



Tony Evers

Office of the Governor | State of Wisconsin

Emergency Order #26 **Relating to Department of Children and Families Administrative Rule Suspensions**

WHEREAS, in December, 2019, a novel strain of the coronavirus was detected, now named COVID-19, and it has spread throughout the world, including every state in the United States;

WHEREAS, on March 12, 2020, Governor Tony Evers declared a public health emergency and directed all agencies to support the efforts to respond to and contain COVID-19 in Wisconsin;

WHEREAS, on March 13, 2020, President Donald Trump proclaimed a National Emergency concerning COVID-19;

WHEREAS, on March 24, 2020, Secretary-designee Andrea Palm issued Emergency Order #12, a Safer at Home order to limit physical contact between people and slow the spread of COVID-19; and

WHEREAS, the Department of Children and Families, alongside their partners in the early care and education community, is striving to ensure critical workers can find access to quality, affordable child care so they can continue working and serving Wisconsinites across our state.

NOW THEREFORE, under the authority of Section 323.12(4) of the Wisconsin Statutes and the public health emergency declared in Executive Order #72, I, Governor Tony Evers, order the suspension of the following Department of Children and Families administrative rule and order a companion directive as follows:

1. Administrative Rule Suspensions and Orders

Admin. Rule:	Wis. Admin. Code § DCF 202.04(3)(b)9.c.
Description of Rule:	Requires an on-site inspection for recertification of certified child care operators.
Status:	Suspended

Admin. Rule:	Wis. Admin. Code § DCF 202.04(3)(c)5.
Description of Rule:	Allows a certification agency to enter into a temporary closure agreement with an operator and requires on-site monitoring prior to re-opening.
Status:	Suspended

Admin. Rule: Description of Rule:	Wis. Admin. Code § DCF 202.08(1m)(a)10.a. to c. Requires that certified child care operators comply with their operator's certificate for the number and ages of children in their care and hours of operation.
Status:	Suspended
Admin. Rule: Description of Rule:	Wis. Admin. Code § DCF 202.08(1)(a)2. Requires tuberculosis testing prior to working with children for certified child care operators and providers.
Status:	Suspended
Admin. Rule: Description of Rule:	Wis. Admin. Code § DCF 202.08(4)(a), (b), (e) Requires certified child care operators maintain certain health care records for each child.
Status:	Suspended
Admin. Rule: Description of Rule:	Wis. Admin. Code § DCF 202.08(1)(b)3.b. Sets training requirements for certified child care operators.
Status:	Suspended
Admin. Rule: Description of Rule:	Wis. Admin. Code § DCF 202.08(2)(b) Sets building requirements for certified child care operators.
Status:	Suspended in part, as follows: "(b) All areas used for child care shall have adequate and safe heat, light and ventilation, including all of the following: 1. The inside temperature of the home may not be less than 67 degrees Fahrenheit. 2. If the inside temperature exceeds 80 degrees Fahrenheit, a child care provider shall provide for air circulation with safe fans, air conditioning, or other means. "
Admin. Rule: Description of Rule:	Wis. Admin. Code § DCF 250.055(1)(b) Requires a provider at a family child care center to be awake at all times when children are in care.
Status:	Suspended
Companion Order:	A provider shall be awake at all times when children are in care, except from 10:00 p.m. to 5:00 a.m. when the provider may be asleep but available, within call, and able to respond to the needs of children.
Admin. Rule: Description of Rule:	Wis. Admin. Code § DCF 250.055 Requirements for supervision and grouping of children in family child care centers.
Status:	Suspended in part, as follows: Supervision and grouping of children. (1) Supervision. (a) Each child shall be supervised by a provider to guide the child's behavior and activities, prevent harm, and ensure safety. (b) A provider shall be awake at all times when children are in care. (c) No individual provider may care for children for more than 16 hours in any 24-hour period.

~~(d) No child may be in care for more than 14 hours in any 24-hour period.~~

~~(e) At least one provider who has completed the training required under s. DCF 250.05 (3) (b) shall supervise children at all times, except when a substitute is providing care. A substitute shall meet the requirements under s. DCF 250.05 (3) (c) and (4) (a).~~

~~(f) No person under 18 years of age may be left in sole charge of the children.~~

~~(g) The center shall have a written plan reviewed by the department for ensuring supervision of the children in an emergency or during a provider's absence.~~

~~(h) A provider may not be engaged in any other activity or occupation during the hours of operation of the center when children are in care, except for daily maintenance of the home.~~

~~(i) The licensee may not combine the care of children enrolled in the child care center with foster care of other non-related children or adults without the prior written approval of both licensing agencies.~~

~~(j) During the hours of the center's operation, no provider or any other person in contact with children in care may consume or be under the influence of beverages containing alcohol or any non-prescribed controlled substance specified in ch. 961, Stats.~~

~~(k) A child may not be released to any person who has not been previously authorized by the parent to receive the child.~~

~~(L) The licensee shall implement and adhere to a procedure to ensure that the number, names, and whereabouts of children in care are known to the provider at all times.~~

~~(m) A provider shall be outside with children and provide sight and sound supervision of the children, unless the children are playing inside the enclosed outdoor area on the premises specified under s. DCF 250.06 (11) (b).~~

~~(n) A provider shall be outside with children providing sight and sound supervision of the children when a wading pool containing water is present in the outdoor play space specified in s. DCF 250.06 (11) (b).~~

(2) Grouping of children.

~~(a) At no time may more than 8 children be in the care of the center. This limitation applies to all of the following:~~

~~1. All children under 7 years of age, including a provider's own children.~~

~~2. All children 7 years of age or older who are not a provider's own children.~~

~~(b) The maximum number of children that one provider may care for is specified in Table 250.055.~~

~~(c) If the size of the group or the age distribution of the children exceeds the number that may be served by one provider, an additional qualified provider shall be present.~~

(d) If there is more than one provider with the children, no more than a total of 4 children under 2 years of age may be in the care of the center when care is provided on a level that is more than 6 feet above or below the ground level.

Admin. Rule:	Wis. Admin. Code § DCF 250.10(2) and (3)
Description of Rule:	Sets general and programming requirements for family child care centers providing night care.
Status:	Suspended
Admin. Rule:	Wis. Admin. Code § DCF 250.10(4)(c)
Description of Rule:	Requires a provider be awake whenever children are in care.
Status:	Suspended
Companion Order:	A provider shall be awake at all times when children are in care, except from 10:00 p.m. to 5:00 a.m. when the provider may be asleep but available, within call, and able to respond to the needs of children.
Admin. Rule:	Wis. Admin. Code § DCF 250.10(6)(c) and (e)
Description of Rule:	Sets bed requirements for family child care centers providing night care.
Status:	Suspended
Companion Order:	All family child care centers providing night care shall comply with Wis. Admin. Code § DCF 250.07(4)(c) to (e) during night sleep.
Admin. Rule:	Wis. Admin. Code § DCF 251.055(1)(i)
Description of Rule:	Requires supervision in group child care centers by persons 18 years of age or older.
Status:	Reinstated.
Admin. Rule:	Wis. Admin. Code § DCF 251.055(2)(b) and (c)
Description of Rule:	Sets ratios for child to child care workers in group child care centers.
Status:	Suspended only as it relates to children ages 5 years or older.
Admin. Rule:	Wis. Admin. Code § DCF 251.055(2)(d)
Description of Rule:	Sets ratios for child to child care workers in mixed-age groups including infants and toddlers.
Status:	Reinstated
Admin. Rule:	Wis. Admin. Code § DCF 251.07(5)
Description of Rule:	Sets requirements for meals, snacks, and food service at group child care centers.
Status:	Suspended in part as follows: (5) MEALS, SNACKS, AND FOOD SERVICE. (a) Food. 1. Food shall be provided by the center based on the amount of time children are present as specified in Table 251.07. - See PDF for table 

2. Center-provided transportation time shall be included in determining the amount of time children are present for the purposes of subd. 1.

3. Food shall be served at flexible intervals, but no child may go without nourishment for longer than 3 hours.

4. At a minimum, children shall be provided food for each meal and snack that meets the U.S. department of agriculture child and adult care food program minimum meal requirements for amounts and types of food.

Note: The USDA meal program requirements are found on the website, <http://www.fns.usda.gov/cacfp/meals-and-snacks>.

4m. Additional portions of vegetables, fruits, bread, and milk shall be available.

5. ~~Menus for meals and snacks provided by the center shall:~~

~~a. Be posted in the kitchen and in a conspicuous place accessible to parents.~~

~~b. Be planned at least one week in advance, dated and kept on file for 3 months.~~

~~c. Be available for review by the department.~~

5m. ~~A daily menu may not be repeated within a one-week time period.~~

6. ~~Any changes in a menu as planned shall be recorded on the copies of the menu kept on file and posted for parents.~~

6m. ~~When snacks are provided by parents for all children, a record of the snack served shall be posted in an area accessible to parents.~~

8. ~~When food for a child is provided by the child's parent, the center shall provide the parent with information about requirements for food groups and quantities specified by the U.S. department of agriculture child and adult care food program minimum meal requirements.~~

9. ~~A special diet based on a medical condition, excluding food allergies, but including nutrient concentrates and supplements, may be served only upon written instruction of a child's physician and upon request of the parent.~~

9m. ~~A special diet based on a food allergy may be served upon the written request of the parent.~~

10. Cooks, staff members, child care workers and substitutes having direct contact with the children shall be informed about food allergies and other allergies of specific children.

(b) Food service.

1. ~~Staff shall sit at the table with the children during mealtime.~~

2. ~~Meals shall be served with time allowed for socialization.~~

3. ~~Except as provided in subd. 4., in a center where meals and snacks are served, seating and table space shall be at least equal to the licensed capacity of the center, excluding infants, so that all children can be served at the same time.~~

- ~~4. In a center where meals are served in a central lunchroom, seating and table space shall be at least equal to the number of children to be served in a shift.~~
5. Eating surfaces, including high chairs, shall be washed and sanitized before and after each use.

Admin. Rule:

Description of Rule:

Status:

Wis. Admin. Code § DCF 251.10(2)

Sets general requirements for group child care center night care.

Suspended in part as follows:

(2) GENERAL REQUIREMENTS.

(a) A center offering night care may serve no more than 20 children at any one time between ~~9:00~~ 10:00 p.m. and 5:00 a.m., unless the building is equipped with emergency lighting supplied by a stand-by power source.

~~**(b)** When the same premises is used for the operation of both day care and night care, the number of children during any overlapping of the day care and night care periods may not exceed the maximum licensed capacity of the center.~~

~~**(c)** Minimum staff to child ratios and group sizes as specified in s. DCF 251.055 (2) shall be maintained during night care.~~

(d) All child care workers on duty shall remain awake, available, within call and able to respond to the needs of the children during night care.

~~**(e)** The parent or center shall provide each child in night care with an individually labeled sleeping garment and a toothbrush.~~

Admin. Rule:

Description of Rule:

Status:

Wis. Admin. Code § DCF 251.10(3)

Sets programming requirements for group child care center night care.

Suspended

Admin. Rule:

Description of Rule:

Status:

Companion Order:

Wis. Admin. Code § DCF 251.10(6)(c) and (e)

Sets child bed requirements for group child care center night care.

Suspended

All group child care centers providing night care shall comply with Wis. Admin. Code § DCF 251.07(4)(c) to (d) during night sleep.

Admin. Rule:

Description of Rule:

Status:

Wis. Admin. Code § DCF 252.05(3)

Excludes certain seasonal programs from the administrative rule chapter.

Suspended

Admin. Rule:

Description of Rule:

Status:

Wis. Admin. Code § DCF 252.41(4)

Requires day camps to maintain certain children's records

Suspended in part as follows:

(4) CHILDREN'S RECORDS FILES.

(a) The licensee shall create and maintain at the camp a current written record for each child before the child's first day of attendance or subsequent re-enrollment. The licensee shall make

the record available to the licensing representative. Each child's file shall include all of the following:

- 1.** Enrollment information consisting of all of the following:
 - a.** The name and birthdate of the child.
 - b.** Names and contact information for the child's parents.
 - c.** The child's home address and telephone number.
 - d.** Address and telephone number where a parent can be reached while the child is in care.
 - e.** Name, address, telephone number and relationship to the child of the person to be notified in an emergency, when a parent cannot be reached immediately.
 - f.** Names, address and telephone number of the physician or medical facility caring for the child.
 - g.** Names, addresses and telephone numbers of persons authorized to pick-up the child or to accept the child who is dropped off.
 - h.** Dates of camp session in which the child is enrolled.
 - 2.** Consent from the parent for emergency medical care or treatment;
 - ~~**4.** Authorization from the parent for the child to participate in field trips and other off-premises activities, if these are part of the camp program.~~
 - ~~**5.** Specific written informed consent from the parent for each incident of participation by a child in any research or testing project. The day camp shall obtain and make available to the department and to the parent a statement indicating the sponsor, the subject matter, the specific purpose and the proposed use of results with respect to each project.~~
 - ~~**6.** The child's health history and any other matters relating to the child's health; on a form provided by the department.~~
 - ~~**6m.** Documentation of each child's immunization history that indicates compliance with s. 252.04, Stats., and ch. DHS 144.~~
 - ~~**7.** Authorization from the parent outlining the plan for a child to come to the camp from school, home or other activities and to go from the camp to school, home or other activities unless the child is accompanied by a parent or other authorized pick-up person.~~
 - ~~**8.** Assessment of the child's swimming ability, if swimming is included in the program of activities.~~
- ~~**(c)** The licensee shall maintain a current, accurate, written record of the daily attendance and birthdate for each child enrolled in the program. If the hours of arrival and departure of the children vary, the actual time of arrival and departure for each child shall be recorded. Each record shall be maintained as long as the child is enrolled in the program.~~

Admin. Rule: **Wis. Admin. Code § DCF 252.42(1)**
Description of Rule: Sets requirements for day camp staff records.
Status: Suspended
Companion Order: All day camps shall comply with Wis. Admin. Code § DCF 251.05(2)(a)1. and 2.

Admin. Rule: **Wis. Admin. Code § DCF 252.42(2)**
Description of Rule: Sets requirements for staff at day camps.
Status: Suspended
Companion Order: All day camps shall comply with Wis. Admin. Code § DCF 251.05(3)(a) and (b).

Admin. Rule: **Wis. Admin. Code § DCF 252.425(1)(b)**
Description of Rule: Sets requirements for supervision at day camps.
Status: Suspended in part as follows: ~~“All children in care shall be assigned to a counselor.~~ The camp shall implement a procedure to ensure that the number, names, and whereabouts of children in care are known to the assigned camp counselor at all times.”

Admin. Rule: **Wis. Admin. Code § DCF 252.425(1)(c)1.**
Description of Rule: Sets hour limits on day camp counselors.
Status: Suspended

Admin. Rule: **Wis. Admin. Code § DCF 252.425(1)(g)**
Description of Rule: Sets hour limits on day camp care.
Status: Suspended

Admin. Rule: **Wis. Admin. Code § DCF 252.425(2)(a)1.**
Description of Rule: Sets supervision ratios for day camps.
Status: Suspended as it pertains to children ages 5 years and older.

Admin. Rule: **Wis. Admin. Code § DCF 252.425(2)(a)2.**
Description of Rule: Sets supervision ratios for mixed-age groups at day camps.
Status: Suspended as it pertains to mixed-age groups of children ages 5 years and older.

Admin. Rule: **Wis. Admin. Code § DCF 252.43(1)(d)**
Description of Rule: Sets building requirements for day camps.
Status: Suspended in part as follows: “Buildings and shelters on sites used or constructed primarily for day camp purposes shall comply with the applicable Wisconsin Commercial Building Code and applicable local ordinances. ~~A copy of the building inspection report shall be on file with the department.~~”

Admin. Rule: **Wis. Admin. Code § DCF 252.43(1)(g)**
Description of Rule: Sets requirements for day camp building temperature.
Status: Suspended

Admin. Rule:	Wis. Admin. Code § DCF 252.44(5)(d) and (f)
Description of Rule:	Sets requirements for meals, snacks, and food service at day camps.
Status:	Suspended
Admin. Rule:	Wis. Admin. Code § DCF 201.036(4)
Description of Rule:	Sets timeline for redetermining eligibility for the child care subsidy program.
Status:	Companion order in force
Companion Order:	Redetermination of eligibility that would otherwise be scheduled to occur during a public health emergency may be completed within three months after the end of the public health emergency.
Admin. Rule:	Wis. Admin. Code § DCF 201.037
Description of Rule:	Sets reporting requirements for the child care subsidy program.
Status:	Suspended
Admin. Rule:	Wis. Admin. Code § DCF 201.038(5)
Description of Rule:	Sets provider requirements for the child care subsidy program.
Status:	Suspended
Admin. Rule:	Wis. Admin. Code § DCF 201.039(2r)
Description of Rule:	Requirements for excessive unexplained absences.
Status:	Suspended
Admin. Rule:	Wis. Admin. Code § DCF 201.039(10)(b)
Description of Rule:	Sets requirements for authorization notice for the child care subsidy program.
Status:	Suspended
Admin. Rule:	Wis. Admin. Code § DCF 201.039(11)
Description of Rule:	Establishes a backdated start date for the child care subsidy program.
Status:	Suspended
Admin. Rule:	Wis. Admin. Code § DCF 201.04(1)
Description of Rule:	Establishes when compensation may be provided.
Status:	Suspended

2. Emergency Orders #3, 6, 12, and 18 remain in effect, and to the extent that this Order conflicts with those orders, this Order controls.
3. If any provision of this Order or its application to any person or circumstance is held to be invalid, then the remainder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.

4. This Order is effective immediately and shall remain in effect for the duration of the public health emergency as declared in Executive Order #72.



Tony Evers
Governor
State of Wisconsin

4/13/2020

Date