit a written statement signed by a licensed physician, physician's assistant, certified nurse practitioner, or community health nurse or an immunization record from the South Dakota Immunization Information System showing that the child meets the minimum immunization requirements as recommended by the Department of Health.~~

~~— The day care center shall ensure that immunization levels of all children are current. For children who begin the series late or are more than one month behind in immunizations, the immunization levels of these children must show current progress toward achieving adequate immunization levels as recommended by a licensed physician, physician's assistant, certified nurse practitioner, or community health nurse. The Department of Health may verify immunization levels during an annual audit. If a child suffers an illness during the day, the child must be separated from other children and the child's parents must be notified. The program shall notify the Department of Health if any child in the day care center contracts a communicable disease. The program shall follow the Department of Health's recommendations for addressing a situation involving a communicable disease. The program shall have on file the name, address, and telephone number of each child's source of regular health supervision as well as other emergency medical information.~~

~~— A child is exempt from meeting the minimum age-specific immunization levels if the child's parent or guardian has certification from a licensed physician stating that the physical condition of the child is such that a test or immunization would endanger the child's life or health or if the child's parent or guardian has signed a written statement that the child is an~~

~~adherent to a religious doctrine whose teachings are opposed to such tests and immunizations.~~

~~Written permission from parents or guardians allowing for the child's emergency medical care must be obtained and maintained by the director Repealed.~~

**Source:** SL 1975, ch 16, § 1; 1 SDR 30, effective October 13, 1974; transferred from § 67:14:19:23, 4 SDR 10, effective August 28, 1977; transferred from § 67:41:04:15, 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 209, effective July 6, 1986; 15 SDR 162, effective May 4, 1989; 21 SDR 206, effective June 4, 1995; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013; 43 SDR 31, effective September 12, 2016.

~~**General Authority:** SDCL 26-6-16.~~

~~**Law Implemented:** SDCL 26-6-16.~~

~~**Cross-References:** Tests and immunization for communicable diseases required for admission to school or early childhood program — Exceptions — Rules, SDCL 13-28-7.1; Definition of "communicable disease," § 44:20:01:01.~~

**67:42:10:15. Medications.** ~~Medications may only be administered with the written consent of the parent or guardian and only if the consent lists the name of the medication and the date or dates the medication is to be administered. Any medication administered to a child must be documented to include the dose, name of child, time and date administered, and signature of the person administering the medication. This written documentation shall be available to the child's parent or guardian and must be kept for six months following the administration of the medication. Medications must be kept in their original container with the original label. The label for prescription medications must contain legible directions for use, the expiration date, the child's name, and the physician's name. Medications must be stored in a place which is inaccessible to children. Medication requiring refrigeration must be placed in another nonabsorbent container and labeled "medications." Repealed.~~

**Source:** SL 1975, ch 16, § 1; 1 SDR 30, effective October 13, 1974; transferred from § 67:14:19:23, 4 SDR 10, effective August 28, 1977; transferred from § 67:41:04:15, 7 SDR 66, 7 SDR 89, effective July 1, 1981; 21 SDR 206, effective June 4, 1995; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013.

~~**General Authority:** SDCL 26-6-16.~~

~~**Law Implemented:** SDCL 26-6-16.~~

**67:42:10:16. Building plans.** ~~Before building a new facility or renovating or altering an existing facility, the program shall submit copies of its proposed building, renovation, or alteration plans to the department for approval. The plan must indicate the interior dimensions of each room and the intended use of the room, the location of the fixtures in each bathroom, and the location of the appliances and fixtures for the kitchen. Indoor and outdoor play space must be identified Repealed.~~



**Source:** SL 1975, ch 16, § 1; transferred from § 67:14:19:31, 4 SDR 10, effective August 28, 1977; transferred from § 67:41:04:22, 7 SDR 66, 7 SDR 89, effective July 1, 1981; 21 SDR 206, effective June 4, 1995; 39 SDR 220, effective June 27, 2013.

~~General Authority: SDCL 26-6-16.~~

~~Law Implemented: SDCL 26-6-16.~~

**67:42:10:17. Compliance with environmental health standards required -- Environmental health survey.** ~~A program must satisfactorily comply with environmental health standards in chapter 67:42:11 to be licensed. An environmental health survey must be conducted by the Department of Health before the initial licensing of the program and each year thereafter for licensure renewal~~ Repealed.

**Source:** SL 1975, ch 16, § 1; transferred from § 67:14:19:32, 4 SDR 10, effective August 28, 1977; transferred from § 67:41:04:23, 7 SDR 66, 7 SDR 89, effective July 1, 1981; 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 39 SDR 220, effective June 27, 2013.

~~General Authority: SDCL 26-6-16.~~

~~Law Implemented: SDCL 26-6-16.~~

**67:42:10:18. Fire and life safety.** ~~A licensed day care center shall comply with the construction and fire safety requirements in chapter 61:15:05. A licensed group family day care home shall comply with the fire safety requirements in chapter 61:15:06. The Department of Public Safety, the city fire inspection authority, or the city health inspection authority shall inspect the center before an initial license is issued and each year thereafter. Before an initial license is issued, the center shall provide to the department a copy of the inspection results. The inspection results must indicate compliance with the fire and life safety requirements. Each year thereafter, the center shall provide to the department a copy of the inspection results indicating continued compliance with the fire and life safety requirements.~~

~~Fire drills are required at least four times a year. The program shall conduct one tornado drill at the beginning of each summer. The program shall document completion of fire and tornado drills~~ Repealed.

**Source:** SL 1975, ch 16, § 1; transferred from § 67:14:19:33, 4 SDR 10, effective August 28, 1977; transferred from § 67:41:04:24, 7 SDR 66, 7 SDR 89, effective July 1, 1981; 20 SDR 223, effective July 7, 1994; 24 SDR 76, effective December 11, 1997; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013; 43 SDR 31, effective September 12, 2016.

~~General Authority: SDCL 26-6-16(2).~~

~~Law Implemented: SDCL 26-6-16(2).~~

**67:42:10:19. Physical standards for facility.** ~~The program's facility must contain not less than 35 square feet of play space indoors and 50 square feet of play space outdoors for each child present. Floor space used for permanent and stationery equipment and furniture, storage, halls, bathrooms, offices, and kitchens may not be included in the determination of~~

usable play space for children. No more than half of the space occupied by cribs may be used in determining total square feet of play space Repealed.

**Source:** SL 1975, ch 16, § 1; transferred from § 67:14:19:34, 4 SDR 10, effective August 28, 1977; transferred from § 67:41:04:25, 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 209, effective July 6, 1986; 21 SDR 206, effective June 4, 1995; 39 SDR 220, effective June 27, 2013.

— **General Authority:** ~~SDCL 26-6-16.~~

— **Law Implemented:** ~~SDCL 26-6-16.~~

**67:42:10:20. Night-time care.** ~~Night time care programs within the context of this chapter mean any program in operation between 7:00 p.m. and 6:00 a.m. When the same premises are used for the provision of both day and night care, the number of children during overlapping shift periods may not exceed the maximum licensed capacity of the program. No child may attend the program for more than 18 hours in any 24-hour period. The required staff-child ratio, as outlined in § 67:42:10:07, must be maintained during all hours of operation. Staff on duty must be awake and alert to the needs of children. Staff supervising sleeping children must be on the same floor as the sleeping children Repealed.~~

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 209, effective July 6, 1986; 21 SDR 206, effective June 4, 1995; 39 SDR 220, effective June 27, 2013.

— **General Authority:** ~~SDCL 26-6-16.~~

— **Law Implemented:** ~~SDCL 26-6-16.~~

**67:42:10:21. Volunteers.** Repealed.

**Source:** 12 SDR 209, effective July 6, 1986; 20 SDR 223, effective July 7, 1994; 21 SDR 206, effective June 4, 1995; repealed, 39 SDR 220, effective June 27, 2013.

**67:42:10:22. Staff responsibility for reporting suspected incidents of child abuse or neglect.** ~~The program shall require each staff member to read and sign a statement which defines child abuse and neglect and outlines the staff member's responsibility to report all incidents of child abuse or neglect according to state law. Each staff member shall, in addition to complying with SDCL 26-8A-3 and 26-8A-8, report any incident of child abuse or neglect to the department, police, sheriff, or state's attorney and cooperate fully in the investigation of any incident Repealed.~~

**Source:** 12 SDR 209, effective July 6, 1986; 39 SDR 220, effective June 27, 2013; 43 SDR 31, effective September 12, 2016.

— **General Authority:** ~~SDCL 26-6-16.~~

— **Law Implemented:** ~~SDCL 26-6-16(6).~~

**67:42:10:23. Center procedures for handling suspected in-house child abuse.** ~~The center shall have written procedures for handling suspected in-house child abuse. The procedures shall include at least the following:~~

~~—— (1) A procedure for ensuring that the alleged incident could not recur while awaiting the official investigation by the department or law enforcement; and~~

~~—— (2) A procedure for evaluating the continued employability of any staff member determined to be involved in an incident of child abuse Repealed.~~

**Source:** 12 SDR 209, effective July 6, 1986.

~~—— **General Authority:** SDCL 26-6-16.~~

~~—— **Law Implemented:** SDCL 26-6-16.~~

**67:42:10:24. Storage for personal items.** ~~In order to prevent cross-contamination and the spread of infectious diseases and lice, a program shall provide an individual storage unit or container for each child's personal articles including combs, brushes, towels, and clothing Repealed.~~

**Source:** 21 SDR 206, effective June 4, 1995; 39 SDR 220, effective June 27, 2013.

~~—— **General Authority:** SDCL 26-6-16.~~

~~—— **Law Implemented:** SDCL 26-6-16.~~

**67:42:10:25. Staff person trained in first aid and CPR must be on site during hours of operation.** ~~During the hours the facility is in operation, there must be a least one staff person on site who is trained in both first aid and infant child cardio-pulmonary resuscitation (CPR) Repealed.~~

**Source:** 31 SDR 40, effective September 29, 2004.

~~—— **General Authority:** SDCL 26-6-16.~~

~~—— **Law Implemented:** SDCL 26-6-16.~~

## CHAPTER 67:42:11

### ENVIRONMENTAL HEALTH STANDARDS

#### Section

67:42:11:01	Scope of chapter.
67:42:11:02	Playground area — <del>Group care centers, residential treatment centers, day care programs, and intensive residential treatment centers.</del>
67:42:11:02.01	Space requirements -- Before and after school care, <u>Repealed.</u>
67:42:11:03 and 67:42:11:04	Repealed.
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67:42:11:06	Toilet facilities.
67:42:11:06.01	Diaper changing.
67:42:11:07	Cleaning and sanitizing of equipment, <u>Repealed.</u>
67:42:11:07.01 and 67:42:11:07.02	Repealed.
67:42:11:08	Ventilation of cooking areas.
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67:42:11:10	Electrical outlet covers.
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67:42:11:12	Heating, ventilating, and cooling systems.
67:42:11:13	Repealed.
67:42:11:14	Railings.
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67:42:11:15.01	Traffic through food preparation area prohibited, <u>Repealed.</u>
67:42:11:16	Food supplies.
67:42:11:17	Repealed.
67:42:11:18	Food storage — <del>General requirements.</del>
67:42:11:19	Repealed.
67:42:11:20	Raw fruits and vegetables, <u>Repealed.</u>
67:42:11:21 and 67:42:11:22	Repealed.
67:42:11:23	Employee health, <u>Repealed.</u>
67:42:11:24	Personal cleanliness.
67:42:11:25	Food service practices.
67:42:11:26 to 67:42:11:28	Repealed.
67:42:11:29	Equipment and utensil <u>cleaning and storage.</u>
67:42:11:30 to 67:42:11:32	Repealed.
67:42:11:33	Handwashing.
67:42:11:34	Garbage and refuse, <u>Repealed.</u>
67:42:11:35	Repealed.
67:42:11:36	Insect and rodent control, <u>Repealed.</u>
67:42:11:37	Floor construction, <u>Repealed.</u>
67:42:11:38	Floor carpeting, <u>Repealed.</u>
67:42:11:39	<del>Walls and ceilings — Maintenance and construction</del> <u>Facility maintenance.</u>
67:42:11:40	Housekeeping.

67:42:11:41

Laundry.

67:42:11:42 and 67:42:11:43

Repealed.

67:42:11:44

Pets.

**67:42:11:01. Scope of chapter.** The environmental health standards contained in this chapter apply only to chapters 67:42:07 ~~—Group care centers;~~ 67:42:08 ~~—Residential treatment centers;~~ 67:42:10 ~~—Licensed day care programs;~~ 67:42:14 ~~—Before and after school care,~~ and 67:42:15 ~~—Intensive residential treatment center,~~ unless otherwise specifically indicated.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 15 SDR 94, effective January 1, 1989; 27 SDR 63, effective December 31, 2000; 32 SDR 33, effective August 31, 2005; 39 SDR 220, effective June 27, 2013.

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(6).

**67:42:11:02. Playground area** ~~— Group care centers, residential treatment centers, day care programs, and intensive residential treatment centers.~~ The playground area for ~~group care centers, residential treatment centers, day care programs, and intensive residential treatment centers~~ must have at least 50 fifty square feet of play area for each child each scheduled recess time. ~~Day care programs shall enclose playground areas with a fence.~~ ~~All other facilities~~ and shall enclose be enclosed if the playground ~~if it~~ is within 25 twenty five feet of a high volume traffic area or located near any hazardous area. The fence must be at least four feet high. The playground must be kept free of litter, trash, and weeds.

Swimming pools located on the premises and not emptied after each use must be secured on all sides with a fence that ~~is at least five feet high and constructed to discourage climbing.~~ A wall of the facility or home ~~may not be considered as one side of the fence if that area of the facility or home has access to the pool area~~ prevents child access. Exits from and entrances to the pool must have self-closing, latching gates that must be latched and locked at all times when children are present.

Playground equipment must be properly installed and maintained in good repair. ~~Sandboxes must be kept free from animal excrement and must permit drainage.~~

~~When there are children on the playground, the staff-child ratio required in §§ 67:42:07:03, 67:42:08:03, 67:42:10:07, and 67:42:15:14 must be maintained on the playground.~~

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 15 SDR 94, effective January 1, 1989; 21 SDR 206, effective June 4, 1995; 27 SDR 63, effective December 31, 2000; 31 SDR 40, effective



September 29, 2004; 32 SDR 33, effective August 31, 2005; 39 SDR 220, effective June 27, 2013.

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(2)(6).

——~~**Cross Reference:** Physical standards for facility, § 67:42:10:19.~~

**67:42:11:02.01. Space requirements -- Before and after school care.** ~~A before and after school care center must provide a minimum of 25 square feet of play space indoors for each child in care. Floor space used for permanent and stationary equipment and furniture, storage, halls, bathrooms, offices, kitchens, and mechanical rooms may not be included when calculating the indoor space. If the floor is used for quiet activities or resting, the floor must be covered with a padded covering, such as a rug or carpet. The center must provide space for children to store their personal belongings.~~

~~—— The center must provide a minimum of 50 square feet of outdoor play space for each child each scheduled recess time. Use of nearby playgrounds, parks, hazard-free lots, or streets blocked off by local authorities may be used to meet the minimum requirement if a playground is either not available or the existing playground area does not meet the minimum requirement. Outdoor areas that contain unsafe areas or obstacles that have the potential to cause injury or be life-threatening to children must be contained, fenced, or have barriers to restrict children from the unsafe areas Repealed.~~

**Source:** 27 SDR 63, effective December 31, 2000.

~~—— **General Authority:** SDCL 26-6-16.~~

~~—— **Law Implemented:** SDCL 26-6-16.~~

**67:42:11:05. Sleeping areas.** ~~Group care centers, residential treatment centers, and intensive residential treatment centers must provide a~~ A ~~minimum of 50~~ fifty square feet of floor space must be provided for the first client occupying a sleeping area with an additional ~~30~~ thirty square feet for each additional client occupying the same sleeping space.

~~In day care programs where only short naps or rest periods are scheduled, the facility must provide a minimum of 3 feet between each child. The child must be provided with or must bring a pad, blanket, or rug for this purpose. For overnight care, the facility must provide a cot or bed for each child in overnight care. A facility must change the crib sheets between use by different children. Cribs and mattresses must be maintained in good repair. Stackable cribs may not be used. Soft bedding materials that could pose a suffocation hazard may not be used in cribs or playpens. Infants must be placed on their backs for sleeping.~~

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 21 SDR 206, effective June 4, 1995; 27 SDR 63, effective December 31, 2000; 31 SDR 40, effective September 29, 2004; 32 SDR 33, effective August 31, 2005; 39 SDR 220, effective June 27, 2013.

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(2)(6).

**67:42:11:06. Toilet facilities.** If a group care center, residential treatment center, or intensive residential treatment center provides care for both male and female clients, it shall provide separate toilet facilities for each gender. There must be a minimum of one toilet and one hand lavatory for every ~~12~~ twelve male clients and a minimum of one toilet and one hand lavatory for every ~~12~~ twelve female clients. Showers or bathtubs must be provided at the ratio of one shower or bathtub for every ~~5~~ five male clients and one shower or bathtub for every ~~5~~ five female clients.

~~Day care programs and before and after school care programs shall provide a minimum of one toilet and one hand lavatory for every 15 children. The facility shall maintain separate bathrooms for each gender. A facility serving more than 20 children shall have a service sink for cleaning mops or similar wet floor cleaning tools and for disposing of mop water and similar liquid waste. Day care programs shall either have a permanently plumbed bathtub or a portable bathtub for the bathing of infants and toddlers. Bathtubs must be emptied immediately after each individual use and must be sanitized with a solution of one ounce of household bleach to one quart of water.~~

~~There must be toilet training equipment for children being toilet trained but this equipment does not count as toilets in the toilet-child ratio.~~

~~Hot and cold water through a mixing faucet must be supplied to all lavatories, showers, or tubs.~~

There must be natural or mechanical ventilation in all restrooms.

The interior surfaces of the room must be finished so that the room is easily cleanable ~~and impervious to moisture penetration~~. Toilet fixtures must be kept clean and in good repair. ~~A supply of toilet tissue must be provided at each toilet at all times. Easily cleanable~~

~~receptacles must be provided for waste materials. Metal receptacles must be lined with plastic liners. Toilet rooms used by women must have at least one covered waste receptacle.~~

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 15 SDR 94, effective January 1, 1989; 21 SDR 206, effective June 4, 1995; 27 SDR 63, effective December 31, 2000; 32 SDR 33, effective August 31, 2005; 39 SDR 220, effective June 27, 2013.

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(2)(6).

**67:42:11:06.01. Diaper changing.** Facilities which care for infants must have a diaper changing table with a top which is easily cleanable and nonabsorbent. The table must be cleaned after each use ~~with a solution of one ounce of household bleach to one quart of water. If a provider finds a product that the provider prefers to use instead of bleach, the provider shall submit the product label to the department. The department, in consultation with the Department of Health, shall review the product and make a determination of whether the product and the provider's established procedures for using the product is an effective and acceptable disinfectant.~~

Soiled ~~disposable~~ diapers must be kept in a leakproof, nonabsorbent container which is kept covered with a tight-fitting lid ~~and disposed of as required in § 67:42:11:35.~~

A hand lavatory is required near the diaper changing area ~~and must be separate from that used in the food preparation area.~~

**Source:** 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 15 SDR 94, effective January 1, 1989; 21 SDR 206, effective June 4, 1995; 31 SDR 40, effective September 29, 2004.

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(2)(6).

**67:42:11:07. Cleaning and sanitizing of equipment.** ~~Equipment, utensils, kitchenware, dining tables, and food contact surfaces of equipment must be washed, rinsed, and sanitized. Manual sanitization must include immersion in a solution of one ounce of household bleach to two gallons of water after each use and following any interruption of operations during which contamination might have occurred. Mechanical sanitization must include a sanitizing cycle in which hot water, not hot air, is used and the water temperature is maintained at 150 degrees Fahrenheit.~~

~~Single service articles may be used only once and must be discarded after use.~~

~~Dining tables must be sanitized after each meal and, if used in the meantime, before the next meal by washing with a solution of one ounce of household bleach to two gallons of water. Food contact surfaces must be free of breaks, open seams, cracks, chips, pits, and similar imperfections.~~

~~Toys capable of being placed in a child's mouth must be washed, rinsed, and sanitized daily by the method described in this section.~~

~~The facility may use any of the sanitizing solutions contained in § 44:02:07:56. If the provider finds a product that the provider prefers to use instead of bleach, the provider shall submit the product label to the department. The department, in consultation with the Department of Health, shall review the product and make a determination of whether the product and the provider's established procedures for using the product is an effective and acceptable disinfectant for a child care program Repealed.~~

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 15 SDR 94, effective January 1, 1989; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013.

**General Authority:** ~~SDCL 26-6-16.~~

**Law Implemented:** ~~SDCL 26-6-16.~~



**67:42:11:08. Ventilation of cooking areas.** A facility that provides care for more than ~~20~~ twenty children must provide a ventilation hood over all cooking areas for the type of appliance and intended use as required in § 61:15:01:01. ~~A ventilation hood must be constructed of metal, vented to the outside, and have a removable grease filter.~~

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 15 SDR 94, effective January 1, 1989; 21 SDR 206, effective June 4, 1995; 27 SDR 63, effective December 31, 2000; 31 SDR 40, effective September 29, 2004.

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(2)(5).

**67:42:11:09. Water source and temperature.** Enough water for the needs of the program must be provided. Water must be derived from a community water system or from a water system that is tested at least annually by ~~the Department of Agriculture and Natural Resources~~ or a laboratory certified by the ~~Department of Health to conduct such tests~~ State of South Dakota to test drinking water. The water must be tested for bacteria and nitrate levels and must be safe for consumption. The provider shall maintain written documentation of the test results.

The hot water supply system must be large enough to meet the peak hot water demands of the facility. Hot water from plumbing fixtures normally utilized for the everyday living activities of clients may not exceed ~~120~~ one hundred twenty degrees Fahrenheit.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 14 SDR 37, effective September 13, 1987; 15 SDR 94, effective January 1, 1989; 27 SDR 63, effective December 31, 2000; 39 SDR 220, effective June 27, 2013; 43 SDR 31, effective September 12, 2016; SL 2021, ch 1, §§ 8, 19, effective April 19, 2021.

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(2)(6).

**Cross-References:** General rules, ~~ch~~ chapter 74:02:01;

Water system operators, ~~art~~ article 74:21.

**67:42:11:10. Electrical outlet covers.** ~~Except for day care centers and group family day care homes, facilities~~ Facilities caring for children aged four years and younger must cover unused electrical outlets with an Underwriters' Laboratories approved electrical outlet cover. Facilities that are for children aged four years and younger and which were constructed or approved after June 4, 1995, must have self-closing outlet covers that cover outlet holes automatically upon removal of appliance prongs.

~~Day care centers must meet the requirements of § 61:15:05:13.~~

~~Group family day care homes must meet the requirements of § 61:15:06:10.~~

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 21 SDR 206, effective June 4, 1995; 27 SDR 63, effective December 31, 2000.

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(2)(5)(6).

**67:42:11:12. Heating, ventilating, and cooling systems.** Each facility must have a working heating and cooling system.

Heating, ventilating, and cooling systems must be inspected at least once a year by a person qualified through experience in heating and ventilation maintenance. Verification of the inspection must be a written statement made by the person making the inspection and must include the date of inspection and the person's signature. This written verification must be kept on file in the facility.

~~Electric fans, if used, must be guarded to limit the size of the opening in the blade guard to less than one-quarter inch.~~

**Source:** 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 15 SDR 94, effective January 1, 1989; 21 SDR 206, effective June 4, 1995; 39 SDR 220, effective June 27, 2013.

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(2)(3)(6).

**67:42:11:14. Railings.** All floor and wall openings, open-sided stairs, ~~open-sided mezzanine areas~~, platforms, and decks which are ~~30~~ thirty inches or more above the adjacent ground level must be guarded by a railing or barrier. ~~The railing or barrier must be constructed to prevent a child from crawling or falling through or becoming entrapped.~~

**Source:** 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 21 SDR 206, effective June 4, 1995; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013.

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(2)(6).

**67:42:11:15. ~~Other hazardous~~ Hazardous conditions. Hazardous cleaning solutions, chemicals, poisons, and substances must be labeled, stored in a safe place, and kept in an enclosed cabinet that is not accessible to clients. The department may direct a facility to remove or correct other hazardous conditions or circumstances not covered in this chapter if the department considers the conditions or circumstances to have the potential to cause injury or illness to clients or staff.**

**Source:** 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987.

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(2)(6).

**67:42:11:15.01. Traffic through food preparation area prohibited.** ~~The traffic of unauthorized persons through the food preparation, food storage, and ware washing area is prohibited~~ Repealed.

**Source:** 31 SDR 40, effective September 29, 2004.

**General Authority:** ~~SDCL 26-6-16.~~

**Law Implemented:** ~~SDCL 26-6-16.~~

**67:42:11:16. Food supplies.** Food must be free from spoilage, filth, or other contamination and must be safe for human consumption. The use of home-canned foods is prohibited.

Fluid milk and fluid milk products used or served must be pasteurized and must meet Grade A quality standards as defined in SDCL 39-6-1(4)(2). Dry milk and dry milk products must be made from pasteurized milk and milk products and may be used in food preparation but not for drinking.

~~Only clean whole eggs with shell intact and without cracks, pasteurized liquid, frozen, or dry eggs, or pasteurized egg products may be used, except that hard-boiled, peeled eggs commercially prepared and packaged may be used.~~

The temperature of potentially hazardous foods as defined in § 44:02:07:18 must be 41 ~~forty-one~~ degrees Fahrenheit or below or 140 ~~one hundred forty~~ degrees Fahrenheit or above at all times except as ~~other~~ otherwise provided in this chapter. Potentially hazardous foods must be reheated rapidly to 165 ~~one hundred sixty-five~~ degrees Fahrenheit or higher throughout before being served.

~~Frozen foods must be kept frozen and must be stored at a temperature of zero degrees Fahrenheit or below and must be thawed in one of the following ways:~~

- ~~—— (1) In refrigerated units at a temperature not exceeding 41 degrees Fahrenheit;~~
- ~~—— (2) Under potable running water that is 70 degrees Fahrenheit or below;~~
- ~~—— (3) In a microwave oven if the food will be immediately transferred to conventional cooking facilities as part of a continuous cooking process;~~
- ~~—— (4) In a microwave oven if the entire, uninterrupted cooking process takes place in the microwave oven; or~~



~~—— (5) As a part of the conventional cooking process.~~

Food service areas must have light fixtures which contain shielded or shatterproof bulbs.

**Source:** 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 21 SDR 206, effective June 4, 1995; 39 SDR 220, effective June 27, 2013.

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(2)(6).

**67:42:11:18. Food storage —~~General requirements.~~** The following are general requirements for food storage:

(1) Food, whether raw or prepared, if removed from the container or package in which it was obtained, must be stored in a clean, covered container except during necessary periods of preparation or service. Container covers must be impervious and nonabsorbent except that linens or napkins may be used for lining or covering bread or roll containers;

(2) Containers of food must be stored a minimum of six inches above the floor in a manner that protects the food from splash and other contamination and that permits easy cleaning of the storage area;

(3) Metal pressurized beverage containers and cased food packaged in cans, glass, or other waterproof containers need not be elevated when the food container is not exposed to floor moisture;

(4) Food and containers of food may not be stored under exposed or unprotected sewer lines or water lines except for automatic fire protection sprinkler heads that may be required by law. The storage of food in toilet rooms or vestibules is prohibited; and

(5) Food not subject to further washing or cooking before serving must be stored in a way that protects it against cross contamination from food requiring washing or cooking.

**Source:** 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 39 SDR 220, effective June 27, 2013.

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(2)(6).

**67:42:11:20. Raw fruits and vegetables.** ~~Raw fruits and raw vegetables must be thoroughly washed with potable water before being cooked or served~~ Repealed.

**Source:** 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987.

**General Authority:** ~~SDCL 26-6-16.~~

**Law Implemented:** ~~SDCL 26-6-16.~~

**67:42:11:23. Employee health.** ~~No person may work in a food service establishment in any capacity which can result in the contamination of food or food contact surfaces or in the transmission of disease to another person under any of the following circumstances:~~

- ~~—— (1) The person has an acute respiratory infection;~~
- ~~—— (2) The person is infected with or is a carrier of any disease that can be transmitted by foods; or~~
- ~~—— (3) The person has a boil or an infected wound Repealed.~~

**Source:** 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987.

**General Authority:** ~~SDCL 26-6-16.~~

**Law Implemented:** ~~SDCL 26-6-16.~~

**67:42:11:29. Equipment and utensil cleaning and storage.** Equipment, utensils, kitchenware, dining tables, and food contact surfaces of equipment must be washed, rinsed, and sanitized after each use. Manual sanitization must include immersion in a solution of one ounce of household bleach to two gallons of water after each use and following any interruption of operations during which contamination might have occurred. Mechanical sanitization must include a sanitizing cycle in which hot water, not hot air, is used and the water temperature is maintained at one hundred fifty degrees Fahrenheit.

Dining tables must be sanitized after each meal. Food contact surfaces must be kept clean and sanitized.

Toys capable of being placed in a child's mouth must be washed, rinsed, and sanitized daily.

Equipment and utensils must be stored as follows:

(1) Cleaning and sanitized utensils and equipment must be stored at least six inches above the floor in a clean, dry location in a way that protects them from contamination in any form. The food contact surfaces of fixed equipment must be protected from contamination. Equipment and utensils may not be placed under exposed sewer lines or water lines except for automatic fire protection sprinkler heads;

(2) Utensils not air dried before being stored must be stored in a self-draining position; and

(3) Cups and glasses must be stored inverted. Other stored utensils must be stored covered or inverted wherever practical. Knives, forks, and spoons must be stored in facilities that present the handle to the consumer or employee.

**Source:** 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 43 SDR 31, effective September 12, 2016.

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(2)(6).

**Cross Reference:** ~~Cleaning and sanitizing of equipment, § 67:42:11:07.~~

**67:42:11:33. Handwashing.** Staff members shall wash their hands with soap after using the restroom, after changing a diaper, after working with soiled clothing or bedding, and before handling food.

~~Day care programs shall ensure that a child's hands are washed before and after meals and after the child has used the bathroom.~~

Handwashing facilities must be located to permit convenient use by both employees and clients and must meet the following requirements:

- (1) At least one handwashing facility must be provided in the food preparation area or directly adjacent to the food preparation area;
- (2) Handwashing facilities must be located in all toilet rooms;
- (3) Handwashing facilities must be located near any diaper changing area;
- (4) A supply of hand cleansing soap or detergent must be available at each handwashing facility; and
- (5) A supply of single-use towels must be available at each handwashing facility.

**Source:** 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 15 SDR 94, effective January 1, 1989; 21 SDR 206, effective June 4, 1995; 39 SDR 220, effective June 27, 2013.

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(2)(6).

**67:42:11:34. Garbage and refuse.** ~~Garbage and refuse must be kept in durable, easily cleanable, insectproof, and rodentproof containers that do not leak and do not absorb liquids. — Garbage and refuse on the premises must be stored in a manner and disposed of often enough to make them inaccessible to animals and insects. Outside storage of unprotected plastic bags is prohibited~~ Repealed.

**Source:** 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 15 SDR 94, effective January 1, 1989; 21 SDR 206, effective June 4, 1995; 27 SDR 63, effective December 31, 2000; 39 SDR 220, effective June 27, 2013.

~~**General Authority:** SDCL 26-6-16.~~

~~**Law Implemented:** SDCL 26-6-16.~~



**67:42:11:36. Insect and rodent control.** ~~Effective measures must be taken to minimize the presence of rodents, flies, cockroaches, and other insects on the premises. The premises must be maintained so as to prevent the harborage or feeding of insects or rodents. Openings to the outside must be effectively protected against the entrance of rodents. Outside openings must be protected against the entrance of insects by tight fitting, self closing doors, closed windows, screening, controlled air currents, or other means. Screen doors must be self closing and screens for windows, doors, skylights, transoms, intake and exhaust air ducts, and other openings to the outside must be tight fitting and free of breaks. Screening material may not be less than 16 mesh to the inch Repealed.~~

**Source:** 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987.

**General Authority:** ~~SDCL 26-6-16.~~

**Law Implemented:** ~~SDCL 26-6-16.~~

**67:42:11:37. Floor construction.** ~~Floors in food preparation areas, wet areas, laundry areas, and storage areas must be constructed of smooth durable material such as sealed concrete, terrazzo, ceramic tile, durable grades of linoleum or plastic, or tight wood impregnated with plastic and must be maintained in good repair. Nothing in this section prohibits the use of antislip floor covering in areas where necessary for safety purposes~~  
Repealed.

**Source:** 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987.

**General Authority:** ~~SDCL 26-6-16.~~

**Law Implemented:** ~~SDCL 26-6-16.~~

**67:42:11:38. Floor carpeting.** ~~Carpeting, if used as a floor covering, must be of closely woven construction, installed according to the manufacturer's recommendations, easily cleanable, and maintained in good repair. Carpeting may not be used in food preparation, equipment washing, and utensil washing areas where it would be exposed to large amounts of grease and water, in food storage rooms, or in restrooms Repealed.~~

**Source:** 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 21 SDR 206, effective June 4, 1995.

**General Authority:** ~~SDCL 26-6-16.~~

**Law Implemented:** ~~SDCL 26-6-16.~~

~~67:42:11:39. Walls and ceilings — Maintenance and construction~~ **Facility maintenance**. Walls Floors, walls, and ceilings, including doors, windows, skylights, and similar closures, must be easily cleanable, maintained, and in good repair. ~~The walls, including nonsupporting partitions, wall coverings, and ceilings of walk-in refrigeration units, food preparation areas, equipment washing and utensil washing areas, and vestibules must be easily cleanable. Concrete or pumice blocks used for interior wall construction in these locations must be finished and sealed to provide an easily cleanable surface. Wall construction in living areas such as bedrooms, lounges, and living rooms need not be of nonabsorbent or smooth construction but must be amenable to easy cleaning and must be maintained in good repair.~~

**Source:** 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 39 SDR 220, effective June 27, 2013; 45 SDR 159, effective July 1, 2019.

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(2)(6).

**67:42:11:40. Housekeeping.** All parts of the facility must be kept clean, neat, and free of litter and rubbish. ~~Equipment and supplies must be provided for cleaning of all surfaces. Cleaning equipment must be maintained in a safe, sanitary condition. Cleaning must be performed in a manner that minimizes the spread of pathogenic microorganisms in the facility's atmosphere. Cleaning must include all environmental surfaces within the facility that are subject to contamination from dust, direct splash, or pathogenic organisms. Hazardous cleaning solutions, chemicals, poisons, and substances must be labeled, stored in a safe place, and kept in an enclosed cabinet that is not accessible to clients~~ Garbage must be kept in durable, easily cleanable, insect proof, and rodent proof containers, that do not leak or absorb liquids. Effective measures must be taken to minimize the presence of rodents, flies, cockroaches, and other insects on the premises.

**Source:** 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987.

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(2)(6).

**CHAPTER 67:42:14**  
**BEFORE AND AFTER SCHOOL CARE**

**(Repealed)**

Section

67:42:14:01	Definitions, <u>Repealed.</u>
67:42:14:02	Repealed.
67:42:14:03	Center director or proprietor, <u>Repealed.</u>
67:42:14:04 and 67:42:14:05	Repealed.
67:42:14:06	Qualifications for individual responsible for program planning and staff supervision, <u>Repealed.</u>
67:42:14:07	Repealed.
67:42:14:08	Staff qualifications, <u>Repealed.</u>
67:42:14:09	Volunteers, <u>Repealed.</u>
67:42:14:10	Employee hiring practices, <u>Repealed.</u>
67:42:14:11	Repealed.
67:42:14:12	Staff orientation, <u>Repealed.</u>
67:42:14:13	Staff training, <u>Repealed.</u>
67:42:14:14	Staff responsibility for reporting suspected incidents of child abuse or neglect, <u>Repealed.</u>
67:42:14:15	Center activities, <u>Repealed.</u>
67:42:14:16	Center policies, <u>Repealed.</u>
67:42:14:17	Staff-child ratio, <u>Repealed.</u>

67:42:14:18	Repealed.
67:42:14:19	Transportation of children in care, <u>Repealed</u> .
67:42:14:20	Discipline, <u>Repealed</u> .
67:42:14:21	Nutritional requirements, <u>Repealed</u> .
67:42:14:22	Food preparation, <u>Repealed</u> .
67:42:14:23	Required records, <u>Repealed</u> .
67:42:14:24	Medications, <u>Repealed</u> .
67:42:14:25	Parental involvement, <u>Repealed</u> .
67:42:14:26	Building plans, <u>Repealed</u> .
67:42:14:27	Environmental health standards, <u>Repealed</u> .
67:42:14:28	Minimum fire and life safety requirements, <u>Repealed</u> .

**67:42:14:01. Definitions.** Terms used in this chapter mean:

~~—— (1) "Activity grouping," a group of children assigned to a staff member or a team of staff members and occupying an individual classroom or a well defined space within a larger room;~~

~~—— (2) "Before and after school care," care and supervision that serves as a substitute for parental care before and after school hours of children who are five years of age or older and enrolled in school;~~

~~—— (3) "Parent," a child's natural parent, adoptive parent, stepparent, or legal guardian;~~

~~—— (4) "Staff," individuals employed by the before and after school care center and volunteers providing services at the center regardless of whether or not they have direct contact with the child in care; and~~

~~—— (5) "Verifiable experience," experiences, paid or unpaid, which are documented through items such as written letters, school transcripts, or employment records from a previous school advisor, employer, or supervisor Repealed.~~

**Source:** 27 SDR 63, effective December 31, 2000; 39 SDR 220, effective June 27, 2013.

~~—— **General Authority:** SDCL 26-6-16.~~

~~—— **Law Implemented:** SDCL 26-6-16.~~

**67:42:14:02. Application for licensure.** Repealed.

**Source:** 27 SDR 63, effective December 31, 2000; repealed, 39 SDR 220, effective June 27, 2013.

**67:42:14:03. Center director or proprietor.** ~~The center director or proprietor must be at least 18 years old and certified in cardio-pulmonary resuscitation (CPR) through an entity that provides hands-on skills testing as part of the training Repealed.~~

**Source:** 27 SDR 63, effective December 31, 2000; 39 SDR 220, effective June 27, 2013.

~~—— **General Authority:** SDCL 26-6-16.~~

~~—— **Law Implemented:** SDCL 26-6-16.~~

**67:42:14:04. Center operator -- Qualifications.** Repealed.

**Source:** 27 SDR 63, effective December 31, 2000; repealed, 39 SDR 220, effective June 27, 2013.

**67:42:14:05. Supervisor -- Responsibilities.** Repealed.



**Source:** 27 SDR 63, effective December 31, 2000; repealed, 39 SDR 220, effective June 27, 2013.

**67:42:14:06. Qualifications for individual responsible for program planning and staff supervision.** ~~The individual responsible for program planning and staff supervision must be at least 18 years old and meet one of the following requirements:~~

- ~~—— (1) Have a bachelor's degree in the field of education or human development;~~
- ~~—— (2) Have a valid Child Development Associate (CDA) credential, or a similar credential with emphasis in the care of school age children, and one year of verifiable experience caring for and supervising four or more school aged children;~~
- ~~—— (3) Have two years of college coursework in the field of education with emphasis in the areas of preparing and implementing lesson plans, human growth and development, behavior management, interpersonal communication, art education, music education, physical education, and recreation and one year of verifiable experience caring for and supervising four or more school aged children; or~~
- ~~—— (4) Have four years of verifiable experience in the care and supervision of four or more school aged children in a child care setting, which children were not related to the individual providing care Repealed.~~

**Source:** 27 SDR 63, effective December 31, 2000; 39 SDR 220, effective June 27, 2013.

~~—— **General Authority:** SDCL 26-6-16.~~

~~—— **Law Implemented:** SDCL 26-6-16.~~

**67:42:14:07. Site coordinator.** Repealed.

**Source:** 27 SDR 63, effective December 31, 2000; repealed, 39 SDR 220, effective June 27, 2013.

**67:42:14:08. Staff qualifications.** ~~Staff work under the direction and supervision of the director or program planner and provide direct guidance to and supervision of the children in care. If the site serves children who are 12 years of age and older, staff must be at least 16 years old. If services are limited to children under age 12, staff must be at least 14 years old. A staff member may be included in the staff child ratio if the staff member is at least 16 years old. Staff who are under the age of 18 may not be left alone with children in care and must receive direct and constant supervision from the director or program planner Repealed.~~

**Source:** 27 SDR 63, effective December 31, 2000; 39 SDR 220, effective June 27, 2013.

~~—— **General Authority:** SDCL 26-6-16.~~

~~—— **Law Implemented:** SDCL 26-6-16.~~

~~67:42:14:09. Volunteers. If a volunteer is used to meet a staff position, the volunteer must meet the applicable staffing requirements Repealed.~~

~~Source: 27 SDR 63, effective December 31, 2000.~~

~~General Authority: SDCL 26-6-16.~~

~~Law Implemented: SDCL 26-6-16.~~

~~67:42:14:10. Employee hiring practices. Before hiring an individual, the director or proprietor shall contact at least three references that may include the individual's former employers. The contacts must relate to the individual's character and competence. The references may not be related to the prospective staff member and must be individuals who have known the prospective staff member prior to the time of application. References must be in the form of a documented conversation or written letter and must be on record before hiring the individual.~~

~~Before an individual works or provides volunteer services at the center, the center shall comply with the screening requirements of §§ 67:42:16:04 and 67:42:16:05 Repealed.~~

~~Source: 27 SDR 63, effective December 31, 2000; 39 SDR 220, effective June 27, 2013.~~

~~General Authority: SDCL 26-6-16.~~

~~Law Implemented: SDCL 26-6-14.3, 26-6-14.4, 26-6-16, 26-6-23.2.~~

~~67:42:14:11. General requirements for all staff. Repealed.~~

~~Source: 27 SDR 63, effective December 31, 2000; repealed, 39 SDR 220, effective June 27, 2013.~~

~~67:42:14:12. Staff orientation. The center shall provide for orientation of all staff, and documentation of such, to occur within 90 days after the date of employment, in at least the following areas:~~

- ~~(1) Prevention and control of infectious diseases;~~
- ~~(2) Prevention of sudden infant death syndrome and use of safe sleep practices;~~
- ~~(3) Administration of medication;~~
- ~~(4) Prevention of and response to an emergency due to food and allergic reactions;~~
- ~~(5) Building and physical premises safety;~~
- ~~(6) Prevention of shaken baby syndrome and abusive head trauma;~~
- ~~(7) Emergency preparedness and response planning for an emergency resulting from a natural disaster or man-caused event;~~
- ~~(8) Handling and storage of hazardous materials and the appropriate disposal of bio contaminants;~~
- ~~(9) Precautions in transporting a child;~~
- ~~(10) Recognition and reporting of child abuse and neglect;~~
- ~~(11) First aid;~~

~~—— (12) Cardiopulmonary resuscitation (CPR). CPR certification is required prior to a staff member being left unsupervised to care for children; and~~

~~—— (13) Child development.~~

~~—— Documentation of the completed orientation training must be kept in the staff member's personnel file. Orientation training may count toward the required annual training for each staff person during their first year of employment Repealed.~~

**Source:** 27 SDR 63, effective December 31, 2000; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013; 43 SDR 31, effective September 12, 2016; 45 SDR 82, effective December 10, 2018.

~~—— **General Authority:** SDCL 26-6-16.~~

~~—— **Law Implemented:** SDCL 26-6-16(1)(3).~~

~~—— **Cross Reference:** Staff training, § 67:42:14:13.~~

~~**67:42:14:13. Staff training.** The center shall have a written plan for training each staff member and volunteer who works directly with children and is included in the staff-child ratio. The staff member or volunteer shall complete ten hours of training annually from the following areas:~~

- ~~—— (1) Child growth and development;~~
- ~~—— (2) Detecting and reporting child abuse and neglect;~~
- ~~—— (3) Guidance and behavior management;~~
- ~~—— (4) Food handling techniques;~~
- ~~—— (5) Identification and prevention of communicable diseases;~~
- ~~—— (6) Program health and safety;~~
- ~~—— (7) Nutrition for children;~~
- ~~—— (8) Program management and regulation;~~
- ~~—— (9) Communication relations with staff;~~
- ~~—— (10) Cultural diversity;~~
- ~~—— (11) Learning environments;~~
- ~~—— (12) Age-appropriate activities and planning;~~
- ~~—— (13) Professionalism;~~
- ~~—— (14) Partnerships with parents;~~
- ~~—— (15) Inclusion of all children; and~~
- ~~—— (16) Basic first aid.~~

~~—— Instruction provided to members or volunteers while performing their jobs may not be used to meet the requirements of this rule.~~

~~—— Before an initial license is issued, the director or a designated staff person shall complete class instruction in basic first aid. During the hours the facility is in operation, there must be at least one staff person on site who is trained in first aid and is certified in cardiopulmonary resuscitation (CPR). CPR training shall include hands-on skill testing as part of the training. Each staff person shall maintain a valid certification in CPR Repealed.~~

**Source:** 27 SDR 63, effective December 31, 2000; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013; 43 SDR 31, effective September 12, 2016.

~~General Authority:~~ SDCL 26-6-16.

~~Law Implemented:~~ SDCL 26-6-16(1).

**67:42:14:14. Staff responsibility for reporting suspected incidents of child abuse or neglect.** ~~Each staff member is required to read and sign a statement that defines child abuse and neglect and outlines the staff member's responsibility to report all incidents of child abuse or neglect. Each staff member shall, in addition to complying with SDCL 26-8A-3 and 26-8A-8, report any suspected incident of child abuse or neglect to the director or a designee who shall immediately report the suspected incident of in-house child abuse or neglect to the department, police, sheriff, or state's attorney and cooperate fully in the investigation.~~ Repealed.

**Source:** 27 SDR 63, effective December 31, 2000; 39 SDR 220, effective June 27, 2013.

~~General Authority:~~ SDCL 26-6-16.

~~Law Implemented:~~ SDCL 26-6-16, 26-8A-3.

**67:42:14:15. Center activities.** ~~The center's activities must provide a wide variety of activities and experiences for children. The planned daily and monthly activities and experiences must be in writing and posted throughout the facility. The activities must meet the following requirements:~~

- ~~(1) Be age appropriate for and of interest to the children served;~~
- ~~(2) Foster a positive self-concept and sense of independence;~~
- ~~(3) Encourage children to think, reason, question, and experiment;~~
- ~~(4) Enhance physical development, academic achievement, cultural enrichment, cooperation, and promotion of a healthy view of competition;~~
- ~~(5) Encourage sound health and safety and wise use of leisure time;~~
- ~~(6) Encourage awareness of and involvement in the community at large;~~
- ~~(7) Be arranged to accommodate group and individual activities;~~
- ~~(8) Have available a supply of games, books, toys, crafts, and other materials and equipment necessary to carry out the center's activities;~~
- ~~(9) Include ideas and plans for activities suggested by the children in care and their parents; and~~
- ~~(10) Allow for flexibility while providing a balance of active, quiet, inside, and outside activities. If access to outdoor space is limited, this need may be offset by a greater amount of indoor space, such as a gym, permitting an equivalent activity.~~ Repealed.

**Source:** 27 SDR 63, effective December 31, 2000.

~~General Authority:~~ SDCL 26-6-16.

~~Law Implemented:~~ SDCL 26-6-16.

**67:42:14:16. Center policies.** ~~Each before and after school care center must have written policies and procedures concerning the following:~~

- ~~—— (1) Services offered, fees charged, and payment policies;~~
- ~~—— (2) Discipline used for children in care;~~
- ~~—— (3) Requirements for enrollment;~~
- ~~—— (4) Termination of services;~~
- ~~—— (5) Handling and documenting injuries and illnesses;~~
- ~~—— (6) Dispensing medications;~~
- ~~—— (7) Nutritional guidelines and requirements for snacks and meals;~~
- ~~—— (8) Reporting suspected child abuse or neglect, including procedures for ensuring that the alleged incident will not reoccur while waiting for the official investigation and procedures for evaluating the continued employment of any staff member determined to be involved in an incident of child abuse;~~
- ~~—— (9) Notification to a parent when there is a significant change in the center's services or policies;~~
- ~~—— (10) Sharing with the parent information concerning the child's health, development, or behavior;~~
- ~~—— (11) Steps to be followed if a child fails to arrive at the center;~~
- ~~—— (12) Opportunities for parental involvement in program development and center operation;~~
- ~~—— (13) Confidentiality of records and information relating to children in care and their families;~~
- ~~—— (14) Prevention and response to an emergency due to a food or allergic reaction;~~
- ~~—— (15) An emergency preparedness and response plan;~~
- ~~—— (16) Handling and storage of hazardous materials and the disposal of bio contaminants;~~
- ~~—— (17) Proof that immunization levels of all children are current;~~
- ~~—— (18) Separation from other children and notification of the child's parents if a child suffers an illness during the day; and~~
- ~~—— (19) Notification of the Department of Health if a child in the program contracts a communicable disease. The program shall follow the Department of Health's recommendations for addressing a situation involving a communicable disease.~~

~~—— A copy of the center's policies must be provided to each employee and enrolled family and a copy must be available to the department on request Repealed.~~

~~—— **Source:** 27 SDR 63, effective December 31, 2000; 43 SDR 31, effective September 12, 2016.~~

~~—— **General Authority:** SDCL 26-6-16.~~

~~—— **Law Implemented:** SDCL 26-6-16(2)(6), 26-6-20.~~

~~**67:42:14:17. Staff-child ratio.** The center must maintain a staff-child ratio of at least one staff person for every 15 children. The staff person may be included in the ratio if the staff member is at least 16 years of age and provides direct guidance and supervision of the children. The staff child ratio must be maintained while children are on the playground Repealed.~~

**Source:** 27 SDR 63, effective December 31, 2000.

~~General Authority:~~ SDCL 26-6-16.

~~Law Implemented:~~ SDCL 26-6-16.

**67:42:14:18. Limit on number of children allowed in activity grouping.** Repealed.

**Source:** 27 SDR 63, effective December 31, 2000; repealed, 39 SDR 220, effective June 27, 2013.

~~**67:42:14:19. Transportation of children in care.** If the center provides transportation for field trips or other outings, the staff-child ratio established in § 67:42:14:17 must be maintained. In meeting the staff-child ratio, at least one staff member in addition to the driver must be at least 18 years of age.~~

~~A vehicle used to transport children may not carry more people than the vehicle's stated passenger capacity. Repealed.~~

**Source:** 27 SDR 63, effective December 31, 2000; 39 SDR 220, effective June 27, 2013.

~~General Authority:~~ SDCL 26-6-16.

~~Law Implemented:~~ SDCL 26-6-16.

~~**67:42:14:20. Discipline.** Discipline techniques used must offer clear-cut limits with positive guidance and direction to help the child achieve self control and a respect for the rights of others. Discipline may not be delegated to older children or peers. A child may not be placed in an environment that would be harmful or dangerous to the child's physical or emotional health. Use of humiliating or frightening punishment such as the following are prohibited:~~

~~(1) Hitting, pinching, shaking, spanking, or inflicting any other corporal punishment;~~

~~(2) Verbal abuse, threats, or derogatory remarks about self or family;~~

~~(3) Restriction of movement by binding or enclosure in a confined space such as a closet, a locked or unlighted room, or a box or similar cube;~~

~~(4) Withholding or forcing of meals or snacks; and~~

~~(5) Use of substances such as soap, pepper, or hot pepper sauce for punishment of undesirable behaviors. Repealed.~~

**Source:** 27 SDR 63, effective December 31, 2000.

~~General Authority:~~ SDCL 26-6-16.

~~Law Implemented:~~ SDCL 26-6-16.

~~**67:42:14:21. Nutritional requirements.** If a child is in care for four consecutive hours, the child must receive a snack or meal, whichever is appropriate for that time of day. If a child is in care during any normal mealtime hour, the child must receive a meal appropriate for that time of day.~~

~~—— Meals and snacks served at the center must consist of a variety of nutritional foods and must be of sufficient quantity to meet each child's needs.~~

~~—— If the center provides meals, the center must prepare and post menus on a weekly basis~~  
Repealed.

**Source:** 27 SDR 63, effective December 31, 2000; 39 SDR 220, effective June 27, 2013.

~~—— **General Authority:** SDCL 26-6-16.~~

~~—— **Law Implemented:** SDCL 26-6-16.~~

**67:42:14:22. Food preparation.** ~~If a center serves snacks only, there must be an area within the center designated as a snack preparation and serving area. This area must have a sink, dry storage, and refrigeration necessary to meet the needs of the center. The designated area cannot be located in a restroom, utility room, or mechanical room.~~

~~—— If a center provides meals to children, the food must be prepared and served according to the applicable requirements of chapter 67:42:11~~  
Repealed.

**Source:** 27 SDR 63, effective December 31, 2000.

~~—— **General Authority:** SDCL 26-6-16.~~

~~—— **Law Implemented:** SDCL 26-6-16.~~

**67:42:14:23. Required records.** ~~The center shall maintain the following records:~~

~~—— (1) A record for each staff member and volunteer that includes the individual's name, age, address, telephone number, education, work experience, in-service and orientation training, annual training, dates of employment and separation, central registry screening results, results of the reference checks, and the signed child abuse and neglect form required in § 67:42:14:14. The center shall make the personnel records available to the department for verification of the contents; and~~

~~—— (2) An enrollment record for each child that includes the child's name, date of birth, allergies, special needs that the child has, dates of beginning and ending enrollment, names and telephone numbers of the child's parents, name and telephone number of an individual to contact in the event of an emergency, the release signed by the child's parent that allows emergency medical treatment, the name of the school where the child is enrolled, and the medication authorization required under § 67:42:14:24, if applicable. The center shall make the enrollment records available to the department on request and must maintain closed records for a minimum of six months.~~

~~—— If the child's record is maintained at a location other than at the center the child attends, the center the child attends must have the original signed release authorizing emergency medical treatment, the names and phone numbers of the child's parent and doctor, allergies, the name and phone number of a person to contact in case of an emergency, and the authorization to administer medication, if applicable~~  
Repealed.

**Source:** 27 SDR 63, effective December 31, 2000; 39 SDR 220, effective June 27, 2013; 43 SDR 31, effective September 12, 2016.

~~— **General Authority:** SDCL 26-6-16.~~

~~— **Law Implemented:** SDCL 26-6-16(3), 26-6-20.~~

~~— **Cross-References:** Background check, § 67:42:16:04; Prohibition of licensure, registration, or operation by person convicted of child abuse or other felony, or whose name appears on registry — Failure to report as misdemeanor, SDCL 26-6-14.10.~~

~~**67:42:14:24. Medications.** Medications may only be administered with the written consent of the parent or guardian and only if the consent lists the name of the medication and the date or dates the medication is to be administered. A copy of the consent form must be maintained in the child's record. Any medication administered to a child must be documented to include the dose, name of child, time and date administered, and signature of the person administering the medication. This written documentation shall be available to the child's parent or guardian and must be kept for six months following the administration of the medication. Medications must be kept in the original container with the original label intact. The label for prescription medications must contain legible directions for use, the expiration date, the child's name, and the physician's name. Medications must be stored in a place that is inaccessible to children. Medication requiring refrigeration must be placed in another nonabsorbent container and labeled "medications."Repealed.~~

**Source:** 27 SDR 63, effective December 31, 2000; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013.

~~— **General Authority:** SDCL 26-6-16.~~

~~— **Law Implemented:** SDCL 26-6-16.~~

~~**67:42:14:25. Parental involvement.** The center must allow a parent to observe the parent's child or children at any time and immediately on request. The center shall deny access to a parent if the parent is restricted through court order from having contact with the child and the center has been provided with a copy of the court order Repealed.~~

**Source:** 27 SDR 63, effective December 31, 2000.

~~— **General Authority:** SDCL 26-6-16.~~

~~— **Law Implemented:** SDCL 26-6-16.~~

~~**67:42:14:26. Building plans.** Before licensing a center to operate in an existing structure or before building a new structure or renovating or altering an existing structure, the center must submit copies of its building plans to the department for approval. The plans must contain the following information:~~

~~— (1) Interior dimensions of and the intended use of each room;~~

~~— (2) Amount and location of bathroom fixtures;~~

~~— (3) Location of appliances and all other fixtures in the food preparation or kitchen area;~~



- ~~—— (4) Location of interior and exterior doorways and windows;~~
- ~~—— (5) Types of floor coverings for each room;~~
- ~~—— (6) Style of alarm system;~~
- ~~—— (7) Location of fire extinguishers, fire and smoke detectors and audible alarms, and the operation panel for the alarm system;~~
- ~~—— (8) Location of the electrical panel and electrical outlets;~~
- ~~—— (9) Location of the heating and cooling system; and~~
- ~~—— (10) Location of the water heater Repealed.~~

**Source:** 27 SDR 63, effective December 31, 2000.

~~—— **General Authority:** SDCL 26-6-16.~~

~~—— **Law Implemented:** SDCL 26-6-16.~~

~~**67:42:14:27. Environmental health standards.** A before and after school care center must comply with the environmental health standards contained in chapter 67:42:11, unless otherwise specified Repealed.~~

**Source:** 27 SDR 63, effective December 31, 2000.

~~—— **General Authority:** SDCL 26-6-16.~~

~~—— **Law Implemented:** SDCL 26-6-16.~~

~~**67:42:14:28. Minimum fire and life safety requirements.** A program located in a school building shall meet the applicable construction and fire safety requirements of chapters 61:15:01, 61:15:02, and 61:15:07, regardless of the number of children served. A program not located in a school building and serving less than 21 children shall meet the fire and life safety requirements of chapter 61:15:06. A program not located in a school building and serving 21 or more children shall meet the fire and life safety requirements of chapter 61:15:05.~~

~~—— The program shall post the emergency evacuation plans and shall conduct fire drills four times per year and shall conduct one tornado drill. The program shall document the drills.~~

~~—— Combustible materials must be kept away from furnaces, lighting fixtures, and other heat sources. Exit doorways and pathways may not be blocked. Steps and walkways must be kept free from the accumulation of water, ice, snow, or other debris Repealed.~~

**Source:** 27 SDR 63, effective December 31, 2000; 39 SDR 220, effective June 27, 2013.

~~—— **General Authority:** SDCL 26-6-16.~~

~~—— **Law Implemented:** SDCL 26-6-16.~~

**CHAPTER 67:42:16**

**SCOPE OF SERVICES FOR CHILD CARE PROGRAMS**

**(Repealed)**

Section

- 67:42:16:01      Definitions, Repealed.
- 67:42:16:02      Application, Repealed.
- 67:42:16:03      Initial evaluation and approval -- Continuation of licensed operation --  
Renewal of registration certificate, Repealed.
- 67:42:16:04      Background check, Repealed.
- 67:42:16:05      Repealed.
- 67:42:16:06      Notice to facility, Repealed.
- 67:42:16:07      Physical health standards required of applicant and applicant's family,  
Repealed.
- 67:42:16:08      Repealed.
- 67:42:16:09      Reporting incidents or changes in circumstances, Repealed.
- 67:42:16:10      Denial of license or registration certificate, Repealed.
- 67:42:16:11      Revocation of license or registration certificate, Repealed.
- 67:42:16:12      Fair hearing, Repealed.
- 67:42:16:13      Maintenance of records, Repealed.
- 67:42:16:14      Confidentiality, Repealed.
- 67:42:16:15      Transportation, Repealed.
- 67:42:16:16      Insurance, Repealed.

67:42:16:17 Final inspection reports -- Required posting, Repealed.

67:42:16:18 Telephones, Repealed.

67:42:16:19 Supervision, Repealed.

**67:42:16:01. Definitions.** Terms used in this chapter mean:

- (1) ~~"Alternative care," care provided in family day care homes, day care centers, group family day care homes, and before and after school programs;~~
- (2) ~~"Applicant," an individual, agency, institution, or organization which submits an application for a license or registration certificate to the department as provided in this chapter;~~
- (3) ~~"Day care center," a facility for the care and supervision of 21 or more children on a regular basis for part of a day as a supplement to regular parental care;~~
- (4) ~~"Day care program" or "program," refers to both day care centers and group family day care homes;~~
- (5) ~~"Employee applicant," an individual applying to a provider for employment;~~
- (6) ~~"Family day care," the provision of regular care and supervision of no more than 12 children including the provider's own children who are under the age of six years for part of a 24-hour period as a supplement to regular parental care;~~
- (7) ~~"Facility," a family day care home, day care center, group family day care home, before and after school program licensed or registered under the provisions of this chapter;~~
- (8) ~~"Group family day care home," a facility where regular supervision of 13 to 20 children is provided for part of a 24-hour period as a supplement to regular parental care;~~
- (9) ~~"Household member," a person who uses a facility as a permanent or part-time residence and who may have contact with children in the facility;~~
- (10) ~~"License," the document described in SDCL 26-6-15 which certifies that a provider meets applicable licensing standards contained in this chapter;~~
- (11) ~~"Medication," a substance that is intended to relieve pain or treat disease;~~
- (12) ~~"Provider," an individual, agency, institution, or organization providing services covered in this chapter;~~
- (13) ~~"Provider applicant," an individual, agency, institution, or organization applying to be a provider under this chapter;~~
- (14) ~~"Helper," an employee or volunteer present in the family day care home to assist with the care of children;~~

~~—— (15) "Registration certificate," the document described in SDCL 26-6-15 which certifies that a provider meets the family day care registration standards contained in chapter 67:42:03;~~

~~—— (16) "Staff member" or "staff person," an employee or volunteer of a facility; and~~

~~—— (17) "Volunteer applicant," an individual applying to provide voluntary services for a provider Repealed.~~

**Source:** 39 SDR 220, effective June 27, 2013; 43 SDR 31, effective September 12, 2016.

~~—— **General Authority:** SDCL 26-6-16.~~

~~—— **Law Implemented:** SDCL 26-6-16.~~

**67:42:16:02. Application.** ~~The provisions of this chapter apply to alternative care facilities regulated by chapters 67:42:03, 67:42:10, and 67:42:14 Repealed.~~

**Source:** 39 SDR 220, effective June 27, 2013.

~~—— **General Authority:** SDCL 26-6-16.~~

~~—— **Law Implemented:** SDCL 26-6-16.~~

**67:42:16:03. Initial evaluation and approval -- Continuation of licensed operation -- Renewal of registration certificate.** ~~The department's initial evaluation of the applicant includes reference checks, personal interviews, a screening for records of abuse or neglect, a background check, and on-site visits. The applicant shall provide three references.~~

~~—— Based on the inspection, the department shall determine whether to issue a license or registration certificate.~~

~~—— Continuation of a license is based on the department's annual inspection of the licensed facility and care provided. Renewal of a registration certificate is based on the department's annual inspection of the facility and care provided Repealed.~~

**Source:** 39 SDR 220, effective June 27, 2013; 43 SDR 31, effective September 12, 2016.

~~—— **General Authority:** SDCL 26-6-16.~~

~~—— **Law Implemented:** SDCL 26-6-16(10)(12).~~

~~—— **Cross Reference:** Prohibition of licensure, registration, or operation by person convicted of child abuse or other felony, or whose name appears on registry Failure to report as misdemeanor, SDCL 26-6-14.10; Criminal background checks, 42 U.S.C § 9858f (July 1, 2016).~~

**67:42:16:04. Background check.** ~~The department shall secure a background check to obtain information concerning convictions for criminal offenses or substantiated reports of child abuse or neglect by an individual that provides care for or has unsupervised access to a~~

~~child in care. This includes a prospective provider of family day care, a helper, a person living in a prospective family day care and a staff member in a day care program and before and after school program. An individual is prohibited from working in a licensed child care program or family day care if the background check detects any of the following:~~

- ~~—— (1) A crime that would indicate harmful behavior towards children;~~
- ~~—— (2) A crime of violence as defined by SDCL 22-1-2 or a similar statute from another state;~~
- ~~—— (3) A sex crime pursuant to SDCL chapters 22-22 or 22-24A or SDCL 22-22A-3 or similar statutes from another state;~~
- ~~—— (4) A felony conviction for domestic abuse, physical assault or battery;~~
- ~~—— (5) Within the preceding five years, a conviction for any other felony; or~~
- ~~—— (6) A substantiated report of child abuse or neglect.~~

~~—— A background check is required at least once during every five year period following the initial submission Repealed.~~

~~Source: 39 SDR 220, effective June 27, 2013; 43 SDR 31, effective September 12, 2016.~~

~~—— **General Authority:** SDCL 26-6-16.~~

~~—— **Law Implemented:** SDCL 26-6-16(11).~~

**67:42:16:05. Screening for substantiated reports of abuse and neglect. Repealed.**

~~Source: 39 SDR 220, effective June 27, 2013; 43 SDR 31, effective September 12, 2016.~~

~~**67:42:16:06. Notice to facility.** The department shall notify the facility that the name of the facility's employee, employee applicant, volunteer, or volunteer applicant was located through the screening process when one of the following occurs:~~

- ~~—— (1) Thirty days have lapsed since the department notified the individual that the name was located and the individual has not requested a review;~~
- ~~—— (2) Thirty days have lapsed since a review was held which upheld the department's action and the individual has not requested a fair hearing;~~
- ~~—— (3) A fair hearing was held and the decision upheld the department's action; or~~
- ~~—— (4) A screening in a state other than South Dakota resulted in a finding as outlined in SDCL 26-6-23.1 Repealed.~~

~~Source: 39 SDR 220, effective June 27, 2013.~~

~~—— **General Authority:** SDCL 26-6-16.~~

~~—— **Law Implemented:** SDCL 26-6-16.~~

~~**67:42:16:07. Physical health standards required of applicant and applicant's family.** An applicant for family day care must have a physical examination. A physical examination completed within the 12 months preceding the date of application is acceptable.~~

~~The applicant shall obtain the physical examination forms from the department. The forms must be completed by the attending physician, physician's assistant, or certified nurse practitioner and returned to the department.~~

~~— The applicant shall also present evidence to the department that each household member under the age of 18 meets the Department of Health's requirements for immunizations.~~

~~— The department may request additional medical statements if a situation, such as a change in the health of the applicant or another household member indicates that an additional medical statement is desirable Repealed.~~

**Source:** 39 SDR 220, effective June 27, 2013.

~~— **General Authority:** SDCL 26-6-16.~~

~~— **Law Implemented:** SDCL 26-6-16.~~

**67:42:16:08. Qualifications of substitute providers.** Repealed.

**Source:** 39 SDR 220, effective June 27, 2013; 43 SDR 31, effective September 12, 2016.

~~**67:42:16:09. Reporting incidents or changes in circumstances.** The provider shall report a change in circumstances that may affect the provider's ability to comply with the requirements of the provider's license or registration certificate or ability to provide adequate care. A change in circumstances includes items such as a change of address, a change in the household size, a change in the household composition, a change in the condition of the facility or home, or involvement with the Division of Child Protection Services or law enforcement concerning allegations of child abuse or neglect. The report must be made to the provider's licensing worker or agency within 24 hours after the change in circumstance occurs.~~

~~— The provider shall immediately report all incidents of suspected child abuse or neglect either to the department or to law enforcement officials.~~

~~— A facility shall notify the department within 24 hours after the occurrence of an unusual incident such as fire or serious injury to a child or serious illness that results in the hospitalization of the child or the death of a child while the child is in care Repealed.~~

**Source:** 39 SDR 220, effective June 27, 2013.

~~— **General Authority:** SDCL 26-6-16.~~

~~— **Law Implemented:** SDCL 26-6-16.~~

~~**67:42:16:10. Denial of license or registration certificate.** The department may deny a license or registration certificate to an applicant based on an evaluation, substantiated by facts, showing that the applicant does not meet standards for care.~~

~~Within 60 days after completion of the application, the applicant must receive a written notice of approval or denial of a license or registration certificate. If the application is denied, the notice must include the reasons for the denial. An applicant may reapply when the applicant has taken corrective action related to the reasons for the original denial of the license or registration certificate~~ Repealed.

~~Source:~~ 39 SDR 220, effective June 27, 2013.

~~General Authority:~~ SDCL 26-6-16.

~~Law Implemented:~~ SDCL 25-7A-56, 26-6-16.

**67:42:16:11. Revocation of license or registration certificate.** ~~Violation of the provisions of this chapter are grounds for revocation of a license or registration certificate. Before a license or registration certificate is revoked, the department shall give a 30-day's written notice of revocation to the provider and shall make full disclosure of the reasons for revocation. The 30-day written notice is not required if the revocation is necessary to prevent danger to the life, health, or safety of a child.~~

~~The provider may not reapply for a licensure or registration certificate for at least one year after the date of revocation~~ Repealed.

~~Source:~~ 39 SDR 220, effective June 27, 2013.

~~General Authority:~~ SDCL 26-6-16.

~~Law Implemented:~~ SDCL 26-6-16, 26-6-23, 26-6-24.

**67:42:16:12. Fair hearing.** ~~A provider applicant, an employee applicant, a volunteer, a volunteer applicant, or a provider is entitled to a fair hearing if aggrieved or dissatisfied with any action or inaction on the part of the department. Fair hearings are conducted under the provisions of chapter 67:17:02~~ Repealed.

~~Source:~~ 39 SDR 220, effective June 27, 2013.

~~General Authority:~~ SDCL 26-6-16.

~~Law Implemented:~~ SDCL 26-6-16.

**67:42:16:13. Maintenance of records.** ~~A record must be maintained by the provider on each child. The record must include the child's name, date of enrollment, date enrollment is terminated, the names and contact information of the child's parent or person to contact in the event of an emergency, and any other information required by the department or desired by the provider. A provider shall maintain these records for a period of six months after the child ceases receiving care~~ Repealed.

~~Source:~~ 39 SDR 220, effective June 27, 2013; 43 SDR 31, effective September 12, 2016.

~~General Authority:~~ SDCL 26-6-16.

~~Law Implemented:~~ SDCL 26-6-16(3).



~~67:42:16:14. Confidentiality. The files and records of the provider shall be kept confidential. A provider shall maintain in confidence all information concerning a child. Details of a child's life or that of the child's family may not be shared with unauthorized individuals unless a signed authorization is obtained. The provider shall make its files and records available for inspection by the department for registration or licensure purposes~~  
Repealed.

~~Source: 39 SDR 220, effective June 27, 2013.~~

~~General Authority: SDCL 26-6-16.~~

~~Law Implemented: SDCL 26-6-16.~~

~~67:42:16:15. Transportation. A vehicle used for transportation may not carry more people than its stated passenger capacity. Except when transporting children to and from school, the required staff child ratio must be maintained when children are in transport~~  
Repealed.

~~Source: 39 SDR 220, effective June 27, 2013.~~

~~General Authority: SDCL 26-6-16.~~

~~Law Implemented: SDCL 26-6-16.~~

~~67:42:16:16. Insurance. Each day care center, group family day care home, and before and after school program shall carry liability insurance. Each vehicle used for transporting children must have liability insurance that covers the children being transported~~  
Repealed.

~~Source: 39 SDR 220, effective June 27, 2013.~~

~~General Authority: SDCL 26-6-16.~~

~~Law Implemented: SDCL 26-6-16.~~

~~67:42:16:17. Final inspection reports -- Required posting. Each facility shall post, in a visible location within the facility, a copy of the results of the facility's latest inspection. If the inspection resulted in a plan of correction, the facility shall maintain a copy of the plan and make it available to individuals on request. The facility shall also post the department's telephone number and address for individuals desiring more information concerning the facility's inspection~~  
Repealed.

~~Source: 39 SDR 220, effective June 27, 2013.~~

~~General Authority: SDCL 26-6-16.~~

~~Law Implemented: SDCL 26-6-11.~~

~~67:42:16:18. Telephones. Each facility shall provide one nonpay telephone which can be used for general and emergency uses~~  
Repealed.

~~Source: 39 SDR 220, effective June 27, 2013.~~

~~General Authority: SDCL 26-6-16.~~

~~Law Implemented: SDCL 26-6-16.~~

**67:42:16:19. Supervision.** ~~The provider and staff members in a registered family day care home, licensed child care program, or a before and after school program are responsible for the direct care, protection, supervision and guidance of every child through active involvement or direct observation~~ Repealed.

**Source:** 43 SDR 31, effective September 12, 2016.

~~General Authority:~~ SDCL 26-6-16.

~~Law Implemented:~~ SDCL 26-6-16(6).

**CHAPTER 67:42:17**  
**CHILD CARE LICENSING**

Section

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**67:42:17:01. Definitions.** Terms used in this chapter mean:

- (1) "Applicant," an individual, agency, institution, or organization which submits an application for a license or registration certificate to the department as provided in this chapter;
- (2) "Center program," includes day care center as listed in SDCL subdivision 26-6-14(3) and group family day care home as listed in SDCL subdivision 26-6-14(5);
- (3) "Director," the representative of the agency or organization responsible for the center or school-age program;
- (4) "Family day care," as defined in SDCL 26-6-14.1 and meets the registration requirements of SDCL 26-6-14.2;
- (5) "Household member," a person residing in a home or facility used for the purpose of providing care and supervision to children who may have contact with the children in the facility;
- (6) "License," the document described in SDCL 26-6-15 that certifies a provider meets the licensing standards contained in this chapter;
- (7) "Medication," a substance intended to relieve pain or treat an illness or disease which includes both prescription and non-prescription medications;
- (8) "Night-time care," care provided for a child between the hours of 7:00 p.m. and 6:00 a.m.;
- (9) "Parent," a child's natural parent, adoptive parent, stepparent, or legal guardian;
- (10) "Program employee," an employee who does not provide direct care and supervision of children;

- (11) "Provider," an individual providing direct care and supervision of a child;
- (12) "Registration certificate," the document described in SDCL 26-6-15 that certifies a provider has met the family day care registration standards; and
- (13) "School-age program," a program that provides for the care and supervision of children on a regular basis before and after regular school hours, which does not exceed four hours daily per child as defined in SDCL subdivision 26-6-14(6).

**Source:**

**General Authority: SDCL 26-6-16.**

**Law Implemented: SDCL 26-6-16.**

**67:42:17:02. Application for license or registration certificate.** A center or school-age program shall submit a copy of a building, renovation, or alteration plan. The plan shall be approved by the department prior to submitting an application for licensure.

Initial issuance of a license or registration certificate is based on a review of all requirements.

The applicant shall receive written notice of an approval or denial of licensure or registration within sixty days after submission of a completed application. An application denial notice shall include the reason for the denial.

An applicant may reapply after taking corrective action related to each reason listed in the original denial.

**Source:**

**General Authority:** SDCL 25-7A-56, 26-6-16.

**Law Implemented:** SDCL 25-7A-56, 26-6-11, 26-6-16(2).



**67:42:17:03. Inspection.** The department shall conduct at least one pre-licensure inspection and one annual unannounced inspection to determine compliance with the licensing requirements.

If the inspection results in a plan of correction, a copy of the plan shall be made available to any individual upon request.

**Source:**

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(2)(3)(6).

**67:42:17:04. Required posting.** A provider shall prominently display the department's licensing telephone number and website.

**Source:**

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(2)(6).

**67:42:17:05. Revocation of a license or registration certificate.** The department may revoke a license or registration certificate due to noncompliance with a licensing or registration standard by providing a thirty-day written notice to the provider. The thirty-day written notice is not required if the revocation is necessary to prevent danger to the life, health, or safety of a child. The provider may not reapply for a license or registration certificate for at least one year after the date of revocation.

**Source:**

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(6)(11).

**67:42:17:06. Required reporting of an incident or a change in circumstances. A**

provider shall report to the department within twenty four hours any occurrence of:

- (1) A change of address or other major change in the operation or ownership of the program;
- (2) A change in household size or composition;
- (3) Damage to or a change in the condition of the facility or home;
- (4) An investigation of the provider or program employee by the division of child protection services or law enforcement concerning any allegation of child abuse or neglect or action that may prohibit the provider or employee from meeting background check eligibility requirements;
- (5) Any serious injury to a child that requires medical or dental attention; and
- (6) The death of a child related to a serious injury that occurred on the premises of the child care program.

**Source:**

**General Authority: SDCL 26-6-16.**

**Law Implemented: SDCL 26-6-16(2)(3)(6)(11).**

**67:42:17:07. Owner qualifications.** The owner of a licensed child care or school-age program shall be at least eighteen years of age.

**Source:**

**General Authority: SDCL 26-6-16.**

**Law Implemented: SDCL 26-6-16(1).**

**67:42:17:08. Program administrator qualifications.** The director or individual responsible for planning and implementing the program in a licensed child care or school-age program shall be at least eighteen years of age and meet one of the following requirements:

- (1) Have a bachelor's degree in any of the following: early childhood education, elementary education, or the field of education or human development;
- (2) Have a two-year degree in the field of early childhood education;
- (3) Have a valid Child Development Associate credential or similar credential;
- (4) Hold certification in a specific child learning philosophy and have at least one year of experience in a child care setting;
- (5) Have a child development technician diploma; or
- (6) Have four years of verifiable experience in a center or school-age program.

The owner and director are responsible for the day-to-day operation of the program including supervision of staff and compliance with all licensing standards.

**Source:**

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(1)(6)(11).

**67:42:17:09. Provider qualifications.** All providers shall be at least eighteen years of age and demonstrate the ability to provide care that attends to the child's physical growth and development and to the physical, emotional, cognitive, and social needs of the child.

When it is reported or observed that a provider or household member has a physical, mental, or emotional condition that could negatively impact a child in care, a licensed physician's statement may be requested.

**Source:**

**General Authority: SDCL 26-6-16.**

**Law Implemented: SDCL 26-6-16(1)(6)(11).**

**67:42:17:10. Assistant qualifications – Licensed child care and school-age program.** In a licensed child care or school-age program, a provider’s assistant shall be at least fourteen years old, may not be left alone with children in care, and may be counted in the staff-child ratio only when they are under the direct supervision of a provider, program director or the individual responsible for planning and implementing the program.

A provider’s assistant shall demonstrate the ability to provide care that attends to the child's physical growth and development and to the physical, emotional, cognitive, and social needs of the child.

**Source:**

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(1)(6).



**67:42:17:11. Assistant qualifications – Family day care program.** A family day care assistant shall meet the following:

- (1) A family day care assistant shall be at least fourteen years old;
- (2) An assistant under the age of eighteen may be included in the adult-child ratio only if there is another adult present in the home; and
- (3) An assistant who is under the age of eighteen may not be left alone on the premises with children in care.

**Source:**

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(1)(6).

67:42:17:12. Background check. All child care providers, program employees age fourteen and older, and family day care household members who are eighteen years of age and older, are required to meet federal background check requirements. An individual is prohibited from providing care or working in a child care setting if the background check detects any of the following:

- (1) A crime that would indicate harmful behavior towards children;
- (2) A crime of violence as defined by SDCL 22-1-2 or a similar statute from another state;
- (3) A sex crime pursuant to SDCL chapters 22-22 or 22-24A or SDCL 22-22A-3 or similar statutes from another state;
- (4) A felony conviction for domestic abuse, physical assault or battery, kidnapping or arson;
- (5) Within the preceding five years, a conviction for any other felony; or
- (6) A substantiated report of child abuse or neglect.

A family day care provider is prohibited from providing care in their home if any household member's background check detects any of the items listed above.

A background check is required at least once during every five-year period following the initial submission.

**Source:**

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(6)(10), 26-6-23.2.

**67:42:17:13. Notice to provider.** The department shall notify the program or family day care provider of an individual's eligibility for employment upon completion of a background check or if the department is notified or discovers a current provider or staff is ineligible. The notification must include guidance regarding the appeal process.

**Source:**

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(1)(3).

**67:42:17:14. Provider employee records.** A child care provider shall maintain a record for each employee that includes:

- (1) Name and date of birth;
- (2) Start and end dates of employment;
- (3) Documentation of orientation and ongoing annual training if providing direct care and supervision of children;
- (4) A signed statement which defines child abuse and neglect and outlines the employee's responsibility to report all incidents of child abuse or neglect under the provisions of SDCL 26-8A-3 and 26-8A-8; and
- (5) The comprehensive background check results.

All required provider records shall be reviewed and updated at least annually, made available to the department for verification of the contents, and retained for six months after the employee leaves the program.

**Source:**

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(1)(3).

**67:42:17:15. Confidentiality.** The files and records of a provider shall be kept confidential. A child's records, photographs, and information about a child or their family shall not be shared or publicly posted unless a signed consent by a parent is obtained. Individuals authorized to access provider and family records without a signed consent include licensing specialists, child protective services, and law enforcement.

**Source:**

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(3)(6).

**67:42:17:16. Orientation training.** All providers shall complete and have documentation of orientation within ninety days after the date of employment in the following health and safety topic areas:

(1) Prevention and control of infectious diseases;

(2) Prevention of sudden infant death syndrome and use of safe sleep practices if infant care is provided;

(3) Administration of medication;

(4) Prevention of and response to an emergency due to food and allergic reactions;

(5) Building and physical premises safety;

(6) Prevention of shaken baby syndrome and abusive head trauma if infant care is provided;

(7) Emergency preparedness and response planning for an emergency resulting from a natural disaster or man-caused event;

(8) Handling and storage of hazardous materials and the appropriate disposal of bio contaminants;

(9) Precautions in transporting a child, if the program provides transportation for any purpose;

(10) Recognition and reporting of child abuse and neglect;

(11) Pediatric first aid;

(12) Pediatric cardiopulmonary resuscitation; and

(13) Child development.

Before a provider is able to care for children without supervision, the provider shall complete orientation training in each of the health and safety topic areas.

**Source:**

**General Authority: SDCL 26-6-16.**

**Law Implemented: SDCL 26-6-16(1)(3)(6).**

**67:42:17:17. Ongoing training requirements.** Annual training shall be obtained in topic areas identified through federal health and safety standards or topics identified by the department. Training shall be documented and relevant to the provider’s position. Training may include on-site or online classes.

Each director and provider of center and school-age programs counted in staff-child ratios shall complete ten hours of content training annually.

Each provider of family day care counted in staff-child ratios shall complete six hours of content training annually.

Orientation training hours qualify as annual training hours for each provider in the year the training was completed. All providers shall complete progressive training in the health and safety categories required during orientation training once every five years.

**Source:**

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(1)(6).



**67:42:17:18. Supervision and group size – Center and school-age programs.** A center provider shall supervise by hearing or seeing children and being present in the same room and on the playground with children. Children over eighteen months of age in a center program can be supervised by hearing if all children are resting and visually checked every fifteen minutes. A school-age program provider shall supervise children by hearing or seeing children and be close enough to intervene at all times.

Maximum group sizes are determined by individual room capacity and subject to the following conditions:

- (1) All space used shall be approved for care;
- (2) The provider shall ensure that the number of children in care at any given time does not exceed the capacity identified on the license;
- (3) Ratios are maintained in all settings including large indoor and outdoor space;  
and
- (4) In spaces where more than twenty children are allowed, providers shall implement primary caregiving to identify which children each provider is responsible to supervise.

**Source:**

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(5)(6).

**67:42:17:19. Center and school-age program ratio.** For center and school-age programs, the following ratios for providers and children present shall be maintained:

- (1) 5:1 for children up to three years of age;
- (2) 10:1 for children three years through four years; and
- (3) 15:1 for five years and over.

Children of program employees shall be included in determining group size and the staff-child ratio.

**Source:**

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(5)(6).

**67:42:17:20. Center and school-age program ratio -- Mixed age group.** For a program serving twenty or less children and routinely operating in a mixed age group, the program shall meet a 10:1 ratio with no more than four children under the age of two years in the group.

For center programs serving more than twenty children in a mixed age group, the following shall be maintained:

(1) When providing care to three or more children under the age of three, a 5:1 ratio shall be maintained; and

(2) When providing care to children three years of age and older, the staff-child ratio for the age group that comprises the majority of the group shall be maintained.

Children of program employees shall be included in determining group size and the staff-child ratio.

**Source:**

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(5)(6).

**67:42:17:21. Supervision, ratios and group size -- Family day care.** Family day care providers may care for up to twelve children in their home. A family day care program provider shall supervise children by hearing or seeing children and be close enough to intervene at all times. The following ratios are required:

(1) No more than four of the twelve children can be under the age of two years with only one provider present, and no more than three of the four children can be under the age of one.

(2) If a family day care assistant is present in the home, no more than eight of the twelve children can be under the age of two.

A family day care provider's own children under the age of six are included in the total capacity and ratio.

**Source:**

**General Authority: SDCL 26-6-16.**

**Law Implemented: SDCL 26-6-16(5)(6).**

**67:42:17:22. Health standards and immunizations for day care children.** Before a child may be admitted to a registered or licensed provider, the provider shall require a child's parent or guardian to submit a written statement signed by a licensed physician, physician's assistant, certified nurse practitioner, or community health nurse or an immunization record from the South Dakota Immunization Information System showing that the child meets the minimum immunization requirements as recommended by the Department of Health. The provider shall ensure that immunization levels of all children are current. For children who begin the series late or are more than one month behind in immunizations, the immunization levels of these children must show current progress toward achieving adequate immunization levels as recommended by a licensed physician, physician's assistant, certified nurse practitioner, or community health nurse. A grace period may be allowed for a child experiencing homelessness or for a child in foster care.

A child is exempt from meeting the minimum age-specific immunization levels if the child's parent or guardian has certification from a licensed physician stating that the physical condition of the child is such that a test or immunization would endanger the child's life or health or if the child's parent or guardian has signed a written statement that the child is an adherent to a religious doctrine whose teachings are opposed to such tests and immunizations.

If a child suffers an illness during the day, the child must be separated from other children and the child's parents must be notified. The program shall notify the Department of Health if any child in the program contracts a communicable disease. The program shall follow the Department of Health's recommendations for addressing a situation involving a communicable disease.

To prevent cross-contamination and the spread of infectious diseases, a program shall provide an individual storage unit or container for each child's personal articles including combs, brushes, towels, and clothing.

**Source:**

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(2)(3)(4)(6).

**67:42:17:23. Sanitation Requirements.** All equipment, utensils, kitchenware, dining tables, and other food contact surfaces shall be washed, rinsed, and sanitized after each meal. Toys capable of being placed in a child's mouth shall be cleaned and sanitized daily using an approved solution.

All providers, program employees, and children shall wash their hands with soap before preparing food or beverages, eating, handling food, or feeding a child, and after changing a diaper, using the toilet or helping a child use a toilet, or handling bodily fluid.

**Source:**

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(2)(6).

**67:42:17:24. Safe sleep practices.** A nap mat, blanket, or other sleep surface for children over one year of age shall be provided during nap time. A sleep surface shall be maintained in good repair.

A provider shall follow the most current safe sleep practices as recommended by the American Academy of Pediatrics for infants under the age of one.

**Source:**

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(2)(6).

**Reference: Caring for Our Children: National Health and Safety Performance Standards**, 4th Edition, American Academy of Pediatrics, American Public Health Association, National Resource Center for Health and Safety in Child Care and Early Education. Copies may be obtained from the American Academy of Pediatrics, <https://shop.aap.org/>. Cost \$66.95.



**67:42:17:25. Medication administration.** Before any medication is administered to a child, permission of the parent or guardian shall be documented and shall include the name of the child, the name of the medication, the dates, times, and dosage of the medication administered. Medication shall be provided by the parent and kept in the original container with the original label. The label for a prescription medication shall contain the child's name, amount and frequency of dosage, the expiration date, the physician's name, and instructions for storage. Medication shall be returned to the parent when no longer needed or expired.

The provider shall document any medication administered to a child and shall include the dose, name of child, time and date administered, and name of the person administering the medication. The documentation shall be available to the child's parent.

**Source:**

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(4)(6)(8).

**67:42:17:26. Medication storage.** Medication shall be stored in a place which is inaccessible to children. Medication requiring refrigeration shall be placed in a nonabsorbent container and labeled "medications."

**Source:**

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(2)(6)(8).

**67:42:17:27. Food and allergic reactions.** A provider shall have a written care plan for each child with a known food allergy that includes instructions regarding any food allergens, steps to be taken to avoid that food, and a detailed treatment plan to be implemented in the event of an allergic reaction. The plan shall include the name, dose, and method of prompt administration of any medications and any specific symptoms that would indicate the need to administer the medications.

Providers shall post a weekly menu that indicates meals and snacks to be served that week.

An infant shall be fed according to an individual schedule. Propping a bottle while feeding an infant is prohibited.

Food, including breast milk and formula, shall be properly stored, kept at the proper temperature, and protected from potential contamination.

**Source:**

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(2)(3)(6)(8).

67:42:17:28. Building requirements. All walls, ceilings, floors, and equipment shall be easily cleanable, kept clean, and maintained in good repair. Food preparation areas including tables and countertops shall be in good repair, free of cracks, and made of smooth nonporous material that is kept clean and sanitized.

A provider shall meet the following requirements regarding bathrooms:

(1) Bathroom facilities shall be available and easily accessible to children and providers;

(2) Hot water for plumbing fixtures normally used by children in care shall not exceed one hundred twenty degrees Fahrenheit;

(3) All toilets and hand sinks shall be kept clean and in good repair; and

(4) For child care centers and school-age programs:

a. All bathrooms shall have natural or mechanical ventilation;

b. Separate bathrooms shall be available for each gender;

c. Ratios for toilet and hand sinks shall align with the plumbing commission requirements.

Except for in a family day care, hand sinks shall be in the same room or a non-obstructed adjacent room as the diaper changing area. A handwashing sink used after diapering and toileting shall not be used for food preparation.

Heating, ventilating and cooling systems shall maintain a temperature conducive to the comfort and health of children in care. For a child care center and school-age program, all heating and cooling systems shall be inspected annually by a certified technician. Center and school-age programs that care for more than twenty children shall provide a ventilation

hood over all cooking areas for the type of appliance and intended use as required in § 61:15:01:01.

For a center program, a minimum of thirty-five square feet of play space indoors and fifty square feet of play space outdoors shall be available for each child while outdoors at the licensed capacity. For a school-age program, a minimum of twenty-five square feet of play space indoors and fifty square feet of play space outdoors shall be available for each child while outdoors at the licensed capacity.

**Source:**

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(2)(6).

**Cross Reference:**

Standards adopted for plumbing--Conformity to Uniform Plumbing Code, SDCL 36-25-15.

**67:42:17:29. Playground requirements.** Playground areas for all child care settings shall be safe, in good repair and shall be kept free of debris, trash, and weeds. Playground equipment shall be installed according to manufacturer's instructions and maintained in good repair. The use of playgrounds and parks may be used for outdoor play.

For a center program, a fence that measures at least four feet high is required around the outdoor play space.

For a family day care or school-age program, a fence may be required if a body of water, vehicular traffic, or other hazard poses the risk of injury or death to a child.

**Source:**

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(2)(6).

- 67:42:17:30. Water safety.** A provider shall meet the following water safety requirements:
- (1) A swimming pool utilized on the premises shall be emptied after each use or enclosed with a five-foot fence and self-closing, latching gate that can be locked while not in use;
  - (2) A child may not play in an area where there is a body of water unless they are under constant supervision; and
  - (3) A hot tub shall have a secure cover.

**Source:**

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(2)(6).

**67:42:17:31. Construction and fire safety requirements.** Center and school-age programs operating outside of a school building, shall follow applicable construction and fire safety requirements outlined in chapters 61:15:05 and 61:15:06. School-age programs operating in a school building shall follow applicable construction and fire safety requirements in chapters 61:15:01, 61:15:02 and 61:15:07.

A family day care home shall have the following fire safety measures in place:

- (1) A working smoke detector on each level of the home;
- (2) A fully charged, portable fire extinguisher, with a minimum 2A rating as identified on the extinguisher label, shall be kept near the kitchen;
- (3) A carbon monoxide detector shall be installed according to manufacturer's instructions when there is a fuel burning appliance in the home;
- (4) Each level of the home shall have at least two remote exits that shall remain clear of obstructions. One of these exits shall be a standard-sized door, the second exit may be an unobstructed, operable window at least five square feet in openable space which has a minimum width of twenty inches and height of twenty-four inches; and
- (5) When in use, a portable space heater, wood burning stove, or fireplace shall be inaccessible to children.

**Source:**

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(2)(6).



**67:42:17:32. Hazardous conditions.** The following hazards that could pose a risk to the health and well-being of a child shall be made inaccessible:

(1) Firearms, including pellet guns, BB guns, and cap guns. If present, they shall be unloaded, equipped with child protective devices, and kept under lock and key with the ammunition locked separately in areas inaccessible to the children;

(2) Matches, lighters and candles;

(3) Tobacco products;

(4) Choking and strangulation hazards;

(5) Tip-over hazards;

(6) Unused electrical outlets without outlet covers or tamper-resistant covers;

(7) A platform measuring more than thirty inches above ground level. If present, the platform requires a railing; and

(8) Other hazardous conditions.

The department may direct a provider to remove or correct a hazardous condition or circumstance not covered in this chapter if the department considers the conditions or circumstances to have the potential to cause injury or illness to the children in care.

**Source:**

**General Authority: SDCL 26-6-16.**

**Law Implemented: SDCL 26-6-16(2)(6).**

**67:42:17:33. Pets.** Pets, while permitted in the presence of children receiving care at a facility, are subject to the following:

- (1) A pet shall be current with their vaccination schedule;
- (2) A pet may not have a behavioral history that indicates they pose a risk to the safety and well-being of children; and
- (3) A pet's living area shall be maintained in clean and sanitary conditions at all times.

**Source:**

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(2)(6).

**67:42:17:34. Prevention of child maltreatment.** A provider shall meet the physical, social, emotional, and cognitive needs of a child and identify procedures regarding behavior management strategies to be used with children in care. Behavior management strategies shall offer clear-cut limits with positive guidance and direction to help a child develop self-control and respect for the rights of others. A behavior management strategy shall be appropriate to a child's age and developmental level. Separation, when used as a strategy, shall be within sight or hearing of a provider. A behavior management strategy shall not be delegated to an older child or peer. The use of a prohibited discipline technique by a child's parent while working at the program is not allowed. The following methods of discipline are prohibited:

(1) Spanking, hitting, pinching, biting, shaking, or inflicting any other physical punishment;

(2) Verbal abuse, shouting, threats, humiliation, or derogatory or sarcastic remarks about the child or their family;

(3) Restriction of movement or confinement;

(4) Isolating a child in an adjacent room, hallway, closet, darkened area, or any other area where a child cannot be seen or supervised;

(5) Punishment for lapses in toilet training;

(6) Withholding or forcing of meals, snacks, naps or outdoor time to correct behavior;

(7) Demanding excessive physical exercise or excessive rest; and

(8) Placing substances in a child's mouth to cause discomfort such as soap, food, or spices.

Any provider caring for an infant shall outline procedures to identify and prevent shaken baby syndrome and abusive head trauma.

A provider who is under investigation for abuse and neglect shall not be in a caregiving role if the department determines there is an imminent safety concern to a child in care.

**Source:**

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(6).

**67:42:17:35. Required child records.** A provider shall maintain a record for each child that shall include:

- (1) Child's name and date of birth;
- (2) Parent or guardian's name and telephone number;
- (3) Emergency contact name and telephone number;
- (4) Parent permission for emergency medical treatment;
- (5) Names of individuals authorized to pick up child as needed;
- (6) Health information including any allergies or special needs;
- (7) Current immunization record; or name of school for a school-age child;
- (8) Medication permission as needed;
- (9) Attendance records;
- (10) Date of enrollment; and
- (11) Date enrollment ends.

Each required child record shall be reviewed and updated annually and made available to the department for verification of the contents.

**Source:**

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(3)(4)(6).

**67:42:17:36. Emergency preparedness and response planning.** A provider shall have:

(1) A written emergency preparedness and response plan for emergencies resulting from a natural disaster or a man-caused event;

(2) A written plan for evacuation, relocation, shelter-in-place, or a lock-down that includes accommodations for infants, toddlers, and children with disabilities or medical conditions;

(3) A written procedure for communication and reunification with parents; and

(4) A written procedure for the continuity of operations.

A provider shall practice the evacuation, shelter-in-place, and lock down procedures outlined in the emergency preparedness and response plan a minimum of twice each calendar year. Dates are to be documented for monitoring purposes. A provider shall communicate the emergency preparedness and response plan to each new individual upon hire.

Except for family day care, all child care providers are required to have liability insurance.

**Source:**

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(1)(6).

**67:42:17:37. Handling, storage, and disposal of hazardous materials.** All toxic or hazardous substances such as cleaners, chemicals, and flammable materials shall be:

- (1) Inaccessible to children;
- (2) Used according to manufacturer's instructions;
- (3) Stored in the original labeled container or labeled if stored in an alternate container; and
- (4) Disposed of properly.

Bio-contaminants including blood, bodily fluids, and other infectious materials shall be handled and disposed of properly.

Diapers must be changed promptly, when needed, in a designated area on a non-porous surface. The diaper changing area must be clean and disinfected through use of an approved sanitizing solution. Diapers shall be disposed of using a plastic-lined, hands-free, covered container.

**Source:**

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(2)(6).

- 67:42:17:38. Transportation.** When a child is transported, the following requirements apply:
- (1) A parent or guardian shall provide written permission for the transportation of their child;
  - (2) The vehicle shall not carry more people than its stated passenger capacity;
  - (3) The required staff-child ratio shall be maintained when children are in transport;
  - (4) The driver shall be at least eighteen years of age and have a valid driver license to operate the type of vehicle being driven;
  - (5) When a child is driven in a vehicle other than a bus, each child shall be restrained in a car seat, booster seat, or seat belt appropriate for their weight and age;
  - (6) Each vehicle used for transporting children shall have liability insurance that covers the children being transported.

**Source:**

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(1)(2)(5)(6).



**67:42:17:39. Pediatric first aid and cardiopulmonary resuscitation.** A provider shall have and maintain documentation of completion of pediatric first aid training and a current certification in pediatric cardiopulmonary resuscitation, which includes a hands-on skills test. A provider shall work under supervision until they have completed their training.

**Source:**

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(1)(6).

**67:42:17:40. Reporting of child abuse and neglect.** All child care providers shall personally report any suspected abuse or neglect immediately to child protective services, law enforcement, or the States Attorney's office and cooperate fully in the investigation of any incident.

All child care providers shall read and sign a statement which defines child abuse and neglect and outlines the caregiver's responsibility to report all incidents of child abuse or neglect according to SDCL 26-8A-3 and 26-8A-8.

**Source:**

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(6), 26-8A-3.

**67:42:17:41. Night-time care.** When care is provided between 7:00 p.m. and 6:00 a.m., the following requirements apply:

- (1) Center providers on duty shall be awake and alert to the needs of children;
- (2) Family day care providers shall be accessible and responsive to children who awaken during the night and require attention; and
- (3) Providers shall supply a cot or bed for each child in overnight care.

**Source:**

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(2)(6).

**67:42:17:42. Parental access.** A parent shall be allowed to observe their child or children at any time and immediately on request. A parent shall be notified by the provider immediately regarding any serious injuries received involving their child while attending the program.

A parent shall be notified by the provider within twenty four hours of any changes in circumstances that may impact the program operation to include registration or license suspension or revocation, program location, closure, and changes in ownership.

If a parent is restricted through a court order from having contact with a child and the provider has been provided with a copy of the court order, access shall be denied to the parent.

**Source:**

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16(6).

**67:42:17:43. Fair hearing.** A fair hearing may be requested if a provider is dissatisfied with any action taken on an application or license or registration certificate. Fair hearings are conducted under the provisions of chapter 67:17:02.

**Source:**

**General Authority:** SDCL 26-6-16.

**Law Implemented:** SDCL 26-6-16.