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ARTICLE 67:42

REGULATORY ADMINISTRATION

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**ARTICLE 67:42**

**REGULATORY ADMINISTRATION**

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**CHAPTER 67:42:01**

**PROVISIONS AND SCOPE OF SERVICES**

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**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 or registration certificate, as provided in this article;

(3)  "Case plan," a plan that is written in cooperation with a client and:

(a)  Explains the client's social, psychological, medical, or economic problems;

(b)  Contains solutions to the problems; and

(c)  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 this article;

(8)  "Household member," a person who uses a facility, other than a child placement agency, as a permanent or part-time residence and who may have contact with any 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, and which a caregiver shall use when determining whether to allow a child in foster care or in a child care institution under the responsibility of the state, to participate in extracurricular, enrichment, cultural and social activities;

(13)  "Staff member," 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; 49 SDR 124, effective July 3, 2023.

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

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

**67:42:01:02.  Application of chapter 67:42:01.** The provisions of chapter 67:42:01 apply to alternative care homes regulated by chapters 67:42:05; 67:42:07 to 67:42:09, inclusive; 67:42:13; and 67:42:15 unless otherwise specified.

**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; 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.

**67:42:01:03.  Development of resources for Title XX services.** 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.

**67:42:01:04.  Application for license or registration certificate.** 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; 21 SDR 206, effective June 4, 1995; repealed, 39 SDR 220, effective June 27, 2013.

**67:42:01:04.01.  Documentation of need.** Repealed.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983; 12 SDR 4, effective July 25, 1985; 14 SDR 98, effective January 18, 1988; 20 SDR 223, effective July 7, 1994; 21 SDR 206, effective June 4, 1995; 32 SDR 33, effective August 31, 2005; repealed, 34 SDR 200, effective January 30, 2008.

**67:42:01:05.  Initial evaluation and approval -- Renewal of license.** The department's initial evaluation of the applicant includes three reference checks, personal interviews, a screening for records of abuse or neglect, a criminal record check, and on-site visits.

Based on the evaluation, the department shall determine whether to issue a license. A family foster home must complete an annual renewal study. Renewal of a license is based on the department's annual evaluation of the facility and care provided.

Except as otherwise provided, family foster parent applicants must complete an initial home study that includes at least one scheduled in-home interview for each household member. The department may elect to observe, rather than interview, a household member, based on the member's age or development. The initial home study must include three references, with at least one reference being a family member and at least one reference being a non-relative.

**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; 12 SDR 4, effective July 25, 1985; 20 SDR 223, effective July 7, 1994; 21 SDR 206, effective June 4, 1995; 27 SDR 63, effective December 31, 2000; 39 SDR 220, effective June 27, 2013; 47 SDR 24, effective September 10, 2020.

**General Authority:** SDCL 26-6-16(1)(2)(6)(10)(11).

**Law Implemented:** SDCL 26-6-11, 26-6-16(1)(2)(6)(10)(11), 26-6-23.2.

**Cross-Reference:** Screening for substantiated reports of abuse and neglect, § 67:42:01:05.02.

**67:42:01:05.01.  Criminal record check.** The department shall secure a criminal record check to obtain information concerning convictions for criminal offenses by a prospective foster parent as well as any other adult living in the prospective foster home. An individual is not eligible to receive a foster home license if the individual or any other adult living in the prospective foster home has a conviction for 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; or

(4)  Within the preceding five years, a conviction for any other felony.

If an individual is seeking licensure from another child-placement agency, the department shall obtain the criminal record check for the child-placement agency if the child-placement agency is unable to obtain the record check on its own. If the criminal record check reveals a conviction for any of the crimes listed in this section, the department shall notify the child-placement agency of the existence of the conviction.

For all other child welfare agencies, the department shall review the provider's records to ensure that the criminal records are being secured to detect convictions for any of the crimes listed in this section.

**Source:** 17 SDR 157, effective April 23, 1991; 20 SDR 223, effective July 7, 1994; 21 SDR 206, effective June 4, 1995; 22 SDR 102, effective February 7, 1996; 27 SDR 63, effective December 31, 2000; 35 SDR 187, effective February 11, 2009; 39 SDR 220, effective June 27, 2013.

**General Authority:** SDCL 26-6-14.3, 26-6-16.

**Law Implemented:** SDCL 26-6-14.3, 26-6-14.11, 26-6-16.

**Cross-References:** Persons to whom criminal record requirement applies, SDCL 26-6-14.4; Waiver, fingerprinting and declaration as condition of employment -- Time -- Notification of licensee by department, SDCL 26-6-14.5; Revocation or refusal to issue or renew license or registration for child abuse or violence, SDCL 26-6-23.1; Information from another state's central registry or national crime database to be used only for background check for approval of foster or adoptive placement, SDCL 26-6-14.13; Required criminal records checks, 42 U.S.C. § 671(a)(20).

**67:42:01:05.02.  Screening for substantiated reports of abuse and neglect.** The department shall screen a provider applicant, family members and other household members who are at least 18 years old, an employee of the facility, an employee applicant, a volunteer, and a volunteer applicant to determine if the individual has been involved in any substantiated incidents of child abuse or neglect. The individual may not have a substantiated report of child abuse or neglect. Substantiated reports of child abuse or neglect include reports placed into the department's central registry under § 67:14:39:03, reports placed on the central registry of another state in the last ten years, and reports that were investigated and substantiated by a tribal program.

If the screening locates an individual's name on the department's central registry and the individual has not already been given due process on the substantiation, the department shall notify the individual in writing that the individual may request a hearing to refute the accuracy of the information found. The hearing must follow the provisions of SDCL 26-8A-11 and chapter 67:14:39.

If the screening locates an individual's name on the central registry of another state, it is the individual's responsibility to contact the other state to access the process for removal of the individual's name from that state's central registry. If the other state has such a process and removes the individual's name from its central registry, the individual shall request the other state to submit documentation to the department verifying the removal of the individual's name from its central registry.

If the screening locates a report that was substantiated by a tribal program, it is the individual's responsibility to contact the tribal program to access the process for removal of the individual's name from the record of the report. If the tribal program has such a process and removes the individual's name from the record of the report, the individual shall request the tribal program to submit documentation to the department verifying the removal of the individual's name from the record.

**Source:** 20 SDR 223, effective July 7, 1994; 21 SDR 206, effective June 4, 1995; 22 SDR 102, effective February 7, 1996; 35 SDR 187, effective February 11, 2009; 47 SDR 24, effective September 10, 2020.

**General Authority:** SDCL 26-6-16(1)(6)(10).

**Law Implemented:** SDCL 26-6-11, 26-6-16(1)(6)(10), 26-6-23.2.

**Cross-References:** Revocation or refusal to issue or renew license or registration for child abuse or violence, SDCL 26-6-23.1; Central registry background checks on employees, SDCL 26-6-23.2; Substantiated reports, § 67:14:39:04.

**67:42:01:05.03.  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.

**Source:** 20 SDR 223, effective July 7, 1994.

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

**Law Implemented:** SDCL 26-6-11, 26-6-16.

**67:42:01:06.  Ability to provide care.** An applicant shall demonstrate the ability to provide care to a client which meets the client's intellectual, physical, social, and emotional needs. The applicant's ability is determined by the capacity to provide the following:

(1)  An understanding of, and encouragement and emotional support to, the client;

(2)  Assistance to the client in coping with daily living experiences;

(3)  Supervision of the client;

(4)  If working with children, an understanding of child development and appropriate use of discipline; and

(5)  Ability to apply the reasonable and prudent parent standard for the participation in age or developmentally-appropriate activities.

The applicant must also be able to participate with the department or a responsible party in devising and executing a case plan for a client.

**Source:** 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 4, effective July 25, 1985; 39 SDR 220, effective June 27, 2013; 42 SDR 97, effective January 4, 2016.

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

**Law Implemented:** SDCL 26-6-11, 26-6-16.

**67:42:01:06.01.  Reasonable and prudent parent standard requirements.** The reasonable and prudent parent standard applies to facilities regulated by chapters 67:42:07, 67:42:08, 67:42:09, 67:42:13, and 67:42:15.

Under the standard, each facility is required to have at least one official onsite who, with respect to any child placed at the child care institution, is designated to be the caregiver authorized to apply the standard to decisions involving the participation of the child in age- or developmentally-appropriate activities. Each designated official shall receive training in how to use and apply the standard.

A child’s treatment plan or case plan must demonstrate implementation of the reasonable and prudent parent standard.

A facility is not liable for harm caused to a child in an out-of-home placement if:

(1)  The child participates in an activity approved by the facility and the parent or guardian; and

(2)  The facility has acted in accordance with the standard.

**Source:** 42 SDR 97, effective January 4, 2016; transferred from 67:42:07:04.01; 48 SDR 124, effective July 3, 2023.

**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).

**67:42:01:07.  Physical health standards required of applicant and applicant's family.** An applicant for family foster care must have a physical examination. A physical examination completed within the 12 months preceding the date of the application is acceptable. The applicant may 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. Each household member must provide a health history, including any history of drug or alcohol abuse or treatment, and must disclose any current mental health or drug or alcohol abuse issues.

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, unless the immunization is contrary to the individual's health as documented by a licensed health care professional or the application provides a signed written statement that the applicant adheres to a religious doctrine whose teachings are opposed to such immunization. The minimum immunization requirements for a child age 4 months through 6 years include: diphtheria, tetanus, and acellular pertussis (DTaP); poliovirus; measles, mumps, and rubella (MMR); and varicella. The minimum immunization requirements for a child age 7 through 18 include: tetanus, diphtheria, and acellular pertussis (Tdap); and meningococcal ACYW (MCV4). Each household member who will have contact with an infant or child with health issues that make them vulnerable to a serious or life-threatening condition if they are exposed to the influenza virus must receive an annual Influenza vaccine and have an up-to-date pertussis (whooping cough) vaccine.

Additional recommended immunizations include: Rotavirus, Haemophilus Influenzae Type b (Hib), Hepatitis A (Hep A), Hepatitis B (Hep B), and Pneumococcal.

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.

**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; 12 SDR 4, effective July 25, 1985; 12 SDR 127, effective February 9, 1986; 15 SDR 94, effective January 1, 1989; 17 SDR 157, effective April 23, 1991; 21 SDR 206, effective June 4, 1995; 31 SDR 40, effective September 29, 2004; 35 SDR 187, effective February 11, 2009; 39 SDR 220, effective June 27, 2013; 44 SDR 94, effective December 4, 2017; 47 SDR 24, effective September 10, 2020.

**General Authority:** SDCL 26-6-16(1)(6)(8).

**Law Implemented:** SDCL 26-6-11, 26-6-16(1)(6)(8).

**67:42:01:08.  Handicaps of applicant or provider.** Repealed.

**Source:** 4 SDR 2, effective July 25, 1977; 4 SDR 66, 4 SDR 89, effective July 1, 1981; repealed, 23 SDR 191, effective May 22, 1997.

**67:42:01:09.  Validity of license or registration certificate.** 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, 39 SDR 220, effective June 27, 2013.

**67:42:01:10.  Limitations on combining types of care.** 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; 12 SDR 4, effective July 25, 1985; 21 SDR 206, effective June 4, 1995; 27 SDR 63, effective December 31, 2000; repealed, 39 SDR 220, effective June 27, 2013.

**67:42:01:11.  On-site visits to determine compliance and evaluate activities.** 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, 39 SDR 220, effective June 27, 2013.

**67:42:01:12.  Reporting of incidents or changes in circumstances.** The provider shall report a change in circumstance that may affect the provider's ability to comply with the requirements of the provider's license or ability to provide adequate care. A change in circumstance 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 family foster home, group care center for minors, residential treatment center, intensive residential treatment center, child placement agency, and independent living preparation program must report to the placing worker the occurrence of an unusual incident such as fire, death, client runaway, client/provider incompatibility, or serious injury to or serious illness of a client. The provider shall make the report to the placing worker immediately after ensuring that children in care are safe.

**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; 12 SDR 4, effective July 25, 1985; 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 31 SDR 40, effective September 29, 2004; 34 SDR 200, effective January 30, 2008; 39 SDR 220, effective June 27, 2013.

**General Authority:** SDCL 26-6-16, 28-1-39.

**Law Implemented:** SDCL 26-6-16, 28-1-39.

**Cross-References:** Foster home services, § 67:42:09:18; Foster home record, § 67:42:09:25; Persons required to report child abuse or neglected child -- Intentional failure as misdemeanor, SDCL 26-8A-3; Oral report of abuse or neglect -- To whom made -- Response report, SDCL 26-8A-8.

**67:42:01:13.  Civil rights.** Repealed.

**Source:** 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; repealed, 39 SDR 220, effective June 27, 2013.

**67:42:01:14.  Provisional license or registration certificate -- Reasons for issuing -- Time limits.** 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; transferred from § 67:42:01:14.01, effective July 25, 1985; 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; 32 SDR 33, effective August 31, 2005; repealed, 39 SDR 220, effective June 27, 2013.

**67:42:01:14.01.  Transferred to § 67:42:01:14.**

**67:42:01:15.  Renewal of family foster home license.** Repealed.

**Source:** 4 SDR 2, effective July 25, 1977; 6 SDR 31, effective September 30, 1979; repealed, 7 SDR 66, 7 SDR 89, effective July 1, 1981.

**67:42:01:16.  Denial of license.** The department may deny a license to an applicant based on an evaluation, substantiated by facts, showing that the applicant does not meet standards for care.

Within 120 days after application, the applicant must receive a written notice of approval or denial of a license. If the application is denied, the notice must include the reasons for the denial. An applicant may reapply after taking corrective action related to the reasons for the original denial of the license.

**Source:** 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 11, 1983; 17 SDR 157, effective April 23, 1991; 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.

**Cross-References:** Grounds for revocation or refusal to issue or renew child welfare agency license or registration, SDCL 26-6-23; Revocation or refusal to issue or renew license or registration for child abuse or violence, SDCL 26-6-23.1.

**67:42:01:17.  Withdrawal of license or registration certificate.** 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, 39 SDR 220, effective June 27, 2013.

**67:42:01:18.  Revocation of license.** Violation of the provisions of this article are grounds for revocation of a license. Before a license is revoked, the department shall give a 30-day's written notice of revocation to the provider and shall make a 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 client.

The provider may not reapply for a license for at least one year after the date of revocation.

**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; 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, 26-6-23, 26-6-24.

**67:42:01:19.  Receipt and investigation of complaint.** Repealed.

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

**67:42:01:20.  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.

**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; 20 SDR 223, effective July 7, 1994; 21 SDR 206, effective June 4, 1995.

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

**Law Implemented:** SDCL 26-6-16, 26-6-24, 28-1-39.

**Cross-Reference:** Administrative review and fair hearing before restricting issuance of licenses, § 67:18:01:62.

**67:42:01:21.  Maintenance of records.** A record must be maintained by the provider on each client. That record must include the client's name, date of placement, date of removal, the names and telephone numbers of the client's social worker, doctor, dentist, parent, or person to contact in the event of an emergency, and any other information required by the department or desired by the provider.

**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; 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, 26-6-20.

**67:42:01:22.  Confidentiality.** The files and records of the provider must be kept confidential. No information may be released from the files or records to anyone outside of the licensed facility unless written authorization for the release of information is obtained from parties that may be affected by this action. This may include the department, the provider, a client served by the provider, or legal representatives of any of the parties. The provider shall make its files and records available for inspection by the department for licensing purposes.

A provider shall maintain in confidence all information concerning a client. Details of a client's life or that of the client's family may not be shared with unauthorized individuals.

**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; 39 SDR 220, effective June 27, 2013.

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

**Law Implemented:** SDCL 26-6-16, 26-6-20.

**67:42:01:23.  Location.** 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; 27 SDR 63, effective December 31, 2000; 32 SDR 33, effective August 31, 2005; repealed, 39 SDR 220, effective June 27, 2013.

**67:42:01:24.  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.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 4, effective July 25, 1985; 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; 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:** Staff-child ratio, Group care centers for minors, § 67:42:07:03; Staff-child ratio, Residential treatment centers, § 67:42:08:03; Use of system required -- Violation as petty offense, SDCL 32-37-1; Operator to assure that passengers between ages five and eighteen wear seatbelts, SDCL 32-37-1.1.

**67:42:01:25.  Fire safety.** Repealed.

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

**67:42:01:26.  Agency bylaws.** Repealed.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 4, effective July 25, 1985; repealed, 14 SDR 98, effective January 18, 1988.

**67:42:01:27.  Selection of governing board.** Repealed.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; repealed, 14 SDR 98, effective January 18, 1988.

**67:42:01:28.  Agency responsibility for building and equipment needs and funding.** Repealed.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983; 14 SDR 98, effective January 18, 1988; 24 SDR 76, effective December 11, 1997; 32 SDR 33, effective August 31, 2005; repealed, 39 SDR 220, effective June 27, 2013.

**67:42:01:29.  Responsibilities of the program director and/or executive director.** Repealed.

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

**67:42:01:30.  Proprietary day care center's advisory board.** Repealed.

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

**67:42:01:31.  Proprietary facilities -- Financing of a facility.** Repealed.

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

**67:42:01:32.  Proprietary facilities -- Financial records.** Repealed.

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

**67:42:01:33.  Accounting system.** 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; 32 SDR 33, effective August 31, 2005; repealed, 39 SDR 220, effective June 27, 2013.

**67:42:01:34.  Annual audit.** Each group care center, residential treatment center, child placement agency, and intensive residential treatment center shall provide for an annual audit of its accounts by a certified public accountant who is not an employee of the facility, a member of the board of directors, or an employee of the department. The report of the audit must be made a part of the facility records.

**Source:** 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; 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.

**67:42:01:35.  Insurance.** Each group care center, residential treatment center, intensive residential treatment center, and child placement agency shall carry liability insurance. Each vehicle used for transporting clients must have liability insurance that covers the clients being transported.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 4, effective July 25, 1985; 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.

**67:42:01:36.  Final inspection reports -- Required posting.** Repealed.

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

**67:42:01:37.  Telephones.** Each home or facility must provide one working, nonpay telephone which can be used for general and emergency uses.

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

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

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

**CHAPTER 67:42:02**

**ADULT FOSTER CARE**

(Repealed. 27 SDR 121, effective May 28, 2001)

**CHAPTER 67:42:03**

**FAMILY DAY CARE HOMES**

**(Repealed)**

Section

67:42:03:01 Definitions, Repealed.

67:42:03:02 to 67:42:03:04 Repealed.

67:42:03:04.01 Maximum number of children allowed, Repealed.

67:42:03:05 Repealed.

67:42:03:06 Qualifications of a family day care provider, Repealed.

67:42:03:07 Repealed.

67:42:03:07.01 Qualifications of helpers, Repealed.

67:42:03:07.02 Training, Repealed.

67:42:03:07.03 Helper records and hiring requirements, Repealed.

67:42:03:07.04 Repealed.

67:42:03:07.05 Repealed.

67:42:03:07.06 Orientation, Repealed.

67:42:03:08 Health standards and immunizations for children, Repealed.

67:42:03:08.01 Medications, Repealed.

67:42:03:09 Repealed.

67:42:03:09.01 Reporting suspected child abuse and neglect, Repealed.

67:42:03:10 to 67:42:03:11.01 Repealed.

67:42:03:11.02 Smoke detectors and fire extinguishers, Repealed.

67:42:03:11.03 Emergency preparedness and response, Repealed.

67:42:03:11.04 Repealed.

67:42:03:11.05 Water source and temperature, Repealed.

67:42:03:11.06 Heating, ventilating, and lighting, Repealed.

67:42:03:11.07 Electrical outlet covers, Repealed.

67:42:03:11.08 Food quality and storage, Repealed.

67:42:03:11.09 Insect and rodent control, Repealed.

67:42:03:11.10 Railings, Repealed.

67:42:03:12 Sanitation requirements, Repealed.

67:42:03:13 Nutrition requirements, Repealed.

67:42:03:14 Repealed.

67:42:03:15 Presence of the provider, Repealed.

67:42:03:16 Discipline, Repealed.

67:42:03:17 Playground area and equipment, Repealed.

67:42:03:18 Parental observation, Repealed.

67:42:03:19 Handwashing, Repealed.

67:42:03:20 Water safety, Repealed.

67:42:03:21 Other hazardous conditions, Repealed.

67:42:03:22 Pets, Repealed.

67:42:03:23 Sleeping arrangements, Repealed.

**67:42:03:01.  Definitions.** 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; 49 SDR 124, effective July 3, 2023.

**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.** 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; 49 SDR 124, effective July 3, 2023.

**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.** 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; 49 SDR 124, effective July 3, 2023.

**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.** 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; 49 SDR 124, effective July 3, 2023.

**67:42:03:07.02.  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; 49 SDR 124, effective July 3, 2023.

**67:42:03:07.03.  Helper records and hiring requirements.** 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; 49 SDR 124, effective July 3, 2023.

**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.** Repealed.

**Source:** 43 SDR 31, effective September 12, 2016; 45 SDR 82, effective December 10, 2018; 49 SDR 124, effective July 3, 2023.

**67:42:03:08.  Health standards and immunizations for children.** 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; 49 SDR 124, effective July 3, 2023.

**67:42:03:08.01.  Medications.** Repealed.

**Source:** 15 SDR 162, effective May 4, 1989; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013; 49 SDR 124, effective July 3, 2023.

**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.** Repealed.

**Source:** 15 SDR 162, effective May 4, 1989; 49 SDR 124, effective July 3, 2023.

**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.** 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; 49 SDR 124, effective July 3, 2023.

**67:42:03:11.03.  Emergency preparedness and response.** 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; 49 SDR 124, effective July 3, 2023.

**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.** 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; 49 SDR 124, effective July 3, 2023.

**67:42:03:11.06.  Heating, ventilating, and lighting.** 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; 49 SDR 124, effective July 3, 2023.

**67:42:03:11.07.  Electrical outlet covers.** 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; 49 SDR 124, effective July 3, 2023.

**67:42:03:11.08.  Food quality and storage.** 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; 49 SDR 124, effective July 3, 2023.

**67:42:03:11.09.  Insect and rodent control.** 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; 49 SDR 124, effective July 3, 2023.

**67:42:03:11.10.  Railings.** 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; 49 SDR 124, effective July 3, 2023.

**67:42:03:12.  Sanitation requirements.** 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; 49 SDR 124, effective July 3, 2023.

**67:42:03:13.  Nutrition requirements.** 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; 49 SDR 124, effective July 3, 2023.

**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.** 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; 49 SDR 124, effective July 3, 2023.

**67:42:03:16.  Discipline.** Repealed.

**Source:** 10 SDR 48, effective November 21, 1983; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013; 49 SDR 124, effective July 3, 2023.

**67:42:03:17.  Playground area and equipment.** Repealed.

**Source:** 15 SDR 162, effective May 4, 1989; 21 SDR 206, effective June 4, 1995; 31 SDR 40, effective September 29, 2004; 49 SDR 124, effective July 3, 2023.

**67:42:03:18.  Parental observation.** Repealed.

**Source:** 15 SDR 162, effective May 4, 1989; 49 SDR 124, effective July 3, 2023.

**67:42:03:19.  Handwashing.** Repealed.

**Source:** 15 SDR 162, effective May 4, 1989; 21 SDR 206, effective June 4, 1995; 49 SDR 124, effective July 3, 2023.

**67:42:03:20.  Water safety.** Repealed.

**Source:** 21 SDR 206, effective June 4, 1995; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013; 49 SDR 124, effective July 3, 2023.

**67:42:03:21.  Other hazardous conditions.** Repealed.

**Source:** 21 SDR 206, effective June 4, 1995; 31 SDR 40, effective September 29, 2004; 49 SDR 124, effective July 3, 2023.

**67:42:03:22.  Pets.** Repealed.

**Source:** 31 SDR 40, effective September 29, 2004; 49 SDR 124, effective July 3, 2023.

**67:42:03:23.  Sleeping arrangements.** Repealed.

**Source:** 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013; 43 SDR 31, effective September 12, 2016; 49 SDR 124, effective July 3, 2023.

**CHAPTER 67:42:04**

**GROUP FAMILY DAY CARE HOMES**

(Repealed, 39 SDR 220, effective June 27, 2013)

**CHAPTER 67:42:05**

**FAMILY FOSTER HOMES**

Section

67:42:05:01 Definitions.

67:42:05:02 Licensing and supervision of a family foster parent.

67:42:05:02.01 Contents of licensing record to be available to foster parent.

67:42:05:03 Training and development.

67:42:05:04 Status and number of children cared for -- Exceptions.

67:42:05:05 Repealed.

67:42:05:06 General qualifications for family foster care provider.

67:42:05:06.01 Repealed.

67:42:05:07 Transferred.

67:42:05:08 Repealed

67:42:05:09 Repealed

67:42:05:10 Repealed.

67:42:05:10.01 Smoke detectors.

67:42:05:10.02 Repealed.

67:42:05:10.03 Water supply.

67:42:05:10.04 Repealed.

67:42:05:10.05 Safety caps.

67:42:05:10.06 Exits.

67:42:05:10.07 Carbon monoxide detectors.

67:42:05:11 Sanitation requirements.

67:42:05:12 Nutrition requirements.

67:42:05:13 Program requirements.

67:42:05:14 Transferred.

67:42:05:15 Discipline.

67:42:05:16 Food quality -- Storage.

67:42:05:17 Repealed.

67:42:05:18 Railings.

67:42:05:19 Sleeping space.

67:42:05:20 Access to hazardous items.

67:42:05:21 Water safety.

67:42:05:22 Medication -- Storage.

67:42:05:23 Emergency preparedness.

67:42:05:24 Living space requirements.

**67:42:05:01.  Definitions.** As used in this chapter:

(1)  "Family foster home" means a family home that provides regular full-time care, maintenance, supervision, and protection of a child, as a substitute for regular parental care, without a transfer of legal custody and meets the requirements of § 67:42:05:24;

(2)  "Child placement agency" means the department or an agency or institution as defined in SDCL 26-6-14(4) and subject to the regulatory requirements of chapter 67:42:09; and

(3)  "Single family home" means a stand-alone dwelling or a unit in a multiple-unit dwelling, which provides personal living space for one family.

**Source:** 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 11 SDR 101, effective February 3, 1985; 17 SDR 157, effective April 23, 1991; 20 SDR 223, effective July 7, 1994; 39 SDR 220, effective June 27, 2013; 47 SDR 24, effective September 10, 2020.

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

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

**67:42:05:02.  Licensing and supervision of a family foster parent.** The department or child placement agency shall base its decision to issue a license upon a written home study of the family foster parent applicant. The department or child placement agency shall keep the written home study in the applicant's file.

A family foster parent must be licensed and supervised by the department or a child placement agency. A licensed foster parent shall inform the agency which has licensed the foster parent upon accepting a child from another placement agency or from a parent or guardian.

**Source:** 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 11 SDR 101, effective February 3, 1985; 39 SDR 220, effective June 27, 2013.

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

**Law Implemented:** SDCL 26-6-13, 26-6-16.

**67:42:05:02.01.  Contents of licensing record to be available to foster parent.** With the exception of reference documents, the contents of a foster parent's licensing file must be available for review and comment on request of the foster parent. In addition, at the time a foster parent is renewing a license, the licensing worker shall offer the foster parent an opportunity to review the foster parent's licensing record and to make written comments in the narrative section. The foster parent shall date and sign the written comments. The foster parent shall document that the opportunity to read the record was given even if the foster parent chose not to read it.

The foster parent may not purge material from the record.

**Source:** 16 SDR 99, effective December 7, 1989; 21 SDR 206, effective June 4, 1995; 39 SDR 220, effective June 27, 2013.

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

**Law Implemented:** SDCL 26-6-13, 26-6-16, 26-6-20.

**Cross-Reference:** Initial evaluation and approval -- Renewal of license or registration certificate, § 67:42:01:05.

**67:42:05:03.  Training and development.** Foster parent applicants must participate in at least 30 hours of orientation training before receiving an initial license. The training must include:

(1)  The impact of separation and trauma on child development;

(2)  How attachments are formed;

(3)  The importance of the birth family;

(4)  Techniques of managing behavior;

(5)  Permanency planning for children;

(6)  Child development; and

(7)  Cardiopulmonary resuscitation, first aid, and medication administration.

Licensed foster parents must participate in at least 6 hours of approved training annually, before license renewal. Upon prior approval of the department, the department may reimburse a foster parent an established flat rate for this type of training.

If the foster parent cares for a child with a disability or a medical, behavioral, or emotional disorder, an additional 12 hours of training is required to meet the needs of the child. Upon prior approval of the department, the department may reimburse a foster parent for this type of training. Evidence of education, experience, or professional background in the specific area may be substituted for training to meet a child's specific needs.

The foster parent must supply the department or the child placement agency with documented evidence of completed training before each license renewal.

**Source:** 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 11 SDR 101, effective February 3, 1985; 12 SDR 4, effective July 25, 1985; 12 SDR 127, effective February 9, 1986; 17 SDR 157, effective April 23, 1991; 27 SDR 121, effective May 28, 2001; 39 SDR 220, effective June 27, 2013; 47 SDR 24, effective September 10, 2020.

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

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

**67:42:05:04.  Status and number of children cared for -- Exceptions.** The family foster parent may provide care for up to 6 children, including the foster parent's own children who are under 18 years of age and residing in the home. There may be no more than 2 children under the age of 2, including the foster parent's own children. Exceptions to this requirement may be made by the department or the child placement agency to keep siblings together, to place a child with a foster parent who is a relative, to allow a parenting youth in foster care to remain with the youth's child, to allow a child who has an established meaningful relationship with the family to remain with the family, or to allow a family with special training or skills to provide care to a child who has a severe disability or special needs. The maximum number of 6 children may be waived for a period of up to 10 days for emergency placements or respite care.

**Source:** 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 11 SDR 101, effective February 3, 1985; 39 SDR 220, effective June 27, 2013; 41 SDR 218, effective June 30, 2015; 47 SDR 24, effective September 10, 2020.

**General Authority:** SDCL 26-6-16(1)(5)(6).

**Law Implemented:** SDCL 26-6-16(1)(5)(6).

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

**Source:** 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; repealed, 11 SDR 101, effective February 3, 1985.

**67:42:05:06.  General qualifications for family foster care provider.** In addition to the criteria of § 67:42:01:06, a family foster parent applicant or a licensed family foster parent shall meet the following criteria before the applicant or foster parent may be licensed or relicensed as a family foster parent:

(1)  The applicant or foster parent shall be at least 21 years of age and reside in a single family home in South Dakota;

(2)  No household member 18 years of age or older, other than a child placed in the home for foster care, may have on record a substantiated report of child abuse or neglect;

(3)  No member of the applicant's or foster parent's household may have a conviction for any of the crimes specified in § 67:42:01:05.01;

(4)  The applicant or foster parent shall have income that meets the needs of the existing family, independent of the foster care maintenance payments;

(5)  The applicant's or foster parent's children, if any, shall be willing to accept a child in foster care as a member of the family;

(6)  The applicant's or foster parent's family composition, needs, and relationships may not adversely affect a child in foster care;

(7)  If the applicant or foster parent is employed outside the home, the child placement agency shall have approved the applicant's or foster parent's child care plan;

(8)  If the applicant or foster parent is married and both individuals are employed outside the home, the child placement agency shall have approved the applicant's or foster parent's child care plan;

(9)  The applicant or foster parent shall have the ability to parent a child, which includes a basic understanding of the child's physical and mental or emotional development and the ability to fulfill the child's needs. The applicant or foster parent shall have the ability to offer continuing care and guidance to a child throughout the stages of development in a manner consistent with the social and cultural heritage norms of the child. The applicant or foster parent shall be able to continue meeting the needs of the applicant's or foster parent's own children, if any. The applicant or foster parent shall display the capacity to provide good care for children;

(10)  At least one applicant in the home shall have the ability to read and write; and

(11)  The applicant or foster parent shall have reliable, legal, and safe transportation. Vehicles utilized for transportation must be registered, insured, and equipped with safety restraints. Each driver shall have a driver license.

The department may require a psychological evaluation and the submission of medical records if during the application process or during the period of licensure questions arise regarding the applicant's or foster parent's emotional stability or the emotional stability of another household member.

**Source:** 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; transferred from §§ 67:42:05:07 and 67:42:05:14, 11 SDR 101, effective February 3, 1985; 17 SDR 157, effective April 23, 1991; 20 SDR 223, effective July 7, 1994; 21 SDR 206, effective June 4, 1995; 35 SDR 187, effective February 11, 2009; 39 SDR 220, effective June 27, 2013; 47 SDR 24, effective September 10, 2020; 47 SDR 58, effective December 2, 2020.

**General Authority:** SDCL 26-6-16(1)(2)(6).

**Law Implemented:** SDCL 26-6-16(1)(2)(6), 26-6-23.2.

**Cross-References:** Initiatial evaluation and approval -- Renewal of license, § 67:42:01:05;

Ability to provide care, § 67:42:01:06;

Training and development, § 67:42:05:03;

Application for license -- Investigation -- Issuance -- Conditions -- Records -- Public inspection, SDCL 26-6-11;

Screening for substantiated reports of abuse and neglect, § 67:42:01:05.02;

Required criminal records checks, 42 U.S.C. § 671(a)(20).

**67:42:05:06.01.  Application denied if report of child abuse or neglect is substantiated.** Repealed.

**Source:** 17 SDR 157, effective April 23, 1991; 20 SDR 223, effective July 7, 1994; repealed, 39 SDR 220, effective June 27, 2013.

**67:42:05:07.  Transferred to § 67:42:05:06.**

**67:42:05:08.  Physical health standards for family foster care children.** Repealed.

**Source:** 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; repealed, 11 SDR 101, effective February 3, 1985.

**67:42:05:09.  Location of foster family home.** Repealed.

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

**67:42:05:10.  Physical requirements of foster family home.** Repealed.

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

**67:42:05:10.01.  Smoke detectors.** A family foster home shall be equipped with a smoke detector which shall be provided on each level of the building. Audible alarm indicating devices shall be designed and distributed so as to be effectively heard above the maximum noise level obtained under normal conditions of occupancy. Foster parents shall have an evacuation plan and shall teach it to each child. Foster parents shall conduct a fire drill each time a child enters care to ensure that all children understand the procedures.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 11 SDR 101, effective February 3, 1985.

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

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

**67:42:05:10.02.  Lighting.** Repealed.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; repealed, 39 SDR 220, effective June 27, 2013.

**67:42:05:10.03.  Water supply.** 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. 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. Hot water from plumbing fixtures normally used by children in care may not exceed 120 degrees Fahrenheit.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 11 SDR 101, effective February 3, 1985; 21 SDR 206, effective June 4, 1995; 35 SDR 187, effective February 11, 2009; 39 SDR 220, effective June 27, 2013; SL 2021, ch 1, §§ 8, 19, effective April 19, 2021.

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

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

**Cross-Reference:** Definition of community water system, § 74:04:05:01.

**67:42:05:10.04.  Heating plant.** Repealed.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 11 SDR 101, effective February 3, 1985; repealed, 39 SDR 220, effective June 27, 2013.

**67:42:05:10.05.  Safety caps.** In family foster homes caring for children aged four years and younger, all unused electrical outlets within 36 inches from the floor shall use a tamper resistant outlet or be covered by a U.L. approved electrical safety cap. There shall be no bare or exposed electrical wires present within the facility.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 11 SDR 101, effective February 3, 1985; 44 SDR 94, effective December 4, 2017.

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

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

**67:42:05:10.06.  Exits.** There shall be two remote exits on each level used for the care of children. Each of these exits shall provide unobstructed travel to the outside. One of these exits shall be a door or stairway which provides a means of unobstructed travel to the outside of the building at ground level. The other exit may be a window which meets the following requirements:

(1)  Can be easily opened from the inside without the use of tools;

(2)  Provides a clear opening with a minimum dimension of at least 22 inches, is at least 5 square feet in area, and provides a safe means of escape; and

(3)  Storm windows, screens, or burglar guards, if used, are provided with quick-opening devices which can be easily opened from the inside.

A ladder, folding stairs, or trap door may not be the only access to a bedroom.

**Source:** 11 SDR 101, effective February 3, 1985.

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

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

**67:42:05:10.07.  Carbon monoxide detectors.** A family foster home must be equipped with a carbon monoxide detector on each level of the home.

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

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

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

**67:42:05:11.  Sanitation requirements.** The family foster home shall be kept clean, neat, and free of litter and rubbish. Hazardous cleaning solutions, chemicals, and poisons must be labeled and kept in an enclosed cabinet that is not accessible to children. 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.

**Source:** 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 11 SDR 101, effective February 3, 1985; 39 SDR 220, effective June 27, 2013.

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

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

**67:42:05:12.  Nutrition requirements.** A foster parent shall provide a child in foster care with at least three meals a day. The meals must be of sufficient quantity to meet the child's nutritional needs. The foster parent shall adhere to special diets prescribed for the child in foster care by a physician or dietitian.

**Source:** 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 11 SDR 101, effective February 3, 1985; 27 SDR 121, effective May 28, 2001; 39 SDR 220, effective June 27, 2013.

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

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

**67:42:05:13.  Program requirements.** A foster parent shall comply with the following:

(1)  Shall provide daily activities designed to promote the physical, social, intellectual, and emotional development of the children in the foster parent's home in accordance with the reasonable and prudent parent standard. A family foster home 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 family foster home, provided that the family foster home has acted in accordance with the reasonable and prudent parent standard;

(2)  Shall take part in case planning for the child and shall participate in the preparation, pre-placement, and visitation plans for a child placed in the foster parent's home;

(3)  Shall demonstrate respect for the child's own family and shall agree to maintain a working relationship with the child's family members as indicated in the child's case plan; and

(4)  Shall ensure that the child in foster care has the safety equipment and training necessary to safely engage in each activity the child participates in, including, but not limited to the following activities:

(a)  Boating;

(b)  Recreational vehicle use;

(c)  Sports; and

(d)  Hunting.

**Source:** 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 11 SDR 101, effective February 3, 1985; 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.

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

**67:42:05:14.  Transferred to §** **67:42:05:06.**

**67:42:05:15.  Discipline.** Discipline used by a foster parent must provide for positive guidance, redirection, and setting of clear-cut limits while helping a child to develop self-control, self-esteem, and respect for the rights of others. A foster parent shall discuss methods of discipline with the child's worker. A foster parent may not delegate discipline to older children or peers. Any discipline or control must be appropriate to the child's age and developmental level. Physical punishment is prohibited.

**Source:** 11 SDR 101, effective February 3, 1985; 39 SDR 220, effective June 27, 2013.

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

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

**67:42:05:16.  Food quality -- Storage.** Food must be free from spoilage and contamination and shall be safe for human consumption. Fluid milk and fluid milk products used or served must be pasteurized.

**Source:** 11 SDR 101, effective February 3, 1985; 39 SDR 220, effective June 27, 2013.

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

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

**67:42:05:17.  Insect and rodent control.** Repealed.

**Source:** 11 SDR 101, effective February 3, 1985; repealed, 39 SDR 220, effective June 27, 2013.

**67:42:05:18.  Railings.** Floor and wall openings, open-sided areas, or platforms 30 inches or more above the adjacent ground level shall be guarded by a railing or barrier. The railing or barrier must be constructed to prevent the child from crawling or falling through or becoming entrapped.

**Source:** 11 SDR 101, effective February 3, 1985; 35 SDR 187, effective February 11, 2009; 39 SDR 220, effective June 27, 2013.

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

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

**67:42:05:19.  Sleeping space.** Family foster homes shall have sufficient sleeping space to accommodate comfortably a child in care as well as the provider's family. The foster home shall meet the following requirements:

(1)  Bed linens, blankets, and pillows shall be provided for all children;

(2)  Children of different sexes over the age of six may not sleep in the same room; and

(3)  Children may not share a bed with an adult.

**Source:** 11 SDR 101, effective February 3, 1985; 44 SDR 94, effective December 4, 2017.

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

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

**67:42:05:20.  Access to hazardous items.** The following hazardous items must be inaccessible to a child in foster care, unless under adult supervision:

(1)  Firearms, including pellet guns, BB guns, and cap guns;

(2)  Ammunition;

(3)  Archery bows and arrows; and

(4)  Matches and lighters.

Firearms must be kept unloaded and locked in a room, closet, cabinet, or carrying case, and separate from the ammunition. Before a child in foster care under the age of 16 may hunt, the child must successfully complete a hunter safety course approved by the Department of Game, Fish and Parks under the applicable provisions of SDCL 41-7-1.

Alcoholic beverages, medications, poisonous materials, cleaning supplies, and other hazardous materials must be inaccessible to children. Smoking is prohibited in the foster family home or any vehicle used to transport the child while in the presence of a child in foster care.

The department may require the removal or correction of other hazardous conditions or circumstances not covered in this chapter if it considers the conditions or circumstances to have the potential to cause injury or illness to the child in care.

**Source:** 27 SDR 121, effective May 28, 2001; 39 SDR 220, effective June 27, 2013; 42 SDR 97, effective January 4, 2016; 47 SDR 24, effective September 10, 2020.

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

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

**Cross-References:** Requirements for issuance of hunting license to child under sixteen -- Violation as misdemeanor, SDCL 41-7-1; Department to provide for course of instruction, SDCL 41-7-2.

**67:42:05:21.  Water safety.** A child who is placed in a licensed home which is adjacent to any body of water or that has a swimming pool shall be instructed in water safety appropriate for their age. Wading pools shall be emptied and stored when not in use. Swimming pools which are not emptied after each use shall have a fence on all sides at least four feet high or feature a hard shell power safety cover. If a chain-link fence is used, the fence must be constructed of chain link that does not exceed one and three-quarters inches. A wall of the home may be considered as one side of the fence. All access through the fence shall have one of the following safety features: alarm, key lock, self-locking doors, bolt lock or another lock that is not accessible to a child. Any exterior door leading from the house to the pool area shall have two of the safety features. When the swimming pool is not in use all entry points shall be locked. Power Safety Covers should conform to the specification in the ASTM F1346-91 standard, which specifies safety performance for pool covers to protect a young child from drowning. Hard shell covers must be kept locked at all times when the pool is not in use. If the sides of an above ground pool are four feet tall, they may be used as the barrier for that pool. Above ground pools with steps or ladders shall have them secured, locked, or removed when the pool is not in use. All pools above or in ground shall be equipped with one of the following life saving devices: ring buoy; rescue tube; flotation device with a rope; or a shepherd's hook of sufficient length to cover the area.

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).

**Source:** 35 SDR 253, effective May 12, 2009; 44 SDR 94, effective December 4, 2017.

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

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

**Cross-Reference:** ASTM F1346-91{2010}, Standard Performance Specification for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs, ASTM International, West Conshohocken, PA, 2010, <www.astm.org>

**67:42:05:22.  Medication -- Storage.** All medications must be kept in a locked cabinet or container. A foster parent may not permit medication prescribed for another person to be given to a child in foster care.

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

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

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

**67:42:05:23.  Emergency preparedness.** The applicant or foster parent shall maintain a list of emergency telephone numbers, including at least poison control, police, fire department, and hospital, and post those numbers in a prominent place in the home. The applicant or foster parent must maintain first aid supplies in the foster home.

**Source:** 47 SDR 24, effective September 10, 2020.

**General Authority:** SDCL 26-6-16(1)(2)(6).

**Law Implemented:** SDCL 26-6-16(1)(2)(6).

**67:42:05:24.  Living space requirements.** A family foster home must have:

(1)  Safe drinking water;

(2)  Appliances for the preparation of hot meals;

(3)  A toilet, sink, and tub or shower in operating condition;

(4)  Adequate light, heat, and ventilation; and

(5)  A working telephone.

**Source:** 47 SDR 24, effective September 10, 2020.

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

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

**CHAPTER 67:42:06**

**BASIC GROUP LIVING CENTERS FOR MINORS**

## Section

67:42:06:01 to 67:42:06:04 Repealed.

67:42:06:05 to 67:42:06:07 Transferred.

67:42:06:08 and 67:42:06:09 Repealed.

67:42:06:10 to 67:42:06:13 Transferred.

**67:42:06:01.  Definition of basic group living center for minors.** Repealed.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; repealed, 12 SDR 4, effective July 25, 1985.

**67:42:06:02.  Basic group living center and licensed child placement agency relationship.** Repealed.

**Source:** SL 1975, ch 16, § 1; transferred from § 67:14:22:02, 4 SDR 10, effective August 28, 1977; transferred from § 67:41:05:02, 7 SDR 66, 7 SDR 89, effective July 1, 1981; repealed, 12 SDR 4, effective July 25, 1985.

**67:42:06:03.  Qualifications for program director.** Repealed.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; repealed, 12 SDR 4, effective July 25, 1985.

**67:42:06:04.  Staff-child ratio.** Repealed.

**Source:** SL 1975, ch 16, § 1; transferred from § 67:14:22:17, 4 SDR 10, effective August 28, 1977; transferred from § 67:41:05:09, 7 SDR 66, 7 SDR 89, effective July 1, 1981; repealed, 12 SDR 4, effective July 25, 1985.

**67:42:06:05.** **Transferred to § 67:42:07:07.**

**67:42:06:06.  Transferred to § 67:42:07:08.**

**67:42:06:07.  Transferred to § 67:42:07:09.**

**67:42:06:08.  Staff development and in-service training.** Repealed.

**Source:** SL 1975, ch 16, § 1; transferred from § 67:14:22:21, 4 SDR 10, effective August 28, 1977; transferred from § 67:41:05:13, 7 SDR 66, 7 SDR 89, effective July 1, 1981; repealed, 12 SDR 4, effective July 25, 1985.

**67:42:06:09.  Program requirements.** Repealed.

**Source:** SL 1975, ch 16, § 1; transferred from § 67:14:22:23, 4 SDR 10, effective August 28, 1977; transferred from § 67:41:05:15, 7 SDR 66, 7 SDR 89, effective July 1, 1981; repealed, 12 SDR 4, effective July 25, 1985.

**67:42:06:10.  Transferred to § 67:42:07:10.**

**67:42:06:11.  Transferred to § 67:42:07:11.**

**67:42:06:12.  Transferred to § 67:42:07:13.**

**67:42:06:13.  Transferred to § 67:42:07:14.**

**CHAPTER 67:42:07**

**GROUP CARE CENTERS FOR MINORS**

Section

67:42:07:01 Definitions.

67:42:07:01.01 Shelter care facility -- Length of stay.

67:42:07:01.02 Agreement to provide alternative services.

67:42:07:02 Qualifications for program director.

67:42:07:03 Staff-child ratio.

67:42:07:04 Orientation and in-service training.

67:42:07:04.01 Reasonable and prudent parent standard requirements, Transferred.

67:42:07:05 Treatment plan.

67:42:07:06 Repealed.

67:42:07:07 Staff qualifications -- Contact with references required.

67:42:07:08 Repealed.

67:42:07:09 Personnel record.

67:42:07:10 Health care of children.

67:42:07:11 Fire and health inspections.

67:42:07:11.01 Building plans.

67:42:07:12 Sleeping space.

67:42:07:13 Nutrition requirements.

67:42:07:14 Volunteers.

67:42:07:15 Staff responsibility for reporting suspected in-house incidents of child abuse or neglect.

67:42:07:15.01 Resident and family grievance procedures.

67:42:07:16 Facility procedures for handling suspected in-house child abuse.

67:42:07:17 Interstate placement of children.

67:42:07:18 Written policy on discipline.

67:42:07:19 Written procedures for medication administration.

67:42:07:20 Psychotropic medications.

67:42:07:21 Repealed.

67:42:07:22 Required medication records.

67:42:07:23 Medication control.

67:42:07:24 Use of seclusion and restraint to be approved by child placement agency -- Required documentation.

67:42:07:25 Physical requirements for room used for seclusion.

67:42:07:26 Staff person to monitor seclusion room.

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.

**67:42:07:01.  Definitions.** As used in this chapter:

(1)  "After-care services" means supportive social services, as specified in the treatment plan, for the family, after the child has returned home;

(2)  "Alternative services" means an array of services that may be provided by the group care center to a child and the child's family and which are designed to enable the child to remain at home or to remain in or return to a placement in the nearest possible proximity to the child's home or placement resource;

(3)  "Family services" means social rehabilitative services provided to family members to alleviate problems that are specified in the treatment plan and which keep a child from returning to the child's own home;

(4)  "Group care center" means a facility licensed by the department to care for children who are experiencing family problems and interpersonal conflicts, are unable to remain in a family setting, and require ongoing group and individual counseling or alternative services in a structured treatment program using facility-based services;

(5)  "Personal restraint" means the application of physical force without the use of any device for the purpose of restraining the free movement of a resident's body. The term does not include briefly holding a resident, without undue force, to calm or comfort the resident or holding a resident's hand to safely escort the resident from one area to another;

(6)  "Program director" means the individual responsible for developing, implementing, supervising, and monitoring the services provided;

(7)  "Seclusion" means a resident is involuntarily confined alone in a room or in an area and is physically prevented from leaving the room or area;

(8)  "Shelter care facility" means a group care center that provides short-term, full-time care for children who may be placed there under emergency conditions. The term includes a center that provides short-term assessment services to children;

(9)  "Short-term assessment services" means planned or emergency diagnostic services that include use of a time-limited assessment or diagnostic process to evaluate the child's and family's needs and determine the most appropriate level of care and services; and

(10)  "Treatment plan" means a plan that explains the child's social, psychological, or medical problems, contains solutions to the problems, and describes the necessary steps and schedules to resolve the problems.

**Source:** SL 1975, ch 16, § 1; transferred from § 67:14:23:01, 4 SDR 10, effective August 28, 1977; transferred from § 67:41:06:01, 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 4, effective July 25, 1985; 33 SDR 227, effective July 1, 2007; 34 SDR 200, effective January 30, 2008; 47 SDR 24, effective September 10, 2020.

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

**Law Implemented:** SDCL 26-6-14(1), 26-6-16.

**67:42:07:01.01.  Shelter care facility -- Length of stay.** A shelter care facility provides neither treatment nor treatment planning. A shelter care facility may maintain children for no more than 30 days. If a placement plan has been made but cannot be implemented or needed assessment services cannot be completed within the 30-day period, an extension of time not to exceed 30 days may be allowed.

**Source:** 12 SDR 4, effective July 25, 1985; 34 SDR 200, effective January 30, 2008.

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

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

**67:42:07:01.02.  Agreement to provide alternative services.** If a group care center provides alternative services to children in the custody of the department, the center must have a signed alternative service agreement with the department. The agreement must specify the alternative services that are subject to reimbursement from the department and the criteria that must be met in the delivery of the services.

**Source:** 34 SDR 200, effective January 30, 2008.

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

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

**67:42:07:02.  Qualifications for program director.** The program director must have a bachelor's degree in an accredited behavioral or social science area or an equivalent combination of education and experience and at least two years of relevant alternative child care experience. The program director may not have on record a substantiated report of child abuse or neglect.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 4, effective July 25, 1985; 15 SDR 162, effective May 4, 1989; 20 SDR 223, effective July 7, 1994; 34 SDR 200, effective January 30, 2008.

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

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

**Cross-References:** Report to social services -- Contents, SDCL 26-8A-10; Fair hearings, ch 67:17:02; Revocation or refusal to issue or renew license or registration for child abuse or violence, SDCL 26-6-23.1; Screening for substantiated reports of abuse and neglect, § 67:42:01:05.02.

**67:42:07:03.  Staff-child ratio.** Child care staff must be employed to maintain daily living conditions for all children in care. Group care centers shall maintain a staff-child ratio of one adult for each eight children or fraction thereof during waking hours whenever children are present. In addition, shelter care facilities shall maintain a staff-child ratio of one adult for each four children or fraction thereof under the age of four during waking hours. During sleeping hours, there must be at least one staff member present in each separate sleeping unit to supervise children, but not less than one staff member for each 25 children or fraction thereof in the building.

Additional child care staff must be on call. A list of the staff members on call must be posted by the facility's telephone in case of an emergency. The facility must have a written plan to ensure that staff, law enforcement, or appropriate emergency responders are available at the center within a reasonable time in the event of an emergency. Arrangements must be made for employing substitute staff to serve children in emergencies, during vacations or illness of regular staff, and during the time when regular staff is off duty. Auxiliary staff members, such as certified special education teachers, mental health professionals, and physical or occupational therapists, must be provided according to the defined purposes of the center.

The department may require a higher staff-child ratio if on-site visits indicate a need for more supervision to maintain control and discipline.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 4, effective July 25, 1985; 21 SDR 206, effective June 4, 1995; 34 SDR 200, effective January 30, 2008; 39 SDR 220, effective June 27, 2013.

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

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

**67:42:07:04.  Orientation and in-service training.** The facility must have written plans for orientation and in-service training. Each direct child care staff member shall participate in the in-service training. The written plan for in-service training must provide for training in the following areas for staff during the first year of employment:

(1)  Administrative procedures and overall program goals;

(2)  Understanding children's emotional needs and problems that affect and inhibit their growth;

(3)  Family relationships and the impact of separation;

(4)  Substance abuse, its recognition, prevention, and treatment;

(5)  Identification and reporting of child abuse and neglect;

(6)  Principles and practices of child care;

(7)  Behavior management techniques;

(8)  Use of seclusion and personal restraint, if used by the facility;

(9)  Emergency and safety procedures; and

(10)  Cultural sensitivity.

Staff must receive training to become certified in basic first aid and cardiopulmonary resuscitation and must maintain certification throughout employment.

For staff beyond the first year of employment, the plan must provide for competency-based training based on an annual evaluation of the staff member's competencies.

Each staff member must have 24 hours of training annually. The facility shall provide a minimum of 24 hours of planned in-service training annually. The training in behavior management techniques and personal restraint must be from a nationally recognized program.

Staff members shall complete an orientation course within one month after they are hired. The facility may consider the orientation course a part of the required 24 hours of in-service training. The orientation course must include the facility's functions, services, community resources, and specific job functions.

Supervision of staff members as they perform their routine tasks is not considered in-service training for purposes of this requirement. Participation in training must be documented and kept in the individual's personnel file.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 4, effective July 25, 1985; 34 SDR 200, effective January 30, 2008; 39 SDR 220, effective June 27, 2013.

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

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

**67:42:07:04.01.  Reasonable and prudent parent standard requirements.** Transferred to § 67:42:01:06.01.

**Source:** 42 SDR 97, effective January 4, 2016; 49 SDR 124, effective July 3, 2023.

**67:42:07:05.  Treatment plan.** The facility shall develop a written treatment plan for each child in care within one month after admission. The development of the treatment plan must involve the child in care, the facility staff working with the child, the placement agency, and if appropriate, the parent or guardian. The treatment plan must contain the following:

(1)  An assessment of the child's needs and strengths, including implementation of the reasonable and prudent parent standard;

(2)  Treatment goals for the child and family, including a description of how family and aftercare services will be provided, and projected times for achieving goals; and

(3)  A discharge plan that includes the projected length of stay and the conditions under which the child will be discharged.

A shelter care facility that does not provide short-term assessment services is exempt from the requirement for establishing a written case treatment plan.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 4, effective July 25, 1985; portions of this rule were transferred to § 67:42:07:29, 34 SDR 200, effective January 30, 2008; 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.

**67:42:07:06.  Compliance with chapter 67:42:06.** Repealed.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; repealed, 12 SDR 4, effective July 25, 1985.

**67:42:07:07.  Staff qualifications -- Contact with references required.** The facility shall contact at least three former employers or, if former employers are not available, professional references of an employee applicant concerning the applicant's character and competence. The employee applicant may not be related to the former employers or the references. The facility shall maintain a record of the contacts. Records of contact must be in the form of a documented conversation or a written letter. Contacts must be on record before hiring staff.

An employee must be at least 18 years of age and may not have on record a substantiated report of child abuse or neglect. An employee who is under the age of 21 must be under the direct supervision of an experienced child care staff member who is at least 21 years of age and must be at least three years older than any child the employee supervises.

An employee must demonstrate a capacity to carry out the duties of the employee's job description.

**Source:** SL 1975, ch 16, § 1; transferred from § 67:14:22:18, 4 SDR 10, effective August 28, 1977; transferred from § 67:41:05:10, 7 SDR 66, 7 SDR 89, effective July 1, 1981; transferred from § 67:42:06:05, 12 SDR 4, effective July 25, 1985; 15 SDR 162, effective May 4, 1989; 20 SDR 223, effective July 7, 1994; 34 SDR 200, effective January 30, 2008; 35 SDR 187, effective February 11, 2009.

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

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

**Cross-References:** Report to social services -- Content, SDCL 26-8A-10; Fair hearings, ch 67:17:02; Revocation or refusal to issue or renew license or registration for child abuse or violence, SDCL 26-6-23.1; Screening for substantiated reports of abuse and neglect, § 67:42:01:05.02.

**67:42:07:08.  Staff health requirements.** Repealed.

**Source:** SL 1975, ch 16, § 1; transferred from § 67:14:22:19, 4 SDR 10, effective August 28, 1977; transferred from § 67:41:05:11, 7 SDR 66, 7 SDR 89, effective July 1, 1981; transferred from § 67:42:06:06, 12 SDR 4, effective July 25, 1985; 15 SDR 162, effective May 4, 1989; 34 SDR 200, effective January 30, 2008; repealed, 39 SDR 220, effective June 27, 2013.

**67:42:07:09.  Personnel record.** A facility must maintain a personnel record on each employee and volunteer. The record must include the employee's or volunteer's educational background, job description, previous work history, annual performance appraisals together with the employee's or volunteer's comments on the appraisal, a record of orientation and in-service training, the annual assessment of training needs, documentation of the provider's contact with references, verification of screening for substantiated reports of child abuse or neglect, and verification that a criminal record check was completed.

The facility must make its personnel records available to the department for verification of the contents.

**Source:** SL 1975, ch 16, § 1; transferred from § 67:14:22:20, 4 SDR 10, effective August 28, 1977; transferred from § 67:41:05:12, 7 SDR 66, 7 SDR 89, effective July 1, 1981; transferred from § 67:42:06:07, 12 SDR 4, effective July 25, 1985; 20 SDR 223, effective July 7, 1994; 39 SDR 220, effective June 27, 2013; 47 SDR 24, effective September 10, 2020.

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

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

**Cross-References:** Screening for substantiated reports of abuse and neglect, § 67:42:01:05.02.

Issuance of child welfare license -- Criminal record of applicant to be secured -- Waiver by applicant -- When application denied, SDCL 26-6-14.3.

Persons to whom criminal record requirement applies, SDCL 26-6-14.4.

**67:42:07:10.  Health care of children.** If a child is in care for 30 days or longer, the facility shall maintain the following health information in the child's record:

(1)  A record of a physical examination made within twelve months before or 30 days after admission;

(2)  A written, continuing health and medical history including illnesses, hospitalization, and surgery;

(3)  A record of current immunizations against diphtheria, whooping cough, tetanus, polio, measles, mumps, and rubella;

(4)  Reports of dental and hearing examinations and treatments; and

(5)  A signed authorization for regular and emergency medical and surgical care and for securing any medical reports. The facility shall obtain this authorization at the time the child is placed into the facility.

**Source:** SL 1975, ch 16, § 1; transferred from § 67:14:22:26, 4 SDR 10, effective August 28, 1977; transferred from § 67:41:05:18, 7 SDR 66, 7 SDR 89, effective July 1, 1981; transferred from § 67:42:06:10, 12 SDR 4, effective July 25, 1985; 21 SDR 206, effective June 4, 1995; 34 SDR 200, effective January 30, 2008; 39 SDR 220, effective June 27, 2013.

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

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

**Cross-Reference:** Tests and immunizations for communicable diseases required for admission to school -- Exceptions -- Rules, SDCL 13-28-7.1.

**67:42:07:11.  Fire and health inspections.** The facility must meet the applicable environmental health standards in chapter 67:42:11. The Department of Public Safety, the city fire inspection authority, or the city health inspection authority must inspect the physical condition of the facility before initial licensing and each year thereafter for renewal of the license. Based on the results of the inspection, the department may require the facility to either submit a plan of correction or comply with the inspector's recommendation. Failure to submit or follow a plan of correction or comply with the inspector's recommendation shall result in revocation of an existing license, denial of a request for a new license, or denial of a request to renew an existing license. The facility must have a written, posted fire escape plan and must conduct a minimum of four fire drills a year.

**Source:** SL 1975, ch 16, § 1; transferred from §§ 67:14:22:29 to 67:14:22:31, inclusive, 4 SDR 10, effective August 28, 1977; transferred from §§ 67:41:05:19 to 67:41:05:21, inclusive, 7 SDR 66, 7 SDR 89, effective July 1, 1981; transferred from § 67:42:06:11, 12 SDR 4, effective July 25, 1985; 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 24 SDR 76, effective December 11, 1997; 27 SDR 121, effective May 28, 2001; 34 SDR 200, effective January 30, 2008.

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

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

**67:42:07:11.01.  Building plans.** Before building a new facility or renovating or altering an existing facility, the facility must submit a copy of the proposed building, renovation, or alteration plan to the department for review. 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.

**Source:** 35 SDR 253, effective May 12, 2009.

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

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

**67:42:07:12.  Sleeping space.** A facility that cares for both genders shall provide for the separation of the genders during sleeping hours for children over age six and shall provide for the monitoring of all sleeping children. The facility shall provide each child with an individual bed and individual storage space for personal belongings including space for clothing and individual items required to meet the child's day-to-day living needs. Bed linens, blankets, and pillows must be provided for all children.

**Source:** 12 SDR 4, effective July 25, 1985; 34 SDR 200, effective January 30, 2008; 39 SDR 220, effective June 27, 2013.

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

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

**Cross-Reference:** Staff-child ratio, § 67:42:07:03.

**67:42:07:13.  Nutrition requirements.** A group care center shall provide a child in care with at least three meals a day. The meals must be of sufficient quantity to meet the child's nutritional needs. The group care center must adhere to special diets prescribed for the child by a physician or dietitian.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; transferred from § 67:42:06:12, 12 SDR 4, effective July 25, 1985; 27 SDR 121, effective May 28, 2001; 39 SDR 220, effective June 27, 2013.

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

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

**67:42:07:14.  Volunteers.** A facility that regularly uses volunteers to work directly with children in care shall meet the following requirements:

(1)  The facility must have a written description of duties and specific responsibilities for volunteer positions;

(2)  The facility must have at least three references for each volunteer. The references may not be related to the volunteer. References must reflect positively on the volunteer and the provider must check the references before the volunteer performs services. The provider shall document the contacts with the references. Documentation must be in the form of a written letter or documented conversation;

(3)  The facility shall designate a staff member to supervise and evaluate volunteers;

(4)  The facility shall develop a written plan for the orientation and training of volunteers in the purpose of the facility's treatment program and the needs of the children in care;

(5)  The facility shall ensure that volunteers who work 30 or more hours per week or who are used to meet the required staff-child ratio to meet the training requirements of § 67:42:07:04;

(6)  The facility shall inform the volunteers of their obligation to report and the method of reporting suspected child abuse and neglect; and

(7)  The facility shall screen each volunteer applicant's name for substantiated reports of child abuse and neglect before the volunteer performs services to children. A volunteer may not have on record a substantiated report of child abuse or neglect.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; transferred from § 67:42:06:13, 12 SDR 4, effective July 25, 1985; 15 SDR 162, effective May 4, 1989; 20 SDR 223, effective July 7, 1994; 34 SDR 200, effective January 30, 2008; 39 SDR 220, effective June 27, 2013.

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

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

**Cross-References:** Staff-child ratio, § 67:42:07:03.; Persons required to report child abuse or neglected child -- Intentional failure as misdemeanor, SDCL 26-8A-3; Oral report of abuse or neglect -- To whom made -- Response report, SDCL 26-8A-8; Revocation or refusal to issue or renew license or registration for child abuse or violence, SDCL 26-6-23.1; Screening for substantiated reports of abuse and neglect, § 67:42:01:05.02; Issuance of child welfare license -- Criminal record of applicant to be secured -- Waiver by applicant -- When application denied, SDCL 26-6-14.3; Persons to whom criminal record requirement applies, SDCL 26-6-14.4; Waiver, fingerprinting and declaration as condition of employment -- Time -- Immediate termination of employee, SDCL 26-6-14.5.

**67:42:07:15.  Staff responsibility for reporting suspected in-house incidents of child abuse or neglect.** The facility 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. In addition to complying with SDCL 26-8A-3 and 26-8A-8, each staff member shall immediately report any suspected incident of child abuse or neglect to the executive director or the director's designee. The executive director or the designee shall immediately report any suspected or alleged in-house incident of child abuse or neglect to the department and cooperate fully in the investigation of any incident.

**Source:** 12 SDR 4, effective July 25, 1985.

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

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

**67:42:07:15.01.  Resident and family grievance procedures.** The facility must develop and follow a written grievance procedure that allows a resident, the resident's parent or legal representative, a guardian, facility staff, or a concerned person in the resident's life to file a formal complaint related to the quality of care given to the resident in the facility. The facility's staff may not attempt to influence the resident's or other individual's statement about the facility when submitting the grievance or while the grievance is being resolved.

The facility must inform the resident and the resident's parent or guardian of the facility's grievance policy, including the procedure for filing a grievance and to whom a grievance must be made. The resident and the resident's parent or guardian must sign and date a statement to verify that the facility explained the grievance policy. The facility must make copies of the policy available upon request.

The facility must provide the person wanting to file a grievance with the necessary forms and assist them in filing the grievance.

The facility must identify the person who is authorized to accept and resolve a grievance.

The facility must, upon request, allow for the resolution of the grievance to be appealed to the highest level of the facility's administration.

A person who reports a grievance may not be subject to adverse action by the facility as a result of filing the grievance.

A person filing a grievance must receive an initial response within five days.

The facility must document the grievance filed along with the actions taken by the facility to resolve the grievance. Information regarding the grievance must be kept for two years after the grievance is resolved.

**Source:** 47 SDR 24, effective September 10, 2020.

**General Authority:** SDCL 26-6-16(1)(2)(6)

**Law Implemented:** SDCL 26-6-16(1)(2)(6).

**67:42:07:16.  Facility procedures for handling suspected in-house child abuse.** The facility shall have written procedures for handling suspected in-house child abuse. The procedures must 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;

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

**Source:** 12 SDR 4, effective July 25, 1985; 39 SDR 220, effective June 27, 2013.

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

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

**67:42:07:17.  Interstate placement of children.** The facility shall notify the department's interstate compact administrator before accepting an out-of-state child for placement in South Dakota.

**Source:** 12 SDR 4, effective July 25, 1985.

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

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

**67:42:07:18.  Written policy on discipline.** The facility shall establish and follow a written policy regarding discipline, behavior support, and intervention that must be made known to all children, families, guardians, staff, and placing agencies. This policy must encourage and support the positive development of children, nurture a culture of respect and safety, and emphasize proactive and preventive intervention. The policy must prohibit corporal punishment and methods that cause physical discomfort; chemical, mechanical, or peer restraint; denial or deprivation of sleep, nutrition, access to bathroom facilities, or family visits; verbal abuse, ridicule, or humiliation; shaming or sarcasm; group punishment; and impingements on the basic rights of children to care, protection, safety, and security.

Children may not discipline other residents.

**Source:** 12 SDR 4, effective July 25, 1985; 34 SDR 200, effective January 30, 2008.

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

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

**67:42:07:19.  Written procedures for medication administration.** The facility shall establish and follow written procedures for the storage and administration of medication. These procedures must be given to all staff members responsible for administering medication and must include the following:

(1)  Conditions under which medications may be given;

(2)  Procedures for documenting the administration of medication;

(3)  Procedures for immediately notifying the facility's nurse in cases of medication errors or drug reactions. The nurse shall assess the situation and determine whether there is a need to report the incident to the attending physician; and

(4)  Procedures for evaluating and recording each child's reactions to prescribed medication.

A nurse licensed under the provisions of SDCL chapter 36-9 is responsible for the administration of medications. The nurse may delegate the administration of medications to unlicensed assistive personnel only if the requirements of chapter 20:48:04.01 are met.

**Source:** 12 SDR 4, effective July 25, 1985; 34 SDR 200, effective January 30, 2008.

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

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

**67:42:07:20.  Psychotropic medications.** The facility may provide psychotropic medications to a child only as prescribed by the physician responsible for the diagnosis, treatment, and therapeutic planning for the child; a certified nurse practitioner in collaboration with the physician; or a physician's assistant supervised by the physician.

The facility shall obtain from the prescribing physician, certified nurse practitioner, or physician's assistant a written report at least every 90 days detailing the reasons the psychotropic medication is being continued, discontinued, or changed, as well as any recommended changes in the treatment goals and plan. The prescribing physician, certified nurse practitioner, or physician's assistant must base the report on their actual observation of the child as well as a review of the child's records.

**Source:** 12 SDR 4, effective July 25, 1985; 27 SDR 121, effective May 28, 2001.

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

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

**67:42:07:21.  Administration of medications.** Repealed.

**Source:** 12 SDR 4, effective July 25, 1985; repealed, 12 SDR 127, effective February 9, 1986.

**67:42:07:22.  Required medication records.** The facility shall develop and follow a written medication schedule for each child receiving medication. The schedule shall be used by the staff member administering medication. The schedule shall be a part of the child's medical record and shall contain the following information:

(1)  Name of child;

(2)  Name of prescribing physician or psychiatrist;

(3)  Telephone number at which the prescribing physician or psychiatrist can be reached in case of medical emergency;

(4)  Date on which medication is prescribed;

(5)  Name of medication;

(6)  Dosage of medication;

(7)  When medication is to be administered;

(8)  Date medication will be reviewed; and

(9)  Chart showing the date, time, amount, and signature of person administering each dosage of medication.

**Source:** 12 SDR 4, effective July 25, 1985.

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

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

**67:42:07:23.  Medication control.** The facility shall keep all medications in a locked cabinet. The facility may not permit medication prescribed for one child to be given to another child. The facility shall maintain a central registry of usage of psychotropic medications with entries made the same day the medication is administered.

**Source:** 12 SDR 4, effective July 25, 1985.

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

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

**67:42:07:24.  Use of seclusion and restraint to be approved by child placement agency -- Required documentation.** A facility may not place a child in seclusion or restraint unless the child placement agency has given the facility permission and the use of seclusion or restraint has been incorporated into the child's treatment plan. If a child has been placed in the facility by the child's parent or guardian, the parent or guardian must approve the use of seclusion or restraint.

If a child is placed in seclusion or restraint, the facility must document the reasons for the placement, the duration of the placement, and the child's reactions to the placement. This documentation must become a part of the child's record.

A shelter care facility may not use locked seclusion.

**Source:** 12 SDR 4, effective July 25, 1985; 33 SDR 227, effective July 1, 2007; 34 SDR 200, effective January 30, 2008.

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

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

**67:42:07:25.  Physical requirements for room used for seclusion.** A room used exclusively for seclusion must be designed and constructed to ensure the health, safety, and well-being of children placed in seclusion. The floor space may be not less than 54 square feet with a ceiling height of not less than 8 feet. The floor and wall coverings, as well as any contents of the room, must have a one-hour fire rating and may not produce toxic fumes if burned. The walls must be kept completely free of objects. A lighting fixture, equipped with a minimum of a 75-watt bulb, must be screened or designed and installed to prevent tampering by an occupant of the room used for seclusion. If a locking mechanism is used for the room, it must be designed to be fail-safe and tied into the fire-alarm system to release when the alarm is activated or when there is a loss of power to the fire alarm panel. The door must be equipped with a window mounted in a manner that allows inspection of the entire room. Glass must be impact-resistant and shatterproof. The room must be ventilated by either natural or mechanical means.

The department may waive the space requirements for rooms used for seclusion that were in existence before July 25, 1985, if the rooms meet all other requirements in this section.

**Source:** 12 SDR 4, effective July 25, 1985; 33 SDR 227, effective July 1, 2007; 34 SDR 200, effective January 30, 2008.

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

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

**67:42:07:26.  Staff person to monitor seclusion room.** A facility that uses seclusion shall provide a staff person to continuously observe and monitor a child who has been placed in a room for purposes of seclusion to evaluate the child's physical and psychological well-being. The staff person shall ensure the following:

(1)  That a child placed in seclusion does not inflict self-injury;

(2)  That the observation is documented and signed and becomes a part of the child's record;

(3)  That the personal needs of the child are met, including prompt access to washroom facilities;

(4)  That the child receives all meals provided to other children in care; and

(5)  If necessary to ensure the safety of the child, the staff person is physically present in the seclusion room to assist the child in controlling behavior.

**Source:** 12 SDR 4, effective July 25, 1985; 33 SDR 227, effective July 1, 2007; 34 SDR 200, effective January 30, 2008.

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

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

**67:42:07:27.  Placement in seclusion or restraint -- Limits.** If a child is aged nine to 17, the child may not be placed in seclusion or restraint for more than two consecutive hours. If a child is under age nine, the child may not be placed in seclusion or restraint for more than one hour. If a child has been in seclusion or restraint for the maximum time allowed, the program director or the director's designee shall immediately hold a conference with the staff members involved in placing and monitoring the child in seclusion or restraint and a representative of the child placement agency or the child's parent or guardian if a placement agency is not involved. They shall review the appropriateness of the treatment plan and whether the child's needs will be met by continued placement in the facility.

**Source:** 12 SDR 4, effective July 25, 1985; 33 SDR 226, effective July 1, 2007; 34 SDR 200, effective January 30, 2008.

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

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

**67:42:07:28.  Review and evaluation of treatment plan.** The facility shall provide for the review, evaluation, and updating of the child's treatment plan at least every three months. The updated plan must include the progress made toward achieving the goals established in the previous plan and any amendments made to the plan. A monthly report on the child's progress must be submitted to the placement agency. The facility shall send a copy of the monthly report to the child's parent or guardian if the parent or guardian was involved in the child's placement or is actively involved in the treatment planning. The treatment plan and progress reports must become a part of the child's record. During the month of the quarterly treatment plan review, the 30-day progress report may be incorporated into the quarterly review and treatment plan amendment. A case record must be maintained on each child according to § 67:42:01:21. The facility shall secure records against loss, tampering, or unauthorized use.

A shelter care facility shall write a summary report of the care received by the child including any observations of the child's behavior patterns or special needs of the child. This report must be submitted to the child placement agency upon the discharge of the child.

**Source:** 12 SDR 4, effective July 25, 1985; 34 SDR 200, effective January 30, 2008.

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

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

**Cross-Reference:** Treatment plan, § 67:42:07:05.

**67:42:07:29.  Written policy requirements.** The facility must develop written policies that address:

(1)  Intake;

(2)  Treatment;

(3)  Discharge;

(4)  Discipline;

(5)  Confidentiality;

(6)  Reporting suspected child abuse and neglect within the facility;

(7)  Use of seclusion and personal restraint, if used by the facility;

(8)  Health care of children;

(9)  Emergency and safety procedures; and

(10)  Reasonable and prudent parent standard.

The facility must inform the child's parent or guardian of these policies, including the individuals or agencies to whom required reports must be made. The child's parent or guardian shall sign and date a statement that lists the specific policies covered as verification that the facility provided the required information. The facility must make copies of these policies available on request.

**Source:** 34 SDR 200, effective January 30, 2008; 42 SDR 97, effective January 4, 2016; 47 SDR 24, effective September 10, 2020.

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

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

**CHAPTER 67:42:08**

**RESIDENTIAL TREATMENT CENTERS**

Section

67:42:08:01 Definitions.

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67:42:08:01.02 Licensed practitioner.

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67:42:08:07 Review and evaluation of treatment plan.

67:42:08:08 Emergency safety intervention -- Face-to-face assessment required.

67:42:08:09 Written policy requirements.

67:42:08:10 Emergency safety intervention.

**67:42:08:01.  Definitions.** Terms used in this chapter mean:

(1)  "After-care services," supportive social services, as specified in the treatment plan, for the family after the child has returned home;

(2)  "Emergency safety intervention," the use of restraint or seclusion as an immediate response to an emergency safety situation;

(3)  "Family services," social rehabilitative services to family members to alleviate problems specified in the treatment plan to enable a child to return to the child's own home;

(4)  "Licensed practitioner," a licensed physician's assistant, a certified nurse practitioner, a licensed psychologist, a licensed social worker, a licensed professional counselor, or a qualified mental health professional who meets the requirements of SDCL 27A-1-3;

(5)  "Personal restraint" or "restraint," the application of physical force without the use of any device for the purpose of restraining the free movement of a resident's body. The term does not include briefly holding a resident without undue force in order to calm or comfort the resident or holding a resident's hand for purposes of safely escorting the resident from one area to another;

(6)  "Program director," the individual responsible for developing, implementing, supervising, and monitoring the services provided;

(7)  "Residential treatment center," a facility licensed to care for not less than seven children who have behavioral or emotional problems requiring intensive professional assistance and therapy in a highly structured, self-contained environment; and

(8)  "Treatment plan," a plan that explains the child's social, psychological, medical, or economic problems, contains solutions to the problems, and describes the necessary steps and schedules to resolve the problems.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 4, effective July 25, 1985; 33 SDR 227, effective July 1, 2007; 34 SDR 200, effective January 30, 2008.

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

**Law Implemented:** SDCL 26-6-14, 26-6-16.

**67:42:08:01.01.  Eligibility requirements -- Residential treatment center.** In addition to the requirements contained in this chapter, a residential treatment center must meet the requirements of 42 C.F.R. §§ 441.150 through 441.184 (October 1, 2019) for a psychiatric residential treatment facility for individuals under the age of 21.

**Source:** 33 SDR 227, effective July 1, 2007; 47 SDR 24, effective September 10, 2020.

**General Authority:** SDCL 26-6-16(2)(6)(11).

**Law Implemented:** SDCL 26-6-16(2)(6)(11).

**67:42:08:01.02.  Licensed practitioner.** In any of the federal regulations incorporated under the provisions of this chapter, the term, licensed practitioner, has the meaning specified in § 67:42:08:01.

The licensed practitioner must meet the education and training requirements established in 42 C.F.R. § 483.376 (October 1, 2006). A licensed practitioner does not include a licensed social work associate.

**Source:** 33 SDR 227, effective July 1, 2007.

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

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

**67:42:08:02.  Qualifications for program director.** The program director of the residential treatment center must have a master's degree in an accredited behavioral or social science area and at least two years of relevant alternative child care experience or a bachelor's degree in an accredited behavioral or social science area and four years of relevant alternative child care experience. The program director may not have on record a substantiated report of child abuse or neglect.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 4, effective July 25, 1985; 15 SDR 162, effective May 4, 1989; 20 SDR 223, effective July 7, 1994; 34 SDR 200, effective January 30, 2008.

**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; Screening for substantiated reports of abuse and neglect, § 67:42:01:05.02.

**67:42:08:03.  Staff-child ratio.** Child care staff must be employed to maintain daily living conditions for all children in care. There must be at least one staff member to supervise each 6 children or fraction thereof during waking hours whenever children are present. During sleeping hours, there must be at least one staff member present and awake in each separate sleeping unit to supervise children, but not less than one staff member for each 12 children or fraction thereof in the building. There must be a minimum of two adults on the grounds at all times. Additional child care staff must be on call. A list of the staff members on call must be posted by the facility's telephone in case of an emergency. The facility must have a written plan to ensure that staff, law enforcement, or appropriate emergency responders are available at the center within a reasonable time in the event of an emergency. Arrangements must be made for employing substitute staff to serve children in emergencies, during vacations or illness of regular staff, and during the time when regular staff is off duty. Auxiliary staff members, such as certified special education teachers, mental health professionals, and physical or occupational therapists, must be provided according to the defined purposes of the center.

The department may require a higher adult-child ratio if on-site visits indicate a need for more supervision to maintain control and discipline.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 4, effective July 25, 1985; 34 SDR 200, effective January 30, 2008; 39 SDR 220, effective June 27, 2013.

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

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

**67:42:08:04.  Orientation and in-service training.** Orientation and in-service training must be provided according to § 67:42:07:04, except each direct child care staff member in a residential treatment center shall participate in a minimum of 40 clock hours of planned in-service training annually.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 4, effective July 25, 1985; 39 SDR 220, effective June 27, 2013.

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

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

**67:42:08:05.  Treatment plan.** The facility shall develop a written treatment plan for each child in care within 14 days after the date of admission. The development of the treatment plan must involve the child in care; the facility staff working with the child, including members of the treatment team required by 42 C.F.R. § 441.156, effective October 1, 2007; the placement agency; and if appropriate, the parent or guardian. The treatment plan must be signed by each of the individuals involved in development of the plan and, in addition to the requirements contained in 42 C.F.R. § 441.155, must include an assessment of the child's needs and strength; treatment goals for the child and the child's family with an integrated program of therapies, activities, and experiences designed to meet the goals; projected times for achieving the stated goals; the projected length of stay; the conditions under which the child will be discharged; and a discharge plan that meets the requirements of § 67:42:15:12.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 4, effective July 25, 1985; 27 SDR 121, effective May 28, 2001; 33 SDR 227, effective July 1, 2007; 34 SDR 200, effective January 30, 2008; 35 SDR 187, effective February 11, 2009; 39 SDR 220, effective June 27, 2013.

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

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

**Cross-References:** Individual plan of care, 42 C.F.R. § 441.155; Protection of residents -- Emergency safety intervention, 42 C.F.R. § 483.356(b).

**67:42:08:06.  Compliance with chapter 67:42:07.** In addition to the rules contained in this chapter, residential treatment centers shall comply with the standards as set forth in §§ 67:42:07:07 to 67:42:07:26, inclusive.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 4, effective July 25, 1985; 33 SDR 227, effective July 1, 2007.

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

**Law Implemented:** SDCL 26-6-14, 26-6-16.

**67:42:08:07.  Review and evaluation of treatment plan.** A case record must be maintained on each child according to § 67:42:01:21. The facility must secure the records against loss, tampering, or unauthorized use.

When the 30-day review of the child's treatment plan is complete, a progress report must be sent to the child's placement agency. The facility shall send a copy of the monthly report to the child's parent or guardian if the parent or guardian was involved in the child's placement or is actively involved in treatment planning. At least once every three months the treatment plan must be updated. The updated treatment plan must include the progress made toward achieving the goals in the previous plan and any amendments made to the plan. When complete, a copy of the plan amendments must be sent to the child's placement agency and the parent, if applicable. During the month of the quarterly review, the 30-day progress report may be incorporated into the quarterly review and treatment plan amendment.

**Source:** 12 SDR 4, effective July 25, 1985; 33 SDR 227, effective July 1, 2007; 34 SDR 200, effective January 30, 2008.

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

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

**Cross-References:** Treatment plan, § 67:42:08:05; Individual plan of care -- Required 30-day review, 42 C.F.R. § 441.155(c).

**67:42:08:08.  Emergency safety intervention -- Face-to-face assessment required.** The face-to-face assessment required under the provisions of 42 C.F.R. § 483.358(f), as amended to January 1, 2007, must be provided by a physician, a licensed practitioner, a registered nurse, or a licensed social work associate who has a bachelor's degree and certification as a trainer in a nationally-recognized program of behavior management and personal restraint.

**Source:** 33 SDR 227, effective July 1, 2007; 39 SDR 220, effective June 27, 2013.

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

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

**67:42:08:09.  Written policy requirements.** The facility must develop written policies that address:

(1)  Intake;

(2)  Treatment;

(3)  Discharge;

(4)  Discipline;

(5)  Confidentiality;

(6)  Reporting suspected child abuse and neglect within the facility;

(7)  Emergency safety interventions;

(8)  Health care of children; and

(9)  Emergency and safety procedures.

The facility must inform the child's parent or guardian of the facility's policies, including the individuals or agencies to whom required reports must be made. The child's parent or guardian must sign and date a statement that lists the specific policies covered as verification that the facility provided the required information. The facility must make copies of these policies available on request.

**Source:** 34 SDR 200, effective January 30, 2008; 47 SDR 24, effective September 10, 2020.

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

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

**67:42:08:10.  Emergency safety intervention.** A licensed physician, a licensed practitioner, a registered nurse, or a licensed social work associate who has bachelor's degree and certification as a trainer in a nationally-recognized program of behavior management and personal restraint is authorized to order and monitor the use of personal restraint. The facility shall conduct a review on a random sampling of orders to ensure that each licensed social work associate providing an order meets the requirements of this section.

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

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

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

**CHAPTER 67:42:09**

**CHILD PLACEMENT AGENCIES**

Section

67:42:09:01 Definitions.

67:42:09:02 Repealed.

67:42:09:03 Repealed.

67:42:09:04 Fees for services.

67:42:09:05 Repealed

67:42:09:06 Repealed.

67:42:09:07 Qualifications for staff providing supervision.

67:42:09:07.01 Requirements for staff providing direct services and support to clients.

67:42:09:08 Qualifications and responsibilities of paraprofessional staff.

67:42:09:08.01 Contact with references required.

67:42:09:09 Use of volunteers.

67:42:09:10 Orientation and in-service training.

67:42:09:11 Staff personnel records.

67:42:09:12 Repealed.

67:42:09:13 Standard requirements and responsibilities in the provision of client services.

67:42:09:14 Repealed.

67:42:09:15 Agency qualifications for adoptive applicants.

67:42:09:16 Adoptive placement services.

67:42:09:17 Foster care services.

67:42:09:18 Foster home services.

67:42:09:18.01 Repealed.

67:42:09:18.02 Host family volunteers.

67:42:09:19 Medical and dental services.

67:42:09:20 Repealed.

67:42:09:21 Legal services and responsibilities.

67:42:09:22 Other agency services.

67:42:09:23 Interstate placement of children.

67:42:09:24 Client case records.

67:42:09:25 Foster home record.

67:42:09:26 Adoptive home record.

67:42:09:27 Repealed.

**67:42:09:01.  Definitions.** Terms used in this chapter, unless the context plainly requires otherwise, mean:

(1)  "Agency," a child placement agency as provided in SDCL 26-6-14;

(2)  "Client," any person who uses the services of child placement agencies licensed under this chapter;

(3)  "Alternate care family," family foster homes and adoptive placement homes used by child placement agencies licensed under this chapter; and

(4)  "Host family," a nonpaid volunteer family who provides supplemental care or coparenting to a child to minimize the risk for abuse and neglect.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 39 SDR 127, effective January 23, 2013; 39 SDR 220, effective June 27, 2013.

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

**Law Implemented:** SDCL 26-6-14, 26-6-16.

**67:42:09:02.  Licensing requirements.** Repealed.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 187, effective May 29, 1986; 27 SDR 121, effective May 28, 2001; repealed, 34 SDR 200, effective January 30, 2008.

**67:42:09:03.  Qualifications for executive director.** Repealed.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 187, effective May 29, 1986; 20 SDR 223, effective July 7, 1994; repealed, 34 SDR 200, effective January 30, 2008.

**67:42:09:04.  Fees for services.** The agency shall have a written fee policy for services provided to children, biological parents, adoption applicants, and adoptive parents. The fees shall be based on the cost of the services provided, and the fee policy shall include the conditions under which fees are charged or waived. The agency shall have a written statement on payment procedures for maintenance costs to foster parents.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 187, effective May 29, 1986.

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

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

**67:42:09:05.  Gratuities prohibited.** Repealed.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; repealed, 12 SDR 187, effective May 29, 1986.

**67:42:09:06.  Qualifications for director of social services.** Repealed.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; repealed, 12 SDR 187, effective May 29, 1986.

**67:42:09:07.  Qualifications for staff providing supervision.** An individual who supervises staff providing direct services and support must be a mental health professional who has at least a master's degree in psychology, social work, counseling, or nursing, currently holds a license in that field, and has two years of supervised post graduate clinical experience in a mental health, family, or child welfare setting. The supervisor may not have on record a substantiated report of child abuse or neglect.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 187, effective May 29, 1986; 20 SDR 223, effective July 7, 1994; 27 SDR 121, effective May 28, 2001; 47 SDR 24, effective September 10, 2020.

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

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

**Cross-Reference:** Screening for substantiated reports of abuse and neglect, § 67:42:01:05.02.

**67:42:09:07.01.  Requirements for staff providing direct services and support to clients.** Staff performing intake services, direct services to children and families, case management, family education and support, liaison services, assessment studies for foster care, and adoptive services must have, at a minimum, an associate's degree in the social sciences or human services field and be supervised according to § 67:42:09:07. Staff may not have on record a substantiated report of child abuse or neglect.

**Source:** 12 SDR 187, effective May 29, 1986; 20 SDR 223, effective July 7, 1994; 47 SDR 24, effective September 10, 2020.

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

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

**Cross-References:** Standard requirements and responsibilities in the provision of client services, § 67:42:09:13; Screening for substantiated reports of abuse and neglect, § 67:42:01:05.02.

**67:42:09:08.  Qualifications and responsibilities of paraprofessional staff.** An agency may employ paraprofessional staff to assist the social work staff. The paraprofessional staff may perform work only under the social work supervisor or social worker and may not assume the full responsibilities and duties normally assigned to a social worker. Paraprofessional staff may not have on record a substantiated report of child abuse or neglect.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 187, effective May 29, 1986; 20 SDR 223, effective July 7, 1994; 39 SDR 220, effective June 27, 2013.

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

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

**Cross-Reference:** Screening for substantiated reports of abuse and neglect, § 67:42:01:05.02.

**67:42:09:08.01.  Contact with references required.** The facility shall contact at least three former employers or, if former employers are not available, professional references of an employee applicant concerning the applicant's character and competence. The employee applicant may not be related to the former employers or the references. The facility shall maintain a record of the contacts. Records of contact must be in the form of a documented conversation or a written letter. Contacts must be on record before hiring staff.

**Source:** 12 SDR 187, effective May 29, 1986; 20 SDR 223, effective July 7, 1994; 39 SDR 220, effective June 27, 2013.

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

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

**67:42:09:09.  Use of volunteers.** An agency which regularly uses volunteers to work directly with clients shall do the following:

(1)  The facility must have a written description of duties and specific responsibilities for volunteer positions;

(2)  The facility must have at least three references for each volunteer. The references may not be related to the volunteer. References must be checked before the volunteer performs services. The provider must document the contacts with the references. Documentation must be in the form of a written letter or documented conversation;

(3)  The facility must designate a staff member to supervise and evaluate volunteers;

(4)  The facility must develop a written plan for the orientation and training of volunteers in the philosophy of the agency and the needs of the children in care;

(5)  The facility must ensure that volunteers who work 30 or more hours per week meet the training requirements of § 67:42:09:10;

(6)  The facility must inform the volunteers of their obligation to report and the method of reporting suspected child abuse and neglect in accordance with SDCL 26-8A-3 and 26-8A-8; and

(7)  The facility must screen each volunteer applicant's name for substantiated reports of child abuse or neglect before the volunteer performs services to children. A volunteer may not have on record a substantiated report of child abuse or neglect.

Volunteers may not assume the duties of a social worker unless licensed as a social worker according to SDCL 36-26-15 or licensed as a social work associate according to SDCL 36-26-16.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 187, effective May 29, 1986; 20 SDR 223, effective July 7, 1994.

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

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

**Cross-Reference:** Screening for substantiated reports of abuse and neglect, § 67:42:01:05.02.

**67:42:09:10.  Orientation and in-service training.** The agency shall have written plans for orientation and ongoing in-service training. Each staff member shall participate in the in-service training. The written plan for in-service training shall address the following areas for staff during the first year of employment:

(1)  Administrative procedures and overall program goals;

(2)  Understanding children's emotional needs and problems which affect and inhibit their growth;

(3)  Family relationships and the impact of separation;

(4)  Substance abuse and its recognition, prevention, and treatment;

(5)  Identification and reporting of child abuse and neglect; and

(6)  Principals and practices of child care.

For staff beyond the first year of employment, the plan must provide for competency-based training based on an annual evaluation of the staff member's competencies.

Each staff member shall have a minimum of 30 clock hours of in-service training annually.

An orientation course shall be completed by staff members within one month of their hire date. The agency may consider the orientation course a part of the required 30 hours of in-service training. The orientation course shall include the agency's functions, services, community resources, and specific job functions. Supervision of staff members as they perform their routine tasks may not be considered training activities for purposes of this requirement. Participation in training shall be documented and kept in the individual personnel files.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 187, effective May 29, 1986; 39 SDR 220, effective June 27, 2013.

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

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

**67:42:09:11.  Staff personnel records.** A facility must maintain a personnel record on each employee and volunteer. The record must include the employee's or volunteer's application showing qualifications and experience, a job description, annual performance appraisals together with the employee's or volunteer's comments on the appraisal, a record of orientation and in-service training, documentation of the provider's contact with references, documentation of screening for substantiated reports of child abuse and neglect, and documentation that a criminal record check was completed.

The facility must make its personnel records available to the department for verification of the contents.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 187, effective May 29, 1986; 20 SDR 223, effective July 7, 1994.

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

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

**Cross-Reference:** Screening for substantiated reports of abuse and neglect, § 67:42:01:05.02.

**67:42:09:12.  Intake policy.** Repealed.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 187, effective May 29, 1986; repealed, 39 SDR 220, effective June 27, 2013.

**67:42:09:13.  Standard requirements and responsibilities in the provision of client services.** Extensive efforts shall be made to protect a child from unnecessary separation from the child's family or relatives. The agency's policies and procedures shall be written in accordance with these objectives and shall include the following:

(1)  Intake services to determine whether or not the agency is suited to the client's needs;

(2)  Treatment planning services through which the client and worker jointly determine the need and the services to be provided;

(3)  Preplacement prevention services to resolve identified needs so as to prevent the separation of a child from parents;

(4)  Permanency planning services provided after the placement of a child in a temporary foster home to help the child return to the child's family or to help the child achieve a permanent placement in the home of a relative, in an adoptive home, in a guardianship arrangement, in a long-term foster home placement, or in another permanent placement;

(5)  Home finding - services for the recruitment, development, approval, and maintenance of foster and adoptive homes that reflects the ethnic and racial diversity of the child for whom a foster or adoptive home is needed;

(6)  Placement and supervision - services associated with placement of a child in foster care or an adoptive home to insure successful placement; and

(7)  Follow-up services to determine a client's need for further service.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 187, effective May 29, 1986; 27 SDR 121, effective May 28, 2001; 39 SDR 220, effective June 27, 2013.

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

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

**Cross-References:** Definition of case plan, § 67:42:01:01; Foster care plan, § 67:42:09:17.

**67:42:09:14.  Adoptive services.** Repealed.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; repealed, 39 SDR 220, effective June 27, 2013.

**67:42:09:15.  Agency qualifications for adoptive applicants.** The agency must establish written qualifications for an adoptive applicant which include the following requirements:

(1)  The applicant and members of the applicant's household must meet the requirements of § 67:14:32:08;

(2)  The house must have working smoke detectors near the sleeping area. The water supply must be derived from a community water system or must be tested for bacteria and nitrates by the Department of Agriculture and Natural Resources or a laboratory certified by the Department of Health to conduct such tests and be determined to be safe for consumption. There must be space to accommodate the family's needs, including the needs of the child placed for adoption;

(3)  The applicant must meet the physical health requirements of § 67:14:32:09. This requirement may be waived when a foster parent applies to adopt a child in foster care who is currently in the applicant's care;

(4)  The household members have passed a screening for substantiated reports of child abuse or neglect under the provisions of § 67:14:32:05.03; and

(5)  The household members have passed a criminal record check under the provisions of § 67:14:32:05.05.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 187, effective May 29, 1986; 17 SDR 157, effective April 23, 1991; 21 SDR 206, effective June 4, 1995; 27 SDR 121, effective May 28, 2001; 39 SDR 220, effective June 27, 2013; SL 2021, ch 1, §§ 8, 19, effective April 19, 2021.

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

**Law Implemented:** SDCL 26-6-8, 26-6-16, 26-6-23.2.

**Cross-References:** Right of licensed foster parents to apply for adoption -- Primary consideration, SDCL 26-6-21.1; Definition of community water system, § 74:04:05:01.

**67:42:09:16.  Adoptive placement services.** The agency shall adopt written policies for the placement of a child free for adoption. The policies must provide for the following:

(1)  Placement into an adoptive home as soon as possible after the child is legally free for adoption;

(2)  Placement of an Indian child according to the Indian Child Welfare Act;

(3)  Placement in the best interests of the child;

(4)  Placement with relatives or extended family members if it is in the best interests of the child;

(5)  Placement to meet the child's distinctive needs;

(6)  Prohibition of placement based solely on the basis of race, color, or national origin of the adoptive or foster parent or the child involved;

(7)  Continuation of services to assist the child and family, including payment of an adoption subsidy, if indicated in the child's case plan; and

(8)  Delivery of a copy of the child's current medical records to the child's adoptive parents.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 187, effective May 29, 1986; 27 SDR 121, effective May 28, 2001; 39 SDR 220, effective June 27, 2013.

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

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

**67:42:09:17.  Foster care services.** The agency shall establish written policies for providing foster care services that include at least the following:

(1)  A case plan to be developed within 30 days after the child's placement in foster care. The plan shall include a statement of where the child is being placed and assurances that this placement is the least restrictive setting available for the child; a statement regarding the necessity of the foster care placement; a description of the services which are to be provided to the child and the child's family to facilitate a permanent plan for the child; and projected dates for attaining the established goals;

(2)  Continuing casework services to the child's parents and to the child to prepare them for the child's eventual return or to prepare them for other permanent plans being made for the child;

(3)  Continuing casework services to the child and the child's foster parents as indicated in the child's case plan. The child's social worker shall visit the child and the child's foster parents at least once a month;

(4)  Continuing contacts between the child's parents and their children unless parental rights have been terminated or either the court which has jurisdiction over the child or the child placement agency which has been assigned care, custody, and control of the child has determined that the contacts would be detrimental to the child's welfare;

(5)  Regular educational instruction for children of school age; and

(6)  Closure of a child's case. Closure of a case may occur only after a permanent plan has been established and services are no longer required.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 187, effective May 29, 1986; 39 SDR 220, effective June 27, 2013.

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

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

**Cross-Reference:** Definition of case plan, subdivision 67:42:01:01(8).

**67:42:09:18.  Foster home services.** The agency shall approve foster homes with an annual letter or certificate of approval. The approval shall be based on the following qualifications:

(1)  The foster home shall meet the emotional and physical needs of the child and, as appropriate and where possible, preserve the child's religious, racial, cultural, or tribal heritage; and

(2)  The foster home shall meet the standards for licensing family foster homes as provided in chapters 67:42:01 and 67:42:05 or shall be approved by a tribe according to tribal law.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 187, effective May 29, 1986; 17 SDR 157, effective April 23, 1991; 35 SDR 187, effective February 11, 2009.

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

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

**67:42:09:18.01.  Training and development.** Repealed.

**Source:** 17 SDR 157, effective April 23, 1991; repealed, 35 SDR 187, effective February 11, 2009.

**67:42:09:18.02.  Host family volunteers.** The following sections apply to host families: § 67:42:01:05.01, § 67:42:01:05.02, § 67:42:05:04, § 67:42:05:06, §§ 67:42:05:10.01 to 67:42:05:12, inclusive; and §§ 67:42:05:15 to 67:42:05:24, inclusive. The terms, host family, or, host families, shall be substituted for the terms, foster parent, or foster parents, when applying the listed sections to host families.

Each host family must complete training that includes:

i)  Child development and attachment;

ii)  Impact of separation and trauma;

iii)  Managing behavior;

iv)  Family engagement;

v)  Reporting of abuse and neglect; and

vi)  Home and vehicle safety.

**Source:** 39 SDR 127, effective January 23, 2013; 48 SDR 131, effective July 4, 2022.

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

**Law Implemented:** SDCL 26-6-14, 26-6-16.

**67:42:09:19.  Medical and dental services.** The agency shall establish a written policy for the health care of every child in its care. Each child must receive physical and dental examinations as follows:

(1)  A physical examination must be given according to the following age schedule:

(a) Three to five days;

(b) By one month;

(c) Two months;

(d) Four months;

(e) Six months;

(f) Nine months;

(g) 12 months;

(h) 15 months;

(i) 18 months;

(j) 24 months;

(k) 30 months; and

(l) At three years, every year until age 18;

(2)  A dental examination must be given to each child once a year beginning at age one. The dental examination may be provided by either a physician or a dentist until age four. Beginning at age five the dental examination must be provided by a dentist;

(3)  The agency shall obtain current immunizations and vaccinations for each child in its care in accordance with SDCL 13-28-7.1; and

(4)  A child being placed in an adoptive home must be given a physical examination and a dental examination prior to the adoptive placement.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 187, effective May 29, 1986; 39 SDR 220, effective June 27, 2013.

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

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

**67:42:09:20.  Services to unmarried parents.** Repealed.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 187, effective May 29, 1986; repealed, 39 SDR 220, effective June 27, 2013.

**67:42:09:21.  Legal services and responsibilities.** The agency shall employ or retain legal staff to represent the child in legal matters and to assure prompt resolution of legal questions in the best interests of the child. The agency shall have sufficient liability insurance to protect itself and children entrusted to its care from serious financial jeopardy.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981.

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

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

**67:42:09:22.  Other agency services.** The agency shall provide or procure other services as needs may demand. The services may include psychiatric, legal, religious, special education, and physical therapy services. The agency shall ensure that adequate incidental, clothing, and educational expenses are allowed for each child in its care.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 39 SDR 220, effective June 27, 2013.

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

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

**67:42:09:23.  Interstate placement of children.** Any child received by the agency from, or placed by the agency in, another state must be received or placed in accordance with chapter 67:14:24 on interstate placement of children or in accordance with comparable tribal laws on the receiving and placing of children.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981.

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

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

**67:42:09:24.  Client case records.** The child placement agency shall maintain a current and securely filed case record on each client served. The case records shall include at least the following:

(1)  The current addresses of parents or other significant persons;

(2)  Medical records with significant family health history and signed statements authorizing necessary medical or surgical treatment;

(3)  Correspondence;

(4)  Legal documents;

(5)  Agency agreements or contracts;

(6)  Reports from schools, specialists, and other agencies;

(7)  A case plan; and

(8)  Dated, ongoing records of treatment, supervisory visits, narrative of case worker visits, conferences, and contacts with other persons concerning services provided to the client.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 187, effective May 29, 1986; 39 SDR 220, effective June 27, 2013.

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

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

**Cross-References:** Definition of case plan, subdivision 67:42:01:01(3); Foster care services, § 67:42:09:17.

**67:42:09:25.  Foster home record.** The child placement agency shall keep a current record on each of the foster homes it has approved to care for children who are under the age of 18. The record must contain the following information:

(1)  The initial application and the annual reapplication for approval;

(2)  Annual documented compliance with the requirements of chapters 67:42:01 and 67:42:05 or the foster home licensing standards established by a tribe in accordance with tribal law;

(3)  A dated narrative record of all contacts regarding the home's compliance with licensing standards and a closure summary with the reasons for the closure, if applicable; and

(4)  The home's annual certificates or letters of approval.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 187, effective May 29, 1986; 39 SDR 220, effective June 27, 2013.

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

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

**67:42:09:26.  Adoptive home record.** The adoptive home record must include a signed application to adopt a child and a physician's report regarding the current health and any conditions of the applicants that might affect their own future health or life expectancy or adversely affect the child; correspondence; a complete record of the adoptive study which must contain the elements specified in § 67:14:32:11.01, together with the agency's evaluation and recommendations; a complete record of all written references; upon placement of the child in the home a signed agreement as to the terms of the placement; a record of placement of the child in the home and periodic evaluation of progress in the home with final recommendation as to legal adoption; and copies of legal documents upon final completion of the adoption.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 21 SDR 206, effective June 4, 1995.

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

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

**Cross-Reference:** Adoptive study, § 67:14:32:11.01.

**67:42:09:27.  Agency record and reports.** Repealed.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 187, effective May 29, 1986; repealed, 39 SDR 220, effective June 27, 2013.

**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.** Repealed.

**Source:** 12 SDR 209, effective July 6, 1986; 15 SDR 162, effective May 4, 1989; 39 SDR 220, effective June 27, 2013; 49 SDR 124, effective July 3, 2023.

**67:42:10:01.  Statement defining purpose and function.** 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; 49 SDR 124, effective July 3, 2023.

**67:42:10:02.  Qualifications for director or proprietor.** 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; 49 SDR 124, effective July 3, 2023.

**67:42:10:02.01.  Qualifications for individual responsible for program planning and staff supervision.** Repealed.

**Source:** 12 SDR 209, effective July 6, 1986; 21 SDR 206, effective June 4, 1995; 31 SDR 40, effective September 29, 2004; 49 SDR 124, effective July 3, 2023.

**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.** 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; 49 SDR 124, effective July 3, 2023.

**67:42:10:06.  Staff development and training.** 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; 49 SDR 124, effective July 3, 2023.

**67:42:10:06.01.  Staff orientation.** 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; 49 SDR 124, effective July 3, 2023.

**67:42:10:07.  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; 49 SDR 124, effective July 3, 2023.

**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.** 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; 49 SDR 124, effective July 3, 2023.

**67:42:10:10.  Program standards.** 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; 49 SDR 124, effective July 3, 2023.

**67:42:10:11.  Standards for discipline.** 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; 49 SDR 124, effective July 3, 2023.

**67:42:10:12.  Parental involvement.** 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; 49 SDR 124, effective July 3, 2023.

**67:42:10:13.  Nutrition requirements.** 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; 49 SDR 124, effective July 3, 2023.

**67:42:10:14.  Health standards and immunizations for day care children.** 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; 49 SDR 124, effective July 3, 2023.

**67:42:10:15.  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; 49 SDR 124, effective July 3, 2023.

**67:42:10:16.  Building plans.** 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; 49 SDR 124, effective July 3, 2023.

**67:42:10:17.  Compliance with environmental health standards required -- Environmental health survey.** 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; 49 SDR 124, effective July 3, 2023.

**67:42:10:18.  Fire and life safety.** 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; 49 SDR 124, effective July 3, 2023.

**67:42:10:19.  Physical standards for facility.** 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; 49 SDR 124, effective July 3, 2023.

**67:42:10:20.  Night-time care.** 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; 49 SDR 124, effective July 3, 2023.

**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.** Repealed.

**Source:** 12 SDR 209, effective July 6, 1986; 39 SDR 220, effective June 27, 2013; 43 SDR 31, effective September 12, 2016; 49 SDR 124, effective July 3, 2023.

**67:42:10:23.  Center procedures for handling suspected in-house child abuse.** Repealed.

**Source:** 12 SDR 209, effective July 6, 1986; 49 SDR 124, effective July 3, 2023.

**67:42:10:24.  Storage for personal items.** Repealed.

**Source:** 21 SDR 206, effective June 4, 1995; 39 SDR 220, effective June 27, 2013; 49 SDR 124, effective July 3, 2023.

**67:42:10:25.  Staff person trained in first aid and CPR must be on site during hours of operation.** Repealed.

**Source:** 31 SDR 40, effective September 29, 2004; 49 SDR 124, effective July 3, 2023.

**CHAPTER 67:42:11**

**ENVIRONMENTAL HEALTH STANDARDS**

Section

67:42:11:01 Scope of chapter.

67:42:11:02 Playground area -- Swimming pool.

67:42:11:02.01 Space requirements -- Before and after school care, Repealed.

67:42:11:03 and 67:42:11:04 Repealed.

67:42:11:05 Sleeping areas.

67:42:11:06 Toilet facilities.

67:42:11:06.01 Diaper changing.

67:42:11:07 Cleaning and sanitizing of equipment, Repealed.

67:42:11:07.01 and 67:42:11:07.02 Repealed.

67:42:11:08 Ventilation of cooking areas.

67:42:11:09 Water source and temperature.

67:42:11:10 Electrical outlet covers.

67:42:11:11 Repealed.

67:42:11:12 Heating, ventilating, and cooling systems.

67:42:11:13 Repealed.

67:42:11:14 Railings.

67:42:11:15 Hazardous conditions.

67:42:11:15.01 Traffic through food preparation area prohibited, Repealed.

67:42:11:16 Food supplies.

67:42:11:17 Repealed.

67:42:11:18 Food storage.

67:42:11:19 Repealed.

67:42:11:20 Raw fruits and vegetables, Repealed.

67:42:11:21 and 67:42:11:22 Repealed.

67:42:11:23 Employee health, Repealed.

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 cleaning and storage.

67:42:11:30 to 67:42:11:32 Repealed.

67:42:11:33 Handwashing.

67:42:11:34 Garbage and refuse, Repealed.

67:42:11:35 Repealed.

67:42:11:36 Insect and rodent control, Repealed.

67:42:11:37 Floor construction, Repealed.

67:42:11:38 Floor carpeting, Repealed.

67:42:11:39 Facility maintenance.

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 in this chapter apply only to chapters 67:42:07, 67:42:08, and 67:42:15, unless otherwise 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; 49 SDR 124, effective July 3, 2023.

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

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

**67:42:11:02.  Playground area -- Swimming pool.** The playground must have at least fifty square feet of play area for each child during each scheduled recess time and must be enclosed with a fence, if the playground is within 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 free of litter, trash, and weeds. Playground equipment must be installed per manufacturer recommendations and maintained in good repair.

A swimming pool 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 prevents child access. Exits from and entrances to the pool must have self-closing, latching gates that must be locked when children are present.

**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; 49 SDR 124, effective July 3, 2023.

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

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

**67:42:11:02.01.  Space requirements -- Before and after school care.** Repealed.

**Source:** 27 SDR 63, effective December 31, 2000; 49 SDR 124, effective July 3, 2023.

**67:42:11:03.  Floor construction -- Ceiling height.** Repealed.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; repealed, 13 SDR 197, effective July 1, 1987; repealed, 14 SDR 20, effective August 13, 1987.

**67:42:11:04.  Lighting.** Repealed.

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

**67:42:11:05.  Sleeping areas.** A minimum of fifty square feet of floor space must be provided for the first client occupying a sleeping area with an additional thirty square feet for each additional client occupying the same sleeping space.

**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; 49 SDR 124, effective July 3, 2023.

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

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

**Cross Reference:**

Scope of chapter, § 67:42:11:01.

**67:42:11:06.  Toilet facilities.** Where care for both male and female clients is provided, separate toilet facilities for each gender must be provided. There must be a minimum of one toilet and one hand lavatory for every twelve male clients and a minimum of one toilet and one hand lavatory for every twelve female clients. Showers or bathtubs must be provided at the ratio of one shower or bathtub for every five male clients and one shower or bathtub for every five female clients.

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. Toilet fixtures must be kept clean and in good repair.

**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; 49 SDR 124, effective July 3, 2023.

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

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

**Cross Reference:**

Scope of chapter, § 67:42:11:01.

**67:42:11:06.01.  Diaper changing.** Where infants are cared for, there must be a diaper changing table with a top that is easily cleanable and nonabsorbent. The table must be cleaned after each use.

Soiled diapers must be kept in a leakproof, nonabsorbent container that is covered with a tight-fitting lid.

A hand lavatory must be located near the diaper changing 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; 49 SDR 124, effective July 3, 2023.

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

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

**Cross References:**

Scope of chapter, § 67:42:11:01.

**67:42:11:07.  Cleaning and sanitizing of equipment.** 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; 49 SDR 124, effective July 3, 2023.

**67:42:11:07.01.  Manual cleaning and sanitizing.** Repealed.

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

**67:42:11:07.02.  Mechanical cleaning and sanitizing.** Repealed.

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

**67:42:11:08.  Ventilation of cooking areas.** A facility, in which more than twenty children are cared for, must provide a ventilation hood over all cooking areas for the type of applicance and intended use, as required in § 61:15:01:01.

**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; 49 SDR 124, effective July 3, 2023.

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

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

**67:42:11:09.  Water source and temperature.** Water must be derived from a community water system or from a water system that is tested at least annually by a laboratory certified by the 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 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 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; 49 SDR 124, effective July 3, 2023.

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

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

**Cross-References:**

General rules, chapter 74:02:01.

Water system operators, article 74:21.

**67:42:11:10.  Electrical outlet covers.** A facility, in which children under age five are cared for, must have unused electrical outlets covered with an Underwriters' Laboratories-approved electrical outlet cover. If the facility was constructed or approved after June 4, 1995, it must have self-closing outlet covers that cover outlet holes automatically upon removal of appliance prongs.

**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; 49 SDR 124, effective July 3, 2023.

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

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

**67:42:11:11.  Compliance with chapters 67:28:08 and 67:28:12.** Repealed.

**Source:** 7 SDR 66, 7 SDR 89, effective July 1, 1981; repealed, 13 SDR 197, effective July 1, 1987; repealed, 14 SDR 20, effective August 13, 1987.

**67:42:11:12.  Heating, ventilating, and cooling systems.** Each facility must have a working heating, ventilating, 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. The inspector shall provide a signed, written statement verifying the inspection and shall include the date of the inspection. This written verification must be kept on file in the facility, be made available to the department, upon request, and retained for three years.

**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; 49 SDR 124, effective July 3, 2023.

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

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

**67:42:11:13.  Electrical wiring.** Repealed.

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

**67:42:11:14.  Railings.** All floor and wall openings, open-sided stairs, platforms, and decks, which are thirty inches or more above the adjacent ground level, must be guarded by a railing or barrier, that conforms with applicable building code requirements.

**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; 49 SDR 124, effective July 3, 2023.

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

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

**67:42:11:15.  Hazardous conditions.** Hazardous cleaning solutions, chemicals, poisons, and substances must be labeled, and stored in a safe place or kept in an enclosed cabinet that is inaccessible 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; 49 SDR 124, effective July 3, 2023.

**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.** Repealed.

**Source:** 31 SDR 40, effective September 29, 2004; 49 SDR 124, effective July 3, 2023.

**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 subdivision 39-6-1(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.

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

Light fixtures in food service areas must have 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; 49 SDR 124, effective July 3, 2023.

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

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

**67:42:11:17.  Food protection.** Repealed.

**Source:** 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 27 SDR 121, effective May 28, 2001; repealed, 39 SDR 220, effective June 27, 2013.

**67:42:11:18.  Food storage.** The following are 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;

(2)  The covers of containers used for food storage must be impervious and nonabsorbent, except that linens or napkins may be used for lining or covering bread or roll containers;

(3)  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;

(4)  The requirement for storage above the floor, as set forth in subdivision (3), does not apply to pressurized beverage containers or cased food that is packaged in cans, glass, or other waterproof containers, unless the container is exposed to floor moisture;

(5)  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;

(6)  Food and containers of food may not be stored in toilet rooms, or in vestibules; and

(7)  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; 49 SDR 124, effective July 3, 2023.

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

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

**67:42:11:19.  Refrigerated storage.** Repealed.

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

**67:42:11:20.  Raw fruits and vegetables.** Repealed.

**Source:** 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 49 SDR 124, effective July 3, 2023.

**67:42:11:21.  Reheating.** Repealed.

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

**67:42:11:22.  Thawing potentially hazardous foods.** Repealed.

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

**67:42:11:23.  Employee health.** Repealed.

**Source:** 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 49 SDR 124, effective July 3, 2023.

**67:42:11:24.  Personal cleanliness.** Persons involved with food preparation shall thoroughly wash their hands and the exposed portions of their arms with soap and warm water before starting work and as often as necessary during work to keep them clean. They shall also wash after smoking, eating, drinking, or using the toilet. They shall keep their fingernails clean and trimmed and their outer clothing must be clean. Jewelry on hands and wrists may not be worn during food handling.

**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.

**67:42:11:25.  Food service practices.** Individuals involved with food preparation must conform to the following requirements:

(1)  They may consume food only in designated dining areas where there will be no contamination of other food, equipment, or utensils;

(2)  They may use tobacco only in designated areas where the use of tobacco will not result in the contamination of food, equipment, or utensils;

(3)  They shall handle soiled tableware in a way that minimizes contamination of the hands; and

(4)  They must wear hair restraints such as hats, hair coverings or nets, beard restraints, and clothing that covers body hair. The hair restraints must be designed and worn to effectively keep hair from contacting exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

**Source:** 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 31 SDR 40, effective September 29, 2004.

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

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

**67:42:11:26.  Multi-use equipment and utensils.** Repealed.

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

**67:42:11:27.  Single-service articles.** Repealed.

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

**67:42:11:28.  Equipment and utensil handling.** Repealed.

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

**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.

Equipment and utensils must be stored as follows:

(1)  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;

(2)  The food contact surfaces of equipment must be protected from contamination;

(3)  Equipment and utensils may not be placed under exposed sewer lines or water lines, except for automatic fire protection sprinkler heads;

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

(5)  Cups and glasses must be stored inverted;

(6)  Other utensils must be stored covered or inverted; and

(7)  Knives, forks, and spoons must be stored in a container that presents the handle to the client or employee.

**Source:** 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 43 SDR 31, effective September 12, 2016; 49 SDR 124, effective July 3, 2023.

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

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

**67:42:11:30.  Storage and handling of single-service articles.** Repealed.

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

**67:42:11:31.  Sewage.** Repealed.

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

**67:42:11:32.  Plumbing.** Repealed.

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

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

Handwashing facilities must:

(1)  Be located so as to permit convenient use by both employees and clients;

(2)  Be located in the food preparation area or directly adjacent to the food preparation area;

(3)  Be located in each toilet room;

(4)  Be located near any diaper changing area;

(5)  Be provided with hand cleansing soap or detergent; and

(6)  Be provided with single-use towels.

**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; 49 SDR 124, effective July 3, 2023.

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

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

**67:42:11:34.  Garbage and refuse.** 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; 49 SDR 124, effective July 3, 2023.

**67:42:11:35.  Garbage and refuse disposal.** Repealed.

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

**67:42:11:36.  Insect and rodent control.** Repealed.

**Source:** 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 49 SDR 124, effective July 3, 2023.

**67:42:11:37.  Floor construction.** Repealed.

**Source:** 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 49 SDR 124, effective July 3, 2023.

**67:42:11:38.  Floor carpeting.** Repealed.

**Source:** 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 21 SDR 206, effective June 4, 1995; 49 SDR 124, effective July 3, 2023.

**67:42:11:39.  Facility maintenance.** Floors, walls, ceilings, doors, windows, and skylights must be easily cleanable and 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; 49 SDR 124, effective July 3, 2023.

**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 clean, neat, and free of litter and rubbish. Garbage must be kept in durable, easily cleanable, insect-proof, and rodent-proof containers that do not leak or absorb liquids. 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; 49 SDR 124, effective July 3, 2023.

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

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

**67:42:11:41.  Laundry.** Each facility must provide for the cleaning of all linens and washable goods. Soiled linen must be placed in closed containers or hampers during storage or transportation. The handling, sorting, or washing of soiled linen may not take place in food preparation or serving areas. Areas designated for soiled linen handling and processing must be physically separated from kitchen areas by a permanent partition. If physical separation of laundry and kitchen areas is impractical, written procedures must be developed that prohibit the washing, sorting, or handling of laundry while meals are being prepared or served. Laundry detergents, bleaches, soap builders, brighteners, bluing agents, or other chemicals associated with the washing or finishing process must be safely stored to prevent injury to clients by spillage or ingestion. Laundry chemicals may not be placed or stored with or near food or on food contact surfaces.

If the facility provides laundry service for common-use linens or if different clients' clothing is laundered together and if the water temperature at the washing machine is less than 160 degrees Fahrenheit, bleach or a disinfectant must be used in the laundering process.

**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.

**67:42:11:42.  Handwashing.** Repealed.

**Source:** 15 SDR 94, effective January 1, 1989; 21 SDR 206, effective June 4, 1995; repealed, 39 SDR 220, effective June 27, 2013.

**67:42:11:43.  Smoking.** Repealed.

**Source:** 15 SDR 94, effective January 1, 1989; 15 SDR 162, effective May 4, 1989; repealed, 31 SDR 40, effective September 29, 2004.

**67:42:11:44.  Pets.** If a pet is present, 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 pit bulls and rottweilers and parrots and other exotic birds 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.

**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.

**CHAPTER 67:42:12**

**MATERNITY HOMES**

(Repealed. 39 SDR 220, effective June 27, 2013)

**CHAPTER 67:42:13**

**INDEPENDENT LIVING PREPARATION**

Section

67:42:13:01 Definitions.

67:42:13:02 Eligibility criteria.

67:42:13:03 Case plan requirements.

67:42:13:04 Assessment.

67:42:13:05 Written policy requirements -- Program components.

67:42:13:06 Supervision requirements.

67:42:13:07 Requirements for off-site living arrangements.

67:42:13:08 Emergency procedures.

**67:42:13:01.  Definitions.** Terms used in this chapter mean:

(1)  "Independent living preparation program" or "ILPP," an independent living program defined in SDCL 26-6-14(8) which is supervised and operated by a licensed child placement agency, group care center for minors, and residential treatment center; and

(2)  "Placement agency," a licensed private child placement agency, a public agency which has legal authority to place children, or a parent or guardian who has placed the adolescent into an independent living preparation program.

**Source:** 20 SDR 196, effective May 29, 1994.

**General Authority:** SDCL 26-6-14, 26-6-16.

**Law Implemented:** SDCL 26-6-14, 26-6-16.

**67:42:13:02.  Eligibility criteria.** The following requirements must be met before a placement agency may place an adolescent into an independent living preparation program:

(1)  The adolescent is 16 years to 21 years of age;

(2)  The adolescent agrees with the case plan developed by the independent living preparation program and the placement agency; and

(3)  The ILPP or placement agency has completed an assessment of the adolescent's life skills.

**Source:** 20 SDR 196, effective May 29, 1994.

**General Authority:** SDCL 26-6-14, 26-6-16.

**Law Implemented:** SDCL 26-6-14, 26-6-16.

**67:42:13:03.  Case plan requirements.** The placement agency shall develop a written case plan for each adolescent within 14 days of placing the adolescent into the independent living preparation program. When preparing the case plan, the placement agency shall involve the adolescent in care, the ILPP, and the parent or guardian. The case plan must contain at least the following information:

(1)  A delineation of the respective roles and responsibilities of the ILPP, the adolescent, and other involved parties;

(2)  The goals and services to be provided or arranged by the ILPP, including a plan for supervisory contact between the adolescent and the licensed child welfare agency staff;

(3)  The financial support needed and how it will be provided to cover the adolescent's basic medical, educational, shelter, nutritional, clothing, and recreational needs. The financial support may be provided directly by the ILPP; the placement agency; a parent, guardian, or custodian; the adolescent, through earnings from employment, financial aid, scholarships, grants, loans, or work-study; or any combination of these financial sources; and

(4)  The projected length of stay and conditions under which the adolescent may be discharged.

Each individual involved in developing the case plan shall sign the plan. The ILPP shall review and evaluate the adolescent's case plan at least once every three months. The updated plan must include the progress made toward achieving the goals established in the previous plan and any amendments made to the plan. The ILPP shall submit to the placement agency at three-month intervals a report on the adolescent's progress. The case plan and progress reports must be maintained as part of the adolescent's record.

**Source:** 20 SDR 196, effective May 29, 1994; 39 SDR 220, effective June 27, 2013.

**General Authority:** SDCL 26-6-14, 26-6-16.

**Law Implemented:** SDCL 26-6-14, 26-6-16.

**67:42:13:04.  Assessment.** Before an adolescent is placed into an independent living preparation program, the placement agency or the ILPP must prepare an assessment of the adolescent's life skills. The assessment must identify any potential area of risk to the adolescent and must cover at least the following areas:

(1)  Money management and consumer awareness;

(2)  Food management;

(3)  Personal appearance;

(4)  Health;

(5)  Housekeeping;

(6)  Transportation;

(7)  Educational planning;

(8)  Job seeking skills;

(9)  Job maintenance skills;

(10)  Emergency and safety skills;

(11)  Knowledge of community resources;

(12)  Interpersonal skills;

(13)  Legal skills;

(14)  Leisure activities; and

(15)  Housing.

**Source:** 20 SDR 196, effective May 29, 1994.

**General Authority:** SDCL 26-6-14, 26-6-16.

**Law Implemented:** SDCL 26-6-14, 26-6-16.

**67:42:13:05.  Written policy requirements -- Program components.** The ILPP must have written policies which address the following areas:

(1)  The criteria used to select adolescents for the independent living preparation program;

(2)  The approach used to assess the appropriateness of the independent living placement;

(3)  The nature and frequency of supervision provided to an adolescent in the program;

(4)  The services available for an adolescent in the program;

(5)  An explanation of any living environments provided by the ILPP; and

(6)  A description of the crisis response system ensuring that an adolescent has 24-hour access to personnel from the ILPP.

**Source:** 20 SDR 196, effective May 29, 1994.

**General Authority:** SDCL 26-6-14, 26-6-16.

**Law Implemented:** SDCL 26-6-14, 26-6-16.

**67:42:13:06.  Supervision requirements.** The ILPP must provide supervision for each adolescent. Documentation of supervisory contact must be maintained in each adolescent's case file. At least once every two weeks, the adolescent's supervisor from the ILPP must meet with the adolescent in care. At least once a month, the meeting must take place in the adolescent's residence or living environment. As a result of the meeting, the supervisor must document at least the following:

(1)  That there is no reasonable cause to believe that the adolescent's residence or life style presents a risk to the adolescent's health or safety;

(2)  That the adolescent is receiving necessary medical care; and

(3)  The current treatment program plan provides appropriate and sufficient services for the adolescent.

The ILPP must have additional staff available to serve an adolescent in care during emergencies, vacations, illness of the regular staff, and when the regular staff is off duty.

The department may require more supervisory contact if on-site visits indicate a need for more supervision to maintain control and discipline.

**Source:** 20 SDR 196, effective May 29, 1994.

**General Authority:** SDCL 26-6-14, 26-6-16.

**Law Implemented:** SDCL 26-6-14, 26-6-16.

**67:42:13:07.  Requirements for off-site living arrangements.** No more than four adolescents may be placed together in a living unit unless the living unit is located within a licensed group care center for minors or in a licensed residential treatment center. The placement of adolescents together may not constitute a risk to the health and safety of any of the adolescents. The licensed ILPP shall ensure that adolescents have the necessary household utensils, bedding, bathroom supplies, and cleaning supplies needed to maintain an independent living arrangement. If the living arrangement for an adolescent in an ILPP is a site other than in a licensed group care center for minors or a licensed residential treatment center, the following additional requirements must be met:

(1)  The living arrangement must meet local zoning ordinances;

(2)  No firearm or other projectile weapons may be kept on site;

(3)  The living arrangement must be equipped with a smoke detector on each level of the building. Audible alarm devices must be designed and distributed so as to be effectively heard above the maximum noise level obtained under normal conditions of occupancy;

(4)  The water supply must be derived from a public water system and must be safe for household use. The volume of water must be sufficient to meet the needs of the residents. The hot water supply system must be large enough to meet the peak hot water demands of the residents. Hot water from plumbing fixtures may not exceed 120 degrees Fahrenheit;

(5)  The living arrangement must have a working heating system. Unvented fuel-fired room heaters may not be used unless the heater is approved by Underwriters Laboratories;

(6)  The living unit must be kept clean, neat, and free of litter and rubbish. 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;

(7)  The facility must have operating hand washing, bathing, and toilet facilities located in the living facility; and

(8)  The living facility must have an operating B-C portable chemical fire extinguisher in the cooking area.

**Source:** 20 SDR 196, effective May 29, 1994; 39 SDR 220, effective June 27, 2013.

**General Authority:** SDCL 26-6-14, 26-6-16.

**Law Implemented:** SDCL 26-6-14, 26-6-16.

**67:42:13:08.  Emergency procedures.** Within one week after placement of an adolescent into the independent living preparation program, the ILPP must instruct the adolescent in the proper procedures to be followed in case of an emergency. Evidence that the adolescent has been instructed must be maintained in the adolescent's file. Training must include the following:

(1)  The use of emergency equipment such as fire extinguishers and smoke detectors;

(2)  Evacuation from the living facility;

(3)  Procedure for contacting police, fire, and other emergency personnel;

(4)  Fire and accident prevention; and

(5)  Proper responses to natural disasters and to tornado and fire warnings.

**Source:** 20 SDR 196, effective May 29, 1994.

**General Authority:** SDCL 26-6-14, 26-6-16.

**Law Implemented:** SDCL 26-6-14, 26-6-16.

**CHAPTER 67:42:14**

**BEFORE AND AFTER SCHOOL CARE**

**(Repealed)**

Section

67:42:14:01 Definitions, Repealed.

67:42:14:02 Repealed.

67:42:14:03 Center director or proprietor, Repealed.

67:42:14:04 and 67:42:14:05 Repealed.

67:42:14:06 Qualifications for individual responsible for program planning and staff supervision, Repealed.

67:42:14:07 Repealed.

67:42:14:08 Staff qualifications, Repealed.

67:42:14:09 Volunteers, Repealed.

67:42:14:10 Employee hiring practices, Repealed.

67:42:14:11 Repealed.

67:42:14:12 Staff orientation, Repealed.

67:42:14:13 Staff training, Repealed.

67:42:14:14 Staff responsibility for reporting suspected incidents of child abuse or neglect, Repealed.

67:42:14:15 Center activities, Repealed.

67:42:14:16 Center policies, Repealed.

67:42:14:17 Staff-child ratio, Repealed.

67:42:14:18 Repealed.

67:42:14:19 Transportation of children in care, Repealed.

67:42:14:20 Discipline, Repealed.

67:42:14:21 Nutritional requirements, Repealed.

67:42:14:22 Food preparation, Repealed.

67:42:14:23 Required records, Repealed.

67:42:14:24 Medications, Repeale

67:42:14:25 Parental involvement, Repealed.

67:42:14:26 Building plans, Repealed.

67:42:14:27 Environmental health standards, Repealed.

67:42:14:28 Minimum fire and life safety requirements, Repealed.

**67:42:14:01.  Definitions.** Repealed.

**Source:** 27 SDR 63, effective December 31, 2000; 39 SDR 220, effective June 27, 2013; 49 SDR 124, effective July 3, 2023.

**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.** Repealed.

**Source:** 27 SDR 63, effective December 31, 2000; 39 SDR 220, effective June 27, 2013; 49 SDR 124, effective July 3, 2023.

**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.** Repealed.

**Source:** 27 SDR 63, effective December 31, 2000; 39 SDR 220, effective June 27, 2013; 49 SDR 124, effective July 3, 2023.

**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.** Repealed.

**Source:** 27 SDR 63, effective December 31, 2000; 39 SDR 220, effective June 27, 2013; 49 SDR 124, effective July 3, 2023.

**67:42:14:09.  Volunteers.** Repealed.

**Source:** 27 SDR 63, effective December 31, 2000; 49 SDR 124, effective July 3, 2023.

**67:42:14:10.  Employee hiring practices.** Repealed.

**Source:** 27 SDR 63, effective December 31, 2000; 39 SDR 220, effective June 27, 2013; 49 SDR 124, effective July 3, 2023.

**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.** 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; 49 SDR 124, effective July 3, 2023.

**67:42:14:13.  Staff training.** 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; 49 SDR 124, effective July 3, 2023.

**67:42:14:14.  Staff responsibility for reporting suspected incidents of child abuse or neglect.** Repealed.

**Source:** 27 SDR 63, effective December 31, 2000; 39 SDR 220, effective June 27, 2013; 49 SDR 124, effective July 3, 2023.

**67:42:14:15.  Center activities.** Repealed.

**Source:** 27 SDR 63, effective December 31, 2000; 49 SDR 124, effective July 3, 2023.

**67:42:14:16.  Center policies.** Repealed.

**Source:** 27 SDR 63, effective December 31, 2000; 43 SDR 31, effective September 12, 2016; 49 SDR 124, effective July 3, 2023.

**67:42:14:17.  Staff-child ratio.** Repealed.

**Source:** 27 SDR 63, effective December 31, 2000; 49 SDR 124, effective July 3, 2023.

**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.** Repealed.

**Source:** 27 SDR 63, effective December 31, 2000; 39 SDR 220, effective June 27, 2013; 49 SDR 124, effective July 3, 2023.

**67:42:14:20.  Discipline.** Repealed.

**Source:** 27 SDR 63, effective December 31, 2000; 49 SDR 124, effective July 3, 2023.

**67:42:14:21.  Nutritional requirements.** Repealed.

**Source:** 27 SDR 63, effective December 31, 2000; 39 SDR 220, effective June 27, 2013; 49 SDR 124, effective July 3, 2023.

**67:42:14:22.  Food preparation.** Repealed.

**Source:** 27 SDR 63, effective December 31, 2000; 49 SDR 124, effective July 3, 2023.

**67:42:14:23.  Required records.** Repealed.

**Source:** 27 SDR 63, effective December 31, 2000; 39 SDR 220, effective June 27, 2013; 43 SDR 31, effective September 12, 2016; 49 SDR 124, effective July 3, 2023.

**67:42:14:24.  Medications.** Repealed.

**Source:** 27 SDR 63, effective December 31, 2000; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013; 49 SDR 124, effective July 3, 2023.

**67:42:14:25.  Parental involvement.** Repealed.

**Source:** 27 SDR 63, effective December 31, 2000; 49 SDR 124, effective July 3, 2023.

**67:42:14:26.  Building plans.** Repealed.

**Source:** 27 SDR 63, effective December 31, 2000; 49 SDR 124, effective July 3, 2023.

**67:42:14:27.  Environmental health standards.** Repealed.

**Source:** 27 SDR 63, effective December 31, 2000; 49 SDR 124, effective July 3, 2023.

**67:42:14:28.  Minimum fire and life safety requirements.** Repealed.

**Source:** 27 SDR 63, effective December 31, 2000; 39 SDR 220, effective June 27, 2013; 49 SDR 124, effective July 3, 2023.

**CHAPTER 67:42:15**

**INTENSIVE RESIDENTIAL TREATMENT CENTERS**

Section

67:42:15:01 Definitions.

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67:42:15:03 Eligibility requirements -- Child.

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67:42:15:21 and 67:42:15:22 Repealed.

67:42:15:23 Compliance with chapters 67:42:01 and 67:42:11.

67:42:15:24 Emergency safety intervention -- Face-to-face assessment required.

67:42:15:25 Emergency safety intervention.

**67:42:15:01.  Definitions.** Terms used in this chapter mean:

(1)  "Aftercare services," supportive social services specified in the treatment plan, provided to the child and the child’s family after the child returns home, and designed to help the child adjust to the nontreatment center environment;

(2)  "Emergency safety intervention," the use of restraint or seclusion as an immediate response to an emergency safety situation;

(3)  "Family services," social rehabilitative services to family members to alleviate problems specified in the treatment plan to enable the child to return home;

(4)  "Intensive residential treatment center," "IRTC," or "facility," a facility licensed by the department to care for not less than seven children that provides more intensive and frequent services and supervision of children and individualized treatment to prevent runaway behavior, rage and physical aggression, and the likelihood of children injuring themselves or others;

(5)  "Licensed practitioner," a licensed physician's assistant, a certified nurse practitioner, a licensed psychologist, a licensed social worker, a licensed professional counselor, or a qualified mental health professional who meets the requirements of SDCL 27A-1-3;

(6)  "Living unit," a grouping in an intensive residential treatment center of not more than 12 children. The grouping is created by the proximity of the children to each other as determined by their living arrangements within the facility or the physical design of the facility which allows services and treatment to be provided to the group as a unit;

(7)  "Personal restraint" or "restraint," the application of physical force without the use of any device for the purpose of restraining the free movement of a resident's body. The term does not include briefly holding a resident without undue force in order to calm or comfort the resident or holding a resident's hand for purposes of safely escorting the resident from one area to another;

(8)  "Program director," the individual responsible for developing, implementing, supervising, and monitoring the services provided;

(9)  "Seclusion," the involuntary confinement of a resident alone in a room or an area from which the resident is physically prevented from leaving;

(10)  "Transitional services," services provided to a child who will be moving from one placement to another to help prepare the child for the new placement;

(11)  "Treatment plan," a plan that explains the child's social, psychological, medical, or economic problems, contains solutions to the problems, and describes the necessary steps and schedules to resolve the problems; and

(12)  "Treatment team," a group of individuals that plans, provides, and monitors services to a child in care and the child’s family.

**Source**: 32 SDR 33, effective August 31, 2005; 33 SDR 227, effective July 1, 2007; 34 SDR 200, effective January 30, 2008.

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

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

**67:42:15:02.  Eligibility requirements -- IRTC.** Before the department licenses an IRTC, the facility must provide documentation to the department that indicates the facility meets the requirements of a psychiatric residential treatment facility for individuals under the age of 21, pursuant to 42 C.F.R. §§ 441.150 through 441.184 (October 1, 2019) and is accredited by the Council on Accreditation (COA) in the area of residential treatment services, by the Joint Commission in the area of behavioral health care, or by the Commission of Accreditation of Rehabilitation Facilities (CARF) in the area of behavioral health or child and youth services.

The facility must provide the following services:

(1)  Psychological services;

(2)  Treatment planning;

(3)  Case management;

(4)  Psychiatric services;

(5)  Family services;

(6)  Transitional services; and

(7)  Aftercare services.

If the child is discharged to the child’s home, a relative’s home, a family foster home, or an adoptive home, the facility must ensure that aftercare servicesare provided, either directly or through referral, for a minimum of 90 days following discharge from the facility, and at a location agreed to by the family.

**Source:** 32 SDR 33, effective August 31, 2005; 33 SDR 227, effective July 1, 2007; 34 SDR 200, effective January 30, 2008; 39 SDR 220, effective June 27, 2013; 47 SDR 24, effective September 10, 2020.

**General Authority:** SDCL 26-6-16(1)(6)(11).

**Law Implemented:** SDCL 26-6-16(1)(6)(11).

**67:42:15:02.01.  Licensed practitioner.** In any of the federal regulations incorporated under the provisions of this chapter, the term, licensed practitioner, has the meaning specified in § 67:42:15:01.

The licensed practitioner must meet the education and training requirements established in 42 C.F.R. § 483.376 (October 1, 2006). A licensed practitioner does not include a licensed social work associate.

**Source:** 33 SDR 227, effective July 1, 2007.

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

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

**67:42:15:03.  Eligibility requirements -- Child.** A child is eligible for placement in an IRTC if there is written documentation that the child did not respond to treatment in a residential treatment center, was denied placement in a residential treatment center, or left a residential treatment center before completing treatment. In any case, the child must also have a documented, chronic history of high level physical or sexual aggression. The IRTC must maintain the written documentation and make it available to the department on request.

**Source:** 32 SDR 33, effective August 31, 2005.

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

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

**67:42:15:04.  Staff qualifications -- Program director.** The program director must have a master’s degree in an accredited behavioral or social science area and at least four years of relevant alternative child care experience or a bachelor’s degree in a behavioral or social science and at least six years of relevant alternative child care experience. The program director may not have on record a substantiated report of child abuse or neglect.

**Source:** 32 SDR 33, effective August 31, 2005; 34 SDR 200, effective January 30, 2008.

**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; Screening for substantiated reports of abuse and neglect, § 67:42:01:05.02.

**67:42:15:05.  Staff qualifications -- Direct care staff.** At least one of every three staff members on duty in each unit of the facility who supervises children in care, provides direct services, or participates in assessment and service planning processes must have a bachelor’s degree in a behavioral or social science or 48 credit hours of post-high school education and at least one year of experience working with children in a group care setting. The experience must include behavior management and intervention, recreational and therapeutic activities, and participation in the assessment and case planning process. An individual who does not meet these requirements must be under the supervision of a staff member who provides direct care to children and meets the requirements of this section.

The staff member may not have on record a substantiated report of child abuse or neglect.

**Source:** 32 SDR 33, effective August 31, 2005; 34 SDR 200, effective January 30, 2008; 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; Screening for substantiated reports of abuse and neglect, § 67:42:01:05.02.

**67:42:15:06.  Staff qualifications -- Case managers.** A staff member who provides case management services, including planning, securing, coordinating, and monitoring the services for children in care and their families must have a bachelor’s degree in an accredited behavioral or social science area or an equivalent combination of education and experience.

The staff member may not have on record a substantiated report of child abuse or neglect.

**Source:** 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.

**Cross-References:** Revocation or refusal to issue or renew license or registration for child abuse or violence, SDCL 26-6-23.1; Screening for substantiated reports of abuse and neglect, § 67:42:01:05.02.

**67:42:15:07.  Staff qualifications -- Counselors and therapists.** A staff member who provides counseling or therapy services must have at least a master’s degree in social work, counseling, psychology, or other behavioral science, or a bachelor’s degree in an accredited social or behavioral science and at least three years of experience working with difficult adolescents. The staff member must hold current licensure or certification if such is available in the staff member’s applicable field of practice. For purposes of this section, counseling and therapy services include individual, group, and family therapy; assessment of the needs of children in care; assessment of the needs of the children’s families; and development, review, and revision of the comprehensive treatment plans.

The staff member may not have on record a substantiated report of child abuse or neglect.

**Source:** 32 SDR 33, effective August 31, 2005; 34 SDR 200, effective January 30, 2008.

**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; Screening for substantiated reports of abuse and neglect, § 67:42:01:05.02.

**67:42:15:08.  Caseloads -- Limits.** The caseload for a fulltime case manager, counselor, or therapist is limited to 12 children. If providing both therapy and case management services, the caseload may not exceed six children. The caseload for a part-time case manager, counselor, or therapist must be reduced proportionately according to the number of hours worked in relation to fulltime staff.

**Source:** 32 SDR 33, effective August 31, 2005.

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

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

**67:42:15:09.  Treatment team.** The facility must establish a treatment team for each child in care. The team must include the following individuals:

(1)  The child;

(2)  The child’s parent or guardian;

(3)  Staff from the IRTC, including the child’s case manager, counselor or therapist, teacher, and psychiatrist;

(4)  The psychologist who completed the psychological evaluation of the child following admission to the facility; and

(5)  A staff member from the placing agency.

**Source:** 32 SDR 33, effective August 31, 2005.

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

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

**Cross-Reference:** Team developing individual plan of care, 42 C.F.R. § 441.156.

**67:42:15:10.  Treatment plan.** Within 14 days after admission to the facility, the child’s treatment team must develop a written treatment plan for the child. Each team member must sign the plan. The plan must contain the following information:

(1)  An assessment of the child’s needs, strengths, weaknesses, and problems. The assessment must include a diagnostic evaluation of the medical, psychological, social, behavioral, and developmental needs of the child and reflect the need for intensive residential treatment;

(2)  Treatment goals for the child and the child’s family with an integrated program of therapies, activities, and experiences designed to meet the goals, and projected times for achieving the stated goals;

(3)  The projected length of stay and the conditions under which the child will be discharged; and

(4)  A discharge plan that meets the requirements of § 67:42:15:12.

**Source:** 32 SDR 33, effective August 31, 2005; 34 SDR 200, effective January 30, 2008.

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

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

**Cross-Reference:** Individual plan of care, 42 C.F.R. § 441.155.

**67:42:15:11.  Review and evaluation of treatment plan.** When the 30-day review of the child's treatment plan is complete, a progress report must be sent to the child's placement agency. The facility shall send a copy of the monthly report to the child's parent or guardian if the parent or guardian was involved in the child's placement or is actively involved in treatment planning. At least once every three months the treatment plan must be updated. The updated treatment plan must include the progress made toward achieving the goals in the previous plan and any amendments made to the plan. When complete, a copy of the plan amendments must be sent to the child's placement agency and the child's parent or guardian, if applicable. During the month of the quarterly review, the 30-day progress report may be incorporated into the quarterly review and treatment plan amendment.

**Source:** 32 SDR 33, effective August 31, 2005; 33 SDR 227, effective July 1, 2007; 34 SDR 200, effective January 30, 2008.

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

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

**Cross-Reference:** Individual plan of care, 42 C.F.R. § 441.155.

**67:42:15:12.  Discharge plan.** The treatment team must establish a discharge plan for the child. The discharge plan must include the following information:

(1)  The projected date of discharge;

(2)  The responsibilities of the provider, child, family, and placement agency in the discharge and transition process;

(3)  Transitional services to be provided and by whom;

(4)  Crisis and emergency plans;

(5)  Links with community resources and preparation for how to navigate the adult service system if the child is sixteen years of age or older;

(6)  Aftercare services;

(7)  A list of responsible persons; and

(8)  If the child is Native American, involvement of the child’s tribe in aftercare planning.

**Source:** 32 SDR 33, effective August 31, 2005.

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

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

**67:42:15:13.  Living units.** The facility must provide living units for the children in care. Each unit must have at least one staff member present at all times who is trained in basic first aid and is certified in cardio-pulmonary resuscitation (CPR). Certification in CPR must be through the American Red Cross, the American Heart Association, or another entity that provides hands-on skills testing as part of the training.

**Source:** 32 SDR 33, effective August 31, 2005.

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

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

**67:42:15:14.  Staff-child ratio.** During waking hours and whenever children are present, there must be at least one staff member to supervise every three children or fraction thereof. During sleeping hours, there must be at least one staff member present and awake in each living unit to supervise every six children or fraction thereof.

There must be a minimum of two adults on the grounds at all times. Additional child care staff must be on call. A list of the staff members on call must be posted by the facility's telephone in case of an emergency. The facility must have a written plan to ensure that staff, law enforcement, or appropriate emergency responders are available at the center within a reasonable time in the event of an emergency.

The facility must have an arrangement for employing substitute staff to serve children in emergencies, during vacations or illnesses of regular staff, and during the time when regular staff is off duty.

The facility must provide auxiliary staff members to fulfill the facility’s defined purposes. Auxiliary staff members include individuals such as certified special education teachers, mental health professionals, and physical or occupational therapists.

The department may require a higher adult-child ratio if safety needs or treatment concerns indicate a need for more supervision to maintain control and discipline.

**Source:** 32 SDR 33, effective August 31, 2005; 34 SDR 200, effective January 30, 2008.

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

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

**67:42:15:15.  Orientation training.** The facility must have a written plan for orientation training. The orientation course must include the facility’s functions, services, community resources, and specific job functions. The facility may consider the orientation course a part of the required 50 hours of annual training. An employee shall complete an orientation course within one month after the employee is hired.

Supervision of staff members as they perform their routine tasks is not considered training. The facility must document completion of required training and must keep the documentation in the individual’s personnel file.

**Source:** 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.

**Cross-Reference:** Annual training, § 67:42:15:16.

**67:42:15:16.  Annual training.** The facility shall have a written plan for annual in-service training. Each staff member providing direct care to children must participate in the training. The written plan must provide for training in the following areas for staff during the first year of employment:

(1)  Administrative procedures and overall program goals;

(2)  Understanding children's emotional needs and problems which affect and inhibit their growth;

(3)  Family relationships and the impact of separation;

(4)  Substance abuse, its recognition, prevention, and treatment;

(5)  Identification and reporting of child abuse and neglect;

(6)  Principles and practices of child care;

(7)  Behavior management techniques;

(8)  Use of seclusion and personal restraint;

(9)  Emergency and safety procedures; and

(10)  Cultural sensitivity.

Staff must receive training to become certified in basic first aid and cardiopulmonary resuscitation and must maintain certification throughout employment.

For staff beyond the first year of employment, the plan must provide for competency-based training.

The facility shall provide and each staff member shall attend a minimum of 50 clock hours of training annually.

The annual training must include a minimum of five hours of training in a nationally-recognized program of behavior management techniques and personal restraint and five hours of training in the special areas the facility uses to provide services to children, such as sexual perpetration, highly aggressive and assaultive youth, severe emotional disturbance, and lower functioning individuals.

Training must be competency based and the facility must develop and implement a process that demonstrates the effectiveness of the training in providing the knowledge and expertise required.

Supervision of staff members as they perform their routine tasks is not considered training. The facility shall document completion of required training and shall keep the documentation in the individual’s personnel file.

**Source:** 32 SDR 33, effective August 31, 2005; 34 SDR 200, effective January 30, 2008; 39 SDR 220, effective June 27, 2013.

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

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

**67:42:15:17.  Compliance with chapter 67:42:07.** In addition to the rules contained in this chapter, an IRTC must comply with the standards established in §§ 67:42:07:07 to 67:42:07:26, inclusive.

**Source:** 32 SDR 33, effective August 31, 2005; 33 SDR 227, effective July 1, 2007

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

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

**67:42:15:18.  Written policy requirements.** In addition to the written policy statements required under chapter 67:42:07, the facility must develop written policies that address:

(1)  Intake;

(2)  Treatment;

(3)  Discharge;

(4)  Confidentiality;

(5)  Emergency safety interventions;

(6)  Emergency and safety procedures;

(7)  Family services; and

(8)  Aftercare services.

The facility must inform the child's parent or guardian of the facility's policies, including the individuals or agencies to whom required reports must be made. The child's parent or guardian must sign and date a statement that lists the specific policies covered as verification that the facility provided the required information. The facility must make copies of these policies available on request.

**Source:** 32 SDR 33, effective August 31, 2005; 33 SDR 227, effective July 1, 2007; 34 SDR 200, effective January 30, 2008; 47 SDR 24, effective September 10, 2020.

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

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

**Cross-Reference:** Protection of residents -- Emergency safety intervention, 42 C.F.R. § 483.356(b).

**67:42:15:19.  Psychiatric services.** An intensive residential treatment center shall ensure that a licensed psychiatrist completes a psychiatric assessment of each child in care within fourteen days after the child is placed into the facility. The assessment must include recommendations for other evaluations to be completed on the child.

Each child in care must receive a minimum of two face to face contacts regarding psychiatric services per month to include medication management, training, and therapy, and consultation relating to the child’s treatment plan.

A psychiatrist must be available in person or on call at all times.

**Source:** 32 SDR 33, effective August 31, 2005; 34 SDR 200, effective January 30, 2008; 39 SDR 220, effective June 27, 2013.

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

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

**67:42:15:20.  Nursing services.** A facility must employ a full-time nurse who holds a current license to practice in South Dakota. The facility must ensure that staff and children in care have 24-hour access to medical care provided by the nurse, a back-up nurse, or a hospital emergency room.

**Source:** 32 SDR 33, effective August 31, 2005.

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

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

**Cross-Reference:** Registered and practical nurses, SDCL ch 36-9.

**67:42:15:21.  Medication management.** Repealed.

**Source:** 32 SDR 33, effective August 31, 2005; repealed, 34 SDR 200, effective January 30, 2008.

**67:42:15:22.  Progress report to placement agency.** Repealed.

**Source:** 32 SDR 33, effective August 31, 2005; repealed, 33 SDR 227, effective July 1, 2007.

**67:42:15:23.  Compliance with chapters 67:42:01 and 67:42:11.** A facility licensed under the provisions of this chapter must meet the applicable provisions of chapters 67:42:01 and 67:42:11.

**Source:** 32 SDR 33, effective August 31, 2005.

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

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

**Cross-Reference:** Provisions and scope of services, ch 67:42:01; Environmental health standards, ch 67:42:11.

**67:42:15:24.  Emergency safety intervention -- Face-to-face assessment required.** The face-to-face assessment required under the provisions of 42 C.F.R. § 483.358(f), as amended to January 1, 2007, must be provided by a physician, a licensed practitioner, a registered nurse, or a licensed social work associate who has a bachelor's degree and certification as a trainer in a nationally-recognized program of behavior management personal restraint.

**Source:** 33 SDR 227, effective July 1, 2007; 39 SDR 220, effective June 27, 2013.

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

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

**67:42:15:25.  Emergency safety intervention.** A licensed physician, a licensed practitioner, a registered nurse, or a licensed social work associate who has a bachelor's degree and certification as a trainer in a nationally-recognized program of behavior management and personal restraint is authorized to order and monitor the use of personal restraint. The facility shall conduct a review on a random sampling of orders to ensure that each licensed social work associate providing an order meets the requirements of this section.

**Source:** 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.** Repealed.

**Source:** 39 SDR 220, effective June 27, 2013; 43 SDR 31, effective September 12, 2016; 49 SDR 124, effective July 3, 2023.

**67:42:16:02.  Application.** Repealed.

**Source:** 39 SDR 220, effective June 27, 2013; 49 SDR 124, effective July 3, 2023.

**67:42:16:03.  Initial evaluation and approval -- Continuation of licensed operation -- Renewal of registration certificate.** Repealed.

**Source:** 39 SDR 220, effective June 27, 2013; 43 SDR 31, effective September 12, 2016; 49 SDR 124, effective July 3, 2023.

**67:42:16:04.  Background check.** Repealed.

**Source:** 39 SDR 220, effective June 27, 2013; 43 SDR 31, effective September 12, 2016; 49 SDR 124, effective July 3, 2023.

**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.** Repealed.

**Source:** 39 SDR 220, effective June 27, 2013; 49 SDR 124, effective July 3, 2023.

**67:42:16:07.  Physical health standards required of applicant and applicant's family.** Repealed.

**Source:** 39 SDR 220, effective June 27, 2013; 49 SDR 124, effective July 3, 2023.

**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.** Repealed.

**Source:** 39 SDR 220, effective June 27, 2013; 49 SDR 124, effective July 3, 2023.

**67:42:16:10.  Denial of license or registration certificate.** Repealed.

**Source:** 39 SDR 220, effective June 27, 2013; 49 SDR 124, effective July 3, 2023.

**67:42:16:11.  Revocation of license or registration certificate.** Repealed.

**Source:** 39 SDR 220, effective June 27, 2013; 49 SDR 124, effective July 3, 2023.

**67:42:16:12.  Fair hearing.** Repealed.

**Source:** 39 SDR 220, effective June 27, 2013; 49 SDR 124, effective July 3, 2023.

**67:42:16:13.  Maintenance of records.** Repealed.

**Source:** 39 SDR 220, effective June 27, 2013; 43 SDR 31, effective September 12, 2016; 49 SDR 124, effective July 3, 2023.

**67:42:16:14.  Confidentiality.** Repealed.

**Source:** 39 SDR 220, effective June 27, 2013; 49 SDR 124, effective July 3, 2023.

**67:42:16:15.  Transportation.** Repealed.

**Source:** 39 SDR 220, effective June 27, 2013; 49 SDR 124, effective July 3, 2023.

**67:42:16:16.  Insurance.** Repealed.

**Source:** 39 SDR 220, effective June 27, 2013; 49 SDR 124, effective July 3, 2023.

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

**Source:** 39 SDR 220, effective June 27, 2013; 49 SDR 124, effective July 3, 2023.

**67:42:16:18.  Telephones.** Repealed.

**Source:** 39 SDR 220, effective June 27, 2013; 49 SDR 124, effective July 3, 2023.

**67:42:16:19.  Supervision.** Repealed.

**Source:** 43 SDR 31, effective September 12, 2016; 49 SDR 124, effecetive July 3, 2023.

**CHAPTER 67:42:17**

**CHILD CARE LICENSING**

# Section

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**67:42:17:01.  Definitions.** Terms used in this chapter mean:

(1)  “Center program,” a day care center, as referenced in SDCL subdivision 26-6-14(3), and a group family day care home, as referenced in SDCL subdivision 26-6-14(5);

(2)  “Director,” the representative of the agency or organization responsible for the center or school-age program;

(3)  “Family day care,” an activity that is defined in SDCL 26-6-14.1 and meets the registration requirements of SDCL 26-6-14.2;

(4)  "Household member," a person residing in a home or a home operated as a facility, used for the purpose of providing care and supervision to children, who may have contact with any children in the facility;

(5)  "Medication," a prescription or over-the-counter substance that is intended to relieve pain or treat an illness or a disease;

(6)  “Parent," a child's natural parent, adoptive parent, stepparent, or legal guardian;

(7)  “Program employee,” an individual who does not provide direct care to and supervision of a child;

(8)  "Provider," an individual providing direct care to and supervision of a child;

(9)  "Registration certificate," the document described in SDCL 26-6-15, which certifies that a provider has met the family day care registration standards; and

(10)  “School-age program,” a program providing for the care and supervision of children as defined in SDCL subdivision 26-6-14(6).

**Source:** 49 SDR 124, effective July 3, 2023.

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

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

**67:42:17:02.  Application for license or registration certificate.** Before submitting to the department an application for licensure, a center or school-age program shall submit to the department a copy of a building, renovation, or alteration plan, and obtain the department's approval of the plan.

The department shall, within sixty days after receiving a completed application, provide to the applicant written notice of the department's approval or denial of licensure or registration. If the department denies the licensure or registration, the department shall provide the reason for the denial.

An applicant may reapply after taking corrective action related to each reason listed in the denial.

**Source:** 49 SDR 124, effective July 3, 2023.

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

**Law Implemented:** SDCL 26-6-11, 26-6-16(2).

**67:42:17:03.  Inspection.** The department shall conduct at least one pre-licensure inspection, and one unannounced inspection annually, to determine compliance with the licensing requirements.

If the inspection results in a plan of correction, the department shall provide a copy of the plan to any individual upon request.

**Source:** 49 SDR 124, effective July 3, 2023.

**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 in the home or licensed facility.

**Source:** 49 SDR 124, effective July 3, 2023.

**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 department determines that the revocation is necessary to protect the health, safety, or welfare of a child. The provider may not reapply for a license or registration certificate for one year after the date of revocation.

**Source:** 49 SDR 124, effective July 3, 2023.

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

**Law Implemented:** SDCL 26-6-16(6), 26-6-24.

**67:42:17:06.  Required reporting of an incident or a change in circumstances.** A provider shall, within twenty-four hours, report to the department.

(1)  A change of address;

(2)  Any major change in the operation or ownership of the program;

(3)  A change in the household size or composition;

(4)  Damage to or a change in the condition of the facility or home;

(5)  An investigation of the provider or a program employee, by the Division of Child Protection Services or law enforcement, concerning any allegation of:

(a)  Child abuse or neglect; or

(b)  Any action that may prohibit the provider or employee from meeting background check eligibility requirements;

(6)  Any injury to a child that requires medical attention or dental care; and

(7)  The death of a child, if related to a serious injury that occurred on the premises of the child care program.

**Source:** 49 SDR 124, effective July 3, 2023.

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

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

**67:42:17:07.  Owner and director responsibilities.** The owner and director are responsible for the day-to-day operation of the program, including the supervision of staff and compliance with all licensing standards.

**Source:** 49 SDR 124, effective July 3, 2023.

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

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

**67:42:17:08.  Owner qualifications.** The owner of a licensed child care or school-age program may be an agency, institution, organization, or a natural person who is at least eighteen years of age.

**Source:** 49 SDR 124, effective July 3, 2023.

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

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

**67:42:17:09.  Program administrator qualifications.** The program administrator is the director or individual responsible for planning and implementing the program in a licensed child care or school-age program and must be at least eighteen years of age and:

(1)  Have a bachelor's degree in a field of education or human development;

(2)  Have a two-year degree in early childhood education;

(3)  Have a Child Development Associate credential or comparable credential, as determined by the department;

(4)  Hold certification in a 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 experience in a center or school-age program.

**Source:** 49 SDR 124, effective July 3, 2023.

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

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

**67:42:17:10.  Provider qualifications.** All providers shall be at least eighteen years of age and demonstrate and maintain 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, as determined by the department.

**Source:** 49 SDR 124, effective July 3, 2023.

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

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

**67:42:17:11.  Assistant qualifications -- Licensed child care and school-age program.** In a licensed child care or school-age program, a provider’s assistant must 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 the assistant is under the direct supervision of a provider, a 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:** 49 SDR 124, effective July 3, 2023.

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

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

**67:42:17:12.  Assistant qualifications -- Family day care program.** A family day care assistant must be at least fourteen years old.

A family day care assistant who is under the age of eighteen may be included in the adult-child ratio only if another adult is present in the home.

A family day care assistant who is under the age of eighteen may not be left alone on the premises with children in care.

**Source:** 49 SDR 124, effective July 3, 2023.

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

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

**67:42:17:13.  Background check.** All child care providers, program employees age fourteen and older, and family day care household members age eighteen and older, shall meet federal background check requirements. An individual may not provide care, or work in a child care setting, if the individual's background check reveals:

(1)  A crime that indicates harmful behavior towards children;

(2)  A crime of violence, as defined in SDCL 22-1-2, or in a similar statute from another state;

(3)  A sex crime pursuant to SDCL chapters 22-22 or 22-24A, SDCL 22-22A-3, or similar statutes from another state;

(4)  A felony conviction for domestic abuse, physical assault, battery, kidnapping, or arson;

(5)  Any other felony conviction, within the preceding five years; or

(6)  A substantiated report of child abuse or neglect.

A family day care provider may not provide care in the provider's home, if any household member’s background check reveals any item listed in this section.

A background check is required at least once every five years.

**Source:** 49 SDR 124, effective July 3, 2023.

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

**Law Implemented:** SDCL 26-6-16(6)(10), 26-6-23.2.

**Cross-References:**

Substantiated reports, § 67:14:39:04.

Criminal background checks, 45 C.F.R. § 98.43(a)(1)(i).

**67:42:17:14.  Notice to provider.** Upon completion of a background check, the department must notify the program or family day care provider of an individual’s eligibility or ineligibility for employment.

If the individual is ineligible for employment, the department must include guidance regarding the appeal process.

**Source:** 49 SDR 124, effective July 3, 2023.

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

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

**67:42:17:15.  Provider employee records.** A child care provider shall maintain a record for each employee that includes:

(1)  The employee's name and date of birth;

(2)  The dates on which the employee began and ended employment;

(3)  Documentation of orientation and ongoing annual training, if the employee provides direct care and supervision of children;

(4)  A statement that:

(a)  Defines child abuse and neglect;

(b)  Sets forth the employee’s responsibility to report all incidents of child abuse or neglect in accordance with SDCL 26-8A-3 and 26-8A-8; and

(c)  Is signed by the employee; and

(5)  The results of the background check.

All records required by this section must be reviewed and updated at least annually by the provider, made available to the department for verification of the contents, and retained by the provider for six months after the employee leaves the program.

**Source:** 49 SDR 124, effective July 3, 2023.

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

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

**Cross-Reference:**

Background check, § 67:42:17:13.

**67:42:17:16.  Confidentiality.** The files and records of a provider are confidential. A child’s records, photographs, and information about a child or the child's family may not be shared or publicly posted, unless the parent signs a consent form. Nothing in this section prevents licensing specialists, child protective services, or law enforcement from accessing the files and records of a provider or family information.

**Source:** 49 SDR 124, effective July 3, 2023.

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

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

**67:42:17:17.  Orientation training.** All providers shall, within ninety days after the date of employment, complete and obtain documentation of orientation training in the following areas:

(1)  Prevention and control of infectious diseases;

(2)  Prevention of sudden infant death syndrome and the 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 allergies and other 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 biological contaminants;

(9) Precautions in transporting a child, if the program provides transportation;

(10)  Recognition and reporting of child abuse and neglect;

(11)  Pediatric first aid;

(12)  Pediatric cardiopulmonary resuscitation; and

(13)  Child development.

Before a provider may care for children without supervision, the provider must complete orientation training in each of the areas listed in this section.

**Source:** 49 SDR 124, effective July 3, 2023.

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

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

**Cross-Reference:**

Health and safety requirements, 45 C.F.R. § 98.41.

**67:42:17:18.  Ongoing training requirements.** All providers must obtain annual training in the topic areas identified in 45 C.F.R. § 98.41, in effect on September 30, 2016, or as identified by the department. Training must be documented and relevant to the provider’s position as determined by the department. Training may include on-site or online classes. Pediatric cardiopulmonary resuscitation renewal may not be included in annual training.

Each director and provider of center and school-age programs counted in staff-child ratios shall complete ten hours of annual training.

Each provider of family day care counted in staff-child ratios shall complete six hours of annual training.

Orientation training hours qualify as annual training hours for each provider in the year the training was completed.

Every five years, all providers shall complete additional, advanced training in each of the training areas listed in § 67:42:17:17.

**Source:** 49 SDR 124, effective July 3, 2023.

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

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

**Cross-Reference:**

Health and safety requirements, 45 C.F.R. § 98.41.

**67:42:17:19.  Group size -- Center and school-age programs.** Maximum group sizes are determined by individual room capacity and all space used must be approved for care by the department.

The provider shall ensure the number of children in care at any given time does not exceed the capacity identified on the license. Children of program employees must be included in the group size.

The provider shall ensure children to staff ratios are maintained in all settings, including large indoor and outdoor space; in spaces where more than twenty children are allowed, providers shall identify which children each provider is responsible to supervise; and when room capacity does not align with the ratio requirements, a maximum of three additional children may be included in the room capacity as long as ratios are maintained.

**Source:** 49 SDR 124, effective July 3, 2023.

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

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

**67:42:17:20.  Supervision -- Center and school-age programs.** A center provider supervising children must be in the same room with the children or on the playground with the children, and must be able to see or hear the children, at all times.

If children are in a school-age program, the provider must be able to hear or see the children, at all times, and must be close enough to intervene at all times.

**Source:** 49 SDR 124, effective July 3, 2023.

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

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

**67:42:17:21.  Center and school-age program ratio.** A center or school-age program must maintain the following ratios:

(1)  Five children to one staff for children up to three years of age;

(2)  Ten children to one staff for children three through four years; and

(3)  Fifteen children to one staff for children five years and over.

Children of program employees must be included in determining the children to staff ratio.

**Source:** 49 SDR 124, effective July 3, 2023.

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

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

**67:42:17:22.  Center and school-age program ratio -- Mixed age group.** A program that serves twenty or fewer children, and routinely operates a mixed age group, shall meet a ratio of ten children to one staff. Each provider may care for a maximum of four children under the age of two, with no more than two children under the age of one.

A center program that serves more than twenty children in a mixed age group, must:

(1)  Maintain a ratio of five children to one staff, if the group includes three or more children under the age of three; and

(2)  In all other circumstances, maintain the children to staff ratio that is based on the age range of the majority of children in the group.

Children of program employees must be included in determining the children to staff ratio.

**Source:** 49 SDR 124, effective July 3, 2023.

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

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

**67:42:17:23.  Supervision, ratios and group size -- Family day care.** A family day care provider may care for up to twelve children in the provider's home. A family day care provider shall, at all times, supervise children by hearing or seeing children and be close enough to intervene.

If only one provider is present, no more than four of the children may be under the age of two years, and no more than three of those children may be under the age of one.

If a family day care assistant is present, no more than eight children may be under the age of two.

A family day care provider’s own children, if under the age of six, must be included in the total capacity and ratio.

**Source:** 49 SDR 124, effective July 3, 2023.

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

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

**67:42:17:24.  Health standards and immunizations for day care children.** Before a child may be admitted to a registered or licensed day care provider, the provider must require the child's parent or guardian to submit a 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 according to 45 C.F.R. § 98.41(a)(1)(i)(A), in effect on September 30, 2016.

The provider shall ensure that immunizations of all children are current.

For children who begin the series late or are more than one month behind in immunizations, the documentation must show progress toward achieving immunization requirements, as determined by a licensed physician, or other licensed practitioner. A grace period may be approved by the department for a child experiencing homelessness or a child in foster care.

A child is exempt from meeting the minimum age-specific immunization levels if:

(1)  The child's parent or guardian has certification from a licensed physician, or other licensed practitioner, stating that the physical condition of the child is such that an immunization would endanger the child's life or health; or

(2)  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 immunizations.

If a child becomes ill while at a day care, the provider must separate the child from other children and notify the child's parents. If any child in the program contracts a communicable disease, the provider must notify the Department of Health. The program provider shall follow the Department of Health's recommendations for addressing a situation involving a communicable disease.

To prevent the spread of an infestation or infectious disease, a program shall provide an individual storage unit or container for each child's personal articles.

**Source:** 49 SDR 124, effective July 3, 2023.

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

**Law Implemented:** SDCL 26-6-16(2)(4)(6).

**Cross-References:**

Communicable disease control, article 44:20.

Health and safety requirements, 45 C.F.R. § 98.41.

**67:42:17:25.  Sanitation requirements.** All equipment, utensils, kitchenware, dining tables, and food contact surfaces of equipment must be washed, rinsed, and sanitized after each meal. Toys capable of being placed in a child's mouth must be cleaned and sanitized daily, using a solution approved by the department.

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, helping a child use a toilet, or coming into contact with bodily fluid.

**Source:** 49 SDR 124, effective July 3, 2023.

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

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

**67:42:17:26.  Safe sleep practices.** A nap mat, blanket, or other sleep surface, other than the floor, for children over one year of age must be available for each child during nap time.

A sleep surface must be maintained in good repair.

A provider shall follow the safe sleep practices contained in **Caring for Our Children: National Health and Safety Performance Standards, 4th Edition**, for infants under the age of one.

**Source:** 49 SDR 124, effective July 3, 2023.

**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.

**67:42:17:27.  Medication administration.** Before any medication is administered to a child, permission of the parent or guardian must be documented and must include the name of the child, the name of the medication, and the dates, times, and dosage of the medication.

The medication must be provided by the parent and kept in the original container, with the original label. The label for a prescription medication must contain the child’s name, the amount and frequency of dosage, the expiration date, the physician or other licensed practitioner’s name, and instructions for storage. The medication must be returned to the parent when no longer needed or expired.

The provider shall document, in the child’s record, any medication administered to a child and shall include the dose, the name of the child, the time and date administered, and the name of the person administering the medication. The documentation must be retained for at least six months and be made available to the child's parent upon request.

**Source:** 49 SDR 124, effective July 3, 2023.

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

**Law Implemented:** SDCL 26-6-16(4)(6)(8).

**67:42:17:28.  Medication storage.** Medication must be stored in a place that is inaccessible to children. The provider shall refrigerate medication requiring refrigeration. Refrigerated medication must be placed in a nonabsorbent container that is labeled medications.

**Source:** 49 SDR 124, effective July 3, 2023.

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

**Law Implemented:** SDCL 26-6-16(2)(6)(8).

**67:42:17:29.  Allergic reactions.** A provider shall have a written care plan for each child who has a known food allergy. The plan must contain instructions regarding any food allergens, steps to be taken to avoid that food, and a detailed treatment plan to be implemented if the child has an allergic reaction.

**Source:** 49 SDR 124, effective July 3, 2023.

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

**Law Implemented:** SDCL 26-6-16(4)(6)(8).

**Cross - Reference:**

Medication administration, § 67:42:17:27.

**67:42:17:30.  Menu requirements.** Providers shall post a weekly menu that indicates meals and snacks to be served that week.

**Source:** 49 SDR 124, effective July 3, 2023.

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

**Law Implemented:** SDCL 26-6-16(6)(8).

**67:42:17:31.  Infant food safety.** An infant shall be fed according to the infant's schedule. The provider shall hold the infant's bottle when feeding the infant. The provider may not feed an infant by propping up the infant's bottle.

Food, including breast milk and formula, must be properly stored, kept at the proper temperature, and protected from potential contamination according to the preparing, feeding, and storing standards contained in **Caring for Our Children: National Health and Safety Performance Standards, 4th Edition.**

**Source:** 49 SDR 124, effective July 3, 2023.

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

**Law Implemented:** SDCL 26-6-16(6)(8).

**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.

**67:42:17:32.  Building requirements.** All walls, ceilings, floors, and equipment must be easily cleanable, kept clean, and in good repair. Heating and cooling systems must maintain a temperature between sixty-five degrees Fahrenheit and seventy-five degrees Fahrenheit. For a child care center and school-age program, all heating and cooling systems must be inspected annually, by a certified technician.

Food preparation areas, including tables and countertops, must be made of a smooth, nonporous material, kept clean and sanitized, be free of cracks, and be in good repair. Center and school-age programs, in which more than twenty children are cared for, must provide a ventilation hood over all cooking areas. The hood must be appropriate for the type of appliance and intended use, as required in § 61:15:01:01.

**Source:** 49 SDR 124, effective July 3, 2023.

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

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

**67:42:17:33.  Bathroom and sink requirements.** A provider shall meet the following requirements regarding bathrooms:

(1)  Bathroom facilities must be easily accessible by children and providers;

(2)  Hot water for faucets normally used by children in care may not exceed one hundred twenty degrees Fahrenheit;

(3)  Toilets and hand sinks must be kept clean and in good repair; and

(4)  For child care centers and school-age programs:

(a)  All bathrooms must have natural or mechanical ventilation;

(b)  Separate bathrooms must be available for males and females;

(c)   Ratios for toilet and hand sinks must align with the minimum standards for plumbing and plumbing systems published by the plumbing commission.

Except in a family day care, hand sinks must be in the same room, or an unobstructed room adjacent to the diaper changing area. A handwashing sink used after diapering and toileting may not be used for food preparation.

**Source:** 49 SDR 124, effective July 3, 2023.

**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.

**67:42:17:34.  Physical capacity requirements.** A center program must have available a minimum of thirty-five square feet of play space indoors and fifty square feet of play space outdoors for each child. A school-age program must have a minimum of twenty-five square feet of play space indoors and fifty square feet of play space outdoors for each child.

Playgrounds and parks may be used for outdoor play space.

**Source:** 49 SDR 124, effective July 3, 2023.

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

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

**67:42:17:35.  Playground requirements.** Playgrounds for all child care settings must be safe, in good repair, and free of debris, trash, and weeds. Playground equipment must be installed according to the manufacturer’s instructions and maintained in good repair.

For a center program, a fence that measures at least four feet high is required around the center’s outdoor play space.

For a family day care or school-age program, a fence that measures at least forty-two inches high may be required to separate the outdoor play space, if the department determines a body of water, vehicular traffic, or other hazard poses a risk of injury or death to a child.

**Source:** 49 SDR 124, effective July 3, 2023.

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

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

**67:42:17:36.  Water safety.** A provider shall meet the following water safety requirements:

(1)  If an outdoor swimming pool is on the premises, it must be emptied after each use or enclosed with a five-foot fence and a self-closing, latching gate that can be locked while not in use;

(2)  If an indoor swimming pool is on the premises, it must have an access door that restricts entry;

(3)  A child may not play in an area where there is a body of water, unless the provider can see and hear the child, and is close enough to intervene, at all times; and

(4)  A hot tub must be securely covered.

**Source:** 49 SDR 124, effective July 3, 2023.

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

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

**67:42:17:37.  Construction and fire safety requirements.** Center and school-age programs operating outside of a school building shall follow applicable construction and fire safety requirements, as 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, as outlined in chapters 61:15:01, 61:15:02, and 61:15:07.

A family day care home must have the following fire safety measures in place:

(1)  A working smoke detector must be located on each level of the home;

(2)  A fully charged, portable fire extinguisher, with a minimum 2A rating, as identified on the extinguisher label, must be kept in or within fifteen feet of the kitchen or food preparation area;

(3)  A carbon monoxide detector must be installed, according to the manufacturer’s instructions, if a fuel burning appliance is present in the home;

(4)  Each level of the home must have at least two remote exits that shall remain clear of obstructions. One of these exits must be a standard-sized door, and the other may be either a standard-sized door or an unobstructed, operable window, having at least five square feet of openable space, with a minimum width of twenty inches and a minimum height of twenty-four inches; and

(5)  Whenever a portable space heater, a wood burning stove, or a fireplace is in use, the heater, stove, or fireplace must be inaccessible to children.

**Source:** 49 SDR 124, effective July 3, 2023.

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

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

**67:42:17:38.  Hazardous conditions.** The following must be inaccessible to a child:

(1)  Firearms;

(2)  Pellet guns, BB guns, and cap guns;

(3)  Matches and lighters;

(4)  Tobacco products;

(5)  Choking and strangulation hazards;

(6)  Items capable of being pulled or tipped onto a child;

(7)  A platform measuring more than thirty inches above ground level, unless surrounded by a railing that is at least thirty-six inches tall with no more than five inches between openings; and

(8)  Other hazardous condition as identified by the department.

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:** 49 SDR 124, effective July 3, 2023.

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

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

**67:42:17:39.  Electrical outlet covers.** For family day care providers, unused electrical outlets must have an outlet plug cover, have a tamper-resistant cover, or be made inaccessible to a child.

For center and school-age programs, unused electrical outlets must have a self-closing outlet cover or tamper-resistant cover.

**Source:** 49 SDR 124, effective July 3, 2023.

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

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

**67:42:17:40.  Pets.** A pet, while permitted in the presence of children receiving care, must be current with its vaccinations, and have clean and sanitary living areas, at all times.

A pet with a history of aggressive behavior, which poses a risk to the safety of children, must be confined and kept away from children.

**Source:** 49 SDR 124, effective July 3, 2023.

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

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

**67:42:17:41.  Prevention of child maltreatment.** A provider shall meet the physical, social, emotional, and cognitive needs of a child, and identify procedures to implement behavior management strategies for use with children in care. Behavior management strategies must offer limits, with positive guidance and direction, to help a child develop self-control and respect for the rights of others, be appropriate to a child's age and developmental level, and include strategies to prevent shaken baby syndrome and abusive head trauma.

A behavior management strategy may not be delegated to an older child or peer. Separation, when used as a strategy, must be within sight or hearing of a provider.

The parent of a child may not, while working at the program, use a prohibited discipline technique to discipline the parent's child.

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 the child's 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.

A provider who is under investigation for abuse and neglect may not be in a caregiving role, if the department determines there is an imminent safety concern to a child in the provider's care.

**Source:** 49 SDR 124, effective July 3, 2023.

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

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

**Cross-Reference:**

Health and safety requirements, 45 C.F.R. § 98.41.

**67:42:17:42.  Required child records.** A provider shall maintain a record for each child that includes:

(1)  The child's name and date of birth;

(2)  The parent or guardian's name and telephone number;

(3)  An emergency contact name and telephone number;

(4)  Parental permission for emergency medical treatment;

(5)  The names of individuals authorized to pick up the child;

(6)  Health information, including any allergies or special needs;

(7)  A current immunization record or, for a school-age program, the name of the child's school;

(8)  Parental permission for medication;

(9)  The child's attendance records;

(10)  The date of the child's enrollment; and

(11)  The date on which the child's enrollment ends.

The provider shall annually review and update each record required under this section, and make the child's record available to the department, upon request.

**Source:** 49 SDR 124, effective July 3, 2023.

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

**Law Implemented:** SDCL 26-6-16(3)(4)(6).

**67:42:17:43.  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, at least twice each calendar year. The provider shall document the dates on which the procedures are practiced. A provider shall communicate the emergency preparedness and response plan to each individual at the time the individual begins employment.

Except for family day care, all child care providers shall have liability insurance. Proof of current liability insurance shall be made available to the department, upon request.

**Source:** 49 SDR 124, effective July 3, 2023.

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

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

**67:42:17:44.  Handling, storage, and disposal of hazardous materials.** All toxic or hazardous substances must be:

(1)  Inaccessible to children;

(2)  Used according to manufacturer’s instructions;

(3)  Stored in the original or other labeled container; and

(4)  Disposed of according to manufacturer recommendations.

Bio-contaminants must be handled and disposed of properly.

Soiled diapers must be changed promptly, in a designated area, on a non-porous surface. The diaper changing area must be clean and disinfected with a sanitizing solution approved by the department. Soiled diapers must be kept in a leakproof, nonabsorbent container that is covered with a tight-fitting lid.

**Source:** 49 SDR 124, effective July 3, 2023.

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

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

**Cross-Reference:**

Health and safety requirements, 45 C.F.R. 98.41(a)(1)(viii).

**67:42:17:45.  Transportation.** The following requirements apply to the transportation of a child:

(1)  A parent or guardian shall provide written permission for the transportation of their child;

(2)  The vehicle may not carry more people than its passenger capacity, as stated on the label affixed to the vehicle under 49 C.F.R. Parts 567 and 568, in effect on March 9, 2022;

(3)  The required staff-child ratio must be maintained when children are being transported;

(4)  The driver must be at least eighteen years of age and have a driver license to operate the vehicle being driven;

(5)  When a child is being transported in a vehicle other than a bus, the child must be restrained in a car seat, booster seat, or seat belt appropriate for the child's weight and age; and

(6)  Proof of liability insurance must be provided to the department, upon request, for any vehicle used for transporting children.

**Source:** 49 SDR 124, effective July 3, 2023.

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

**Law Implemented:** SDCL 26-6-16(1)(2)(5)(6).

**67:42:17:46.  Pediatric first aid and cardiopulmonary resuscitation.** A provider shall complete pediatric first aid training every five years and maintain documentation of the training. A provider must be certified in pediatric cardiopulmonary resuscitation. The certification must include a hands-on skills test.

A provider shall work under supervision until the provider has completed the training required by this section. The supervisor shall have completed their pediatric first aid training and be certified in pediatric cardiopulmonary resuscitation.

**Source:** 49 SDR 124, effective July 3, 2023.

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

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

**Cross-Reference:**

Orientation training, § 67:42:17:17.

**67:42:17:47.  Reporting of child abuse and neglect.** A child care provider shall immediately report any suspected abuse or neglect of a child to child protective services, law enforcement, or the States Attorney’s office, and cooperate fully in the investigation of any incident.

**Source:** 49 SDR 124, effective July 3, 2023.

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

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

**67:42:17:48.  Night-time care.** If care is provided between 7:00 p.m. and 6:00 a.m., the following requirements apply:

(1)  Center providers on duty must be awake and alert to the needs of children;

(2)  Family day care providers must 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:** 49 SDR 124, effective July 3, 2023.

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

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

**67:42:17:49.  Parental access.** A parent must be allowed to observe their child or children at any time. A parent must be notified by the provider immediately regarding any serious injuries received while the child is under care of the provider.

A parent must be notified by the provider within twenty-four hours of any changes in circumstances. For purposes of this section, the term, changes in circumstances, means a change in the provider's registration or license, the suspension or revocation of the provider's license, a change in the program location, closure of the program, and a change in ownership of the program.

If a court order restricts a parent from having contact with a child, and if the provider has been given a copy of the court order, the provider shall deny access to the parent.

**Source:** 49 SDR 124, effective July 3, 2023.

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

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

**67:42:17:50.  Fair hearing.** A provider may request a fair hearing if the provider is dissatisfied with any action taken on an application or license or registration certificate. A fair hearing must be conducted under chapter 67:17:02.

**Source:** 49 SDR 124, effective July 3, 2023.

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

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