

**RULES OF THE
GEORGIA DEPARTMENT OF HUMAN SERVICES**

**CHAPTER 290-2
FAMILY AND CHILDREN SERVICES**

**SUBJECT 290-2-5
RULES AND REGULATIONS FOR CHILD-CARING INSTITUTIONS**

SYNOPSIS OF PROPOSED ACTION

The Georgia Department of Human Services, Office of Inspector General, Residential Child Care Licensing Unit (“Department”), proposes the adoption of rule amendments to Subject 290-2-5, entitled “Rules and Regulations for Child-Caring Institutions,” of the Rules of the Georgia Department of Human Services. Proposed amendments affect Rules 290-2-5-.01 through 290-2-5-.23. The proposed revisions were drafted by the Department with the goal of ensuring that child-caring institution rules are consistent with new statutory provisions resulting from the passage of House Bill 1201 relating to commercial sexual exploitation recovery centers which became effective April 24, 2024, and new statutory provisions resulting from the passage of Senate Bill 377 relating to qualified residential treatment programs which became effective April 19, 2024. In addition, the rules are being revised to update terms and provisions for clarity, streamline regulations, and make certain regulatory requirements less burdensome for providers where safe to do so.

The anticipated effect of the adoption of these rule amendments is to provide clarity to providers regarding new statutory requirements relating to commercial sexual exploitation recovery centers and qualified residential treatment programs, update and clarify regulations for the health and safety of residents and reduce regulatory burdens where safe to do so. Accordingly, the Department does not anticipate that the adoption of these rule amendments will place administrative burdens on charitable organizations in this state, require any new or expanded filing or reporting requirements, or limit the ability of charitable organizations to solicit or collect funds.

In addition, it is not anticipated that the adoption of these rule amendments will impose excessive regulatory costs on persons or entities providing services under these rules. It is not foreseeable that any cost to comply with the proposed rule amendments can be reduced by a less expensive alternative that fully accomplishes the duties required of the Department.

MAIN FEATURES OF AMENDMENTS TO THE RULES: The amendments to the Rules and Regulations for Child-Caring Institutions, Subject 290-2-5, Rules 290-2-5.01 through 290-2-5-.23 include the following:

Rule 290-2-5-.01 (Legal Authority). This rule includes no substantive updates.

Rule 290-2-5-.02 (Title and Purpose). This rule includes no substantive updates.

Rule 290-2-5-.03 (Definitions)

- The rule will be amended to add the definitions ‘child care worker,’ ‘commercial sexual exploitation recovery center,’ ‘Criminal Justice Coordinating Council,’ ‘fictive kin,’ ‘qualified individual,’ ‘qualified residential treatment program,’ ‘reasonable and prudent parenting,’ ‘records,’ ‘resident,’ ‘serious occurrence,’ ‘trauma-informed treatment;’ remove the terms ‘foster home’ and ‘foster parent;’ and update the terms ‘adult,’ ‘chemical restraint,’ ‘child-caring institution,’ ‘employee,’ ‘room, board and watchful oversight,’ ‘supervision,’ and ‘time-out.’
- The term ‘child care worker’ will be defined as a person employed by the Institution who provides care and supervision to residents, including a child care worker residing in the living unit with residents. The term ‘child-caring institution’ will be amended to provide that the term includes commercial sexual exploitation recovery centers and qualified residential treatment programs. This definition will also be updated to clarify that the terms ‘facility’ and ‘institution’ may be used interchangeably with the term ‘child-caring institution.’ The term ‘commercial sexual exploitation recovery center’ will be defined as a child-caring institution certified as a victim assistance program under Code Section 15-21-132 and providing full-time care and support services to youth through 18 years of age who are victims of sexual exploitation. The term ‘Criminal Justice Coordinating Council’ will be defined as a statewide executive branch agency created to establish consensus and unity among the diverse and interdependent components of the state's criminal justice system. The term ‘fictive kin’ will be defined as a person not related to a child by blood, marriage, or adoption but who prior to placement of the child in foster care is known to the child’s family, has a substantial, positive relationship with the child in foster care and is willing and able to provide a suitable home for the child. The term ‘qualified individual’ will be defined as a trained professional or licensed clinician designated by DFCS to complete an assessment to assist in determining a resident's appropriate level of care. The term ‘qualified residential treatment program’ will be defined as a program licensed as a child-caring institution that has a trauma-informed treatment model designed to address the needs of a child with serious emotional or behavioral disorders or disturbances, is able to implement the treatment identified for the child by an assessment to determine appropriateness of placement as provided for in the applicable law; has registered or licensed nursing staff and other clinical staff who provide care within the scope of their practice and are onsite in accordance with the treatment model and available 24 hours a day, 7 days a week; facilitates family involvement in the child's treatment program; facilitates outreach to the child's family members; documents how family members are integrated into the treatment process and how sibling connections are maintained; provides discharge planning and family-based aftercare support for at least 6 months post-discharge; and is accredited in accordance with applicable law.

The term 'reasonable and prudent parenting' will be defined as a standard for making careful and sensible parental decisions that maintains a child's health, safety, and best interests while encouraging the child's emotional and developmental growth when determining whether to allow a child in foster care under the responsibility of the State to participate in extracurricular, enrichment, cultural, and social activities. The term 'records' will be defined as the files maintained by a child-caring institution that include information concerning the director, employees, children, or applicants. The term 'resident' will be defined as any person receiving full-time care and services at an Institution in accordance with these rules. This term will also be used interchangeably with the term "child." The term 'serious occurrence' will be defined as an occurrence that has or may have dangerous or significant consequences relating to the care, supervision, or treatment of a child. The term 'supervision' will be amended to clarify that the Institution has a continued responsibility to ensure that the director, employees, contractors, and volunteers of the Institution provide for the health, safety, and well-being of residents while under their supervision. The term 'time-out' will be amended to clarify that this behavior management technique involves the separation of a child from a group or setting where the child is experiencing behavioral or emotional distress. The term 'trauma-informed treatment model' will be defined as a treatment model that addresses identified needs, including the appropriate clinical needs, of a resident with serious emotional or behavioral disorders and implements the identified treatment for the resident.

- Throughout these rules, the term 'child care worker' will replace the term 'direct care staff.'
- The rule will be reordered to correspond with any revisions.
- The statutory authority for this rule section will be updated.

Rule 290-2-5-.04 (Governing Body)

- The rule will be amended to clarify that every Institution is required to have a clearly identified governing body as required by state law that is responsible for and has authority over the Institution.
- The rule will be updated by removing board requirements relating to policies and procedures for the periodic rotation of members.

Rule 290-2-5-.05 (Criminal History Background Checks, Licenses and Exemptions)

- The rule will be amended to reference the applicable Georgia Code sections relating to covered crimes and criminal record check provisions for Institution owners, employees, and directors instead of detailing such crimes and provisions. The revised rule will also clarify that prior to serving as a director of an Institution, persons newly hired, rehired, or transferred to the position of director must meet applicable criminal record check requirements.

- The rule will be amended to provide that child caring institutions cannot provide services to more than 16 children on its premises without approval by the Department's Residential Child Care Licensing in accordance with applicable policies and procedures. This proposed amendment is expected to ease and improve regulatory and administrative processes. In addition, the rule will be updated to require an Institution to be licensed if it has multiple separate living units on the same premises which provide care and oversight to a combined total of six or more children effective January 1, 2025.
- The current rule entitled 'Qualifications Requirement' will be renamed 'License Qualifications.'
- The rule will be amended to clarify that an Institution has a duty to notify the Department's Residential Child Care Licensing within three business days if there is a change in the director, human services professional, corporate structure, organization, or in the administration of the Institution.
- A new provision will be added to the rule that requires a qualified residential treatment program to be accredited in accordance with 42 U.S.C. Section 672(k)(4)(G). In addition, the Institution is required to report the denial, loss of, or any negative change in accreditation to the Department's Residential Child Care Licensing within 3 business days of receiving notice of such action.
- A new provision will be added to the rule that requires a commercial sexual exploitation recovery center to be certified as victim assistance program and to maintain such certification. In addition, the Institution is required to report the denial, loss of, or any negative change in certification to the Department's Residential Child Care Licensing within 3 business days of receiving notice of such action.
- The rule related to exemptions will be amended to clarify that all programs that meet the criteria of a child-caring institution must either be licensed as such or seek an exemption from licensure through the Department. The rule will also be amended to clarify that a program that is not exempt from licensure will be subject to child-caring institution rules and regulations. The rule will be amended to clarify that any boarding school that seeks an exemption must be operating as a private school in accordance with O.C.G.A. Section 20-2-690 *et seq* or its successor statute.
- The rule will be reordered to correspond with any revisions.
- The statutory authority for this rule section will be updated.

Rule 290-2-5-.06 (Applications)

- A new rule will require all applicants to attend training by the Department's Residential Child Care Licensing prior to submitting an application for an initial license.
- The rule will be amended to require that an application for a license to open a new Institution be submitted to the Department 90 days instead of 30 days prior to the proposed opening date.

- The rule will be amended to allow the governing body or director to notify the Department electronically as opposed to by telephone in cases of emergencies where it is impossible to submit an application for an amended license within 30 days prior to a change or addition.
- The statutory authority for this rule section will be updated.

Rule 290-2-5-.07 (Inspections and Investigations)

- The rule regarding initial inspections will be amended to clarify that an initial inspection may be conducted on-site at an Institution to assess compliance with the rules.
- The rule relating to consent to access will be updated to clarify that an application for a license constitutes consent for the Department's representative to enter the Institution's premises at any time after confirming his/her identity to any Institution employee or director.
- The rule regarding failure to allow access to the Department will be updated to require that the Institution submit any records or reports to the Department in a timely manner and allow timely access to staff, children, books, records, papers or other information related to licensing.
- The rule that prohibits licensees from making false or misleading statements will be updated to clarify that a director, employee, or contractor of a licensee is prohibited from knowingly making verbal or written false or misleading statements to the Department or on documents submitted to the Department.

Rule 290-2-5-.08 (Administration and Organization)

- A new rule will provide for policies and procedures that describe how reasonable prudent parenting standards will be administered.
- The rule requirements relating to the qualifications of a director of an Institution will be eased by providing that a director employed by an Institution can possess a master's degree in an identified area of study and two years of administrative or supervisory experience in a human services delivery field or a bachelor's degree in an identified area of study with four years of administrative or supervisory experience in a human services delivery field, or be a licensed registered nurse, nurse practitioner, physician, or physician assistant if the Institution serves primarily children with special medical needs.
- The rule regarding finances will be amended to clarify that a facility must have enough funds to cover operating costs, including staff salaries for the current year of operation.
- The rule related to recordkeeping will be amended to require that records are kept confidential and protected from unauthorized use, fire, damage, or theft. The rule will also include a new provision requiring an Institution to submit written policies and procedures for review and approval by the Department if it plans to utilize electronic records for electronic files subject to regulatory review. In addition, a new provision

will be added that electronic records should be reasonably secure with a data recovery system to prevent data loss and maintain data integrity and accessibility.

- The rule regarding case records will be amended to include any court documents related to placement, any written assessments, treatment plans, and any progress notes.
- The rule related to personnel records will be amended to clarify that references should be completed prior to employment. In addition, personnel records will be updated to require documentation of a health screening completed within 30 days of hiring or within 1 year prior to hire date. The rule will also be updated to include a provision that personnel records must also include annual work performance evaluations.
- The rule regarding staffing will be amended to provide that an Institution must have staff that is qualified and trained to provide authorized services. The rule will be updated to allow a person possessing a bachelor's degree in a specified field and two years of experience in a human services delivery field related to child welfare to also meet the requirements for the position of human services professional. The rule pertaining to additional training requirements to include first aid and CPR will be relocated and amended to clarify that such certifications must be obtained by a certified or licensed health care professional. The revised rule will further require that an employee who is not certified in first aid or CPR receive the initial first aid or CPR certification within the first 60 days of employment. The rule will also be amended to clarify that the 24 clock hours of annual training does not include first aid, CPR, or ESI training. The rule pertaining to reporting will be updated to require written summary reports of serious occurrences involving children to be submitted to RCCL electronically only.

Rule 290-2-5-.09 (Referral and Admission). This rule includes no substantive updates.

Rule 290-2-5-.10 (Assessment and Planning). The rule regarding the service and room, board and watchful oversight plan will be updated to clarify that the plan must include statements of a child's visitation plan with his/her biological family to include siblings and fictive kin.

Rule 290-2-5-.11 (Discharge and Aftercare). The rule regarding emergency discharges will be amended to clarify that an Institution must document in a child's case record the Institution's reason for its inability to provide the required 72 hours of notice to the child's parent, guardian, or placement agency of the emergency discharge of the child if it is impossible for the Institution to provide such notice.

Rule 290-2-5-.12 (Child Care Services).

- A new rule provision will require that Institutions have sufficient qualified and trained staff to provide necessary oversight of children in accordance with Rule .08(6).

- The rule concerning health services will be updated to clarify that Institutions must arrange with at least 1 physician and 1 dentist, or a health care agency to provide dental and medical care for children. This rule will be amended to clarify that the Institution's human services professional must ensure that the child's medical and dental health assessment is completed within 30 days of his/her admission to the Institution. The rule will be amended to ease requirements regarding comprehensive physical exams in that such exams may be completed within 10 calendar days as opposed to 72 hours of a child entering the facility unless an exam was completed within one year prior to admission. Additionally, children over 12 months should receive dental care within 30 days of entering the facility unless such an exam was completed within 6 months prior to admission. The rule provision requiring that children continue to receive qualified and timely medical and dental treatment will be amended to clarify that this treatment must be received throughout the duration of their placement with the Institution.
- A new rule will provide that no resident can be responsible for the care of another resident. However, a parenting youth may assume responsibility for his/her child(ren) in accordance with his/her service plan.
- The provision that requires a first aid kit and instruction manual in each living unit will be removed from this section and relocated to Rule .18.
- The statutory authority for this rule section will be updated.

Rule 290-2-5-.13 (Qualified Residential Treatment Program)

- This section currently shown as repealed will be replaced with new rules applicable to qualified residential treatment programs.
- A new rule will provide that a qualified residential treatment program must meet the licensing requirements for a child-caring institution in addition to the requirements of Rule .13.
- A new rule will identify the requirements that a qualified residential treatment program must meet such as (a) licensed as a child-caring institution by the Department's Residential Child Care Licensing; (b) accredited by one of the identified independent, not-for-profit organizations; (c) have a trauma-informed treatment model designed to address the needs of children in the program; (d) equipped to meet the clinical needs of children with serious emotional or behavioral disorders or disturbances; (e) equipped to implement necessary treatment for a child as determined by an assessment to determine appropriateness of placement; (f) have registered or licensed nursing staff and other licensed clinical staff who provide care within the scope of their practice, are onsite according to the qualified residential treatment program treatment model, and are available 24 hours, 7 days per week.
- A new rule will require that an initial assessment to determine the appropriateness of a child's placement in a qualified residential treatment program be completed by a

qualified individual prior to the child's placement, but no later than 30 days from the start of such placement.

- A new rule provision will require the Institution to facilitate family involvement in a child's treatment program to the extent appropriate and in the child's best interest; engage in outreach to the child's family members; document how family members are integrated into the child's treatment process, including post-discharge, and how sibling connections are maintained.
- A new rule provision will require that Institutions provide discharge planning and family-based aftercare support for at least 6 months post-discharge.
- A new rule will require that an application for an initial license to operate a qualified residential treatment program be made on forms provided by the Department and include the following information: (a) proof of accreditation status; (b) documentation of policies and procedures regarding the approved trauma informed care model; (c) written statement that the Institution has access to nursing and clinical staff; (d) documentation of policies and procedures regarding family engagement; and (e) documentation of policies and procedures regarding a discharge plan and family-based aftercare support.
- A new rule will include a provision that the Department may conduct site visits, record reviews, staff and resident interviews, and request additional information related to the application process, and determine if all requirements are met for designation as a qualified residential treatment program.
- A new rule will include a provision that the Department may request additional information to demonstrate compliance with the licensing requirements for a child-caring institution along with the requirements for designation as a qualified residential treatment program.
- The statutory authority for this rule section will be updated.

Rule 290-2-5-.14 (Behavior Management and Emergency Safety Interventions)

- A new rule provision will permit a parenting resident to participate in managing the behavior of their child(ren) under staff supervision and in accordance with the parenting resident's individual service plan.
- The rule will be updated to require the Institution to submit a report electronically to the Department of all unusual incidents involving behavior management, including any injury, whether medical treatment is or is not required.
- The rule will be amended to provide that emergency safety interventions shall not be used on pregnant residents nor residents younger than 6 years of age.
- The rule will be updated to clarify that all child care workers who may be involved in the use of an emergency safety intervention must have completed a nationally recognized program.

Rule 290-2-5-.15 (Grievances). This rule includes no substantive updates.

Rule 290-2-5-.16 (Child Abuse and Sexual Exploitation). This rule includes no substantive updates.

Rule 290-2-5-.17 (Food Service)

- The rule will be updated to require all Institutions, including Institutions caring for 13 or more residents with a valid food service permit, to comply with licensing requirements related to food safety, preparation, and storage.
- The rule will be amended to clarify that Institutions must have designated space for food preparation and storage areas separate from rooms used by children such as bathrooms, garbage storage areas, utility rooms, and bedrooms.

Rule 290-2-5-.18 (Physical Plant and Safety)

- The rule will be updated to clarify that Institutions must maintain all buildings, grounds, furniture, and equipment in a clean, safe and sanitary manner.
- The rule will be revised to clarify that requirements related to usable floor space in sleeping areas are applicable to all Institutions.
- The rule will be amended to provide that boys and girls shall sleep in separate sleeping areas unless a parenting youth is sharing a sleeping area with their child.
- The rule will be updated to provide that children shall not co-sleep or bedshare.
- The rule will be updated to require that children sleep on appropriate mattresses and beds.
- A new rule will be added that provides that children must sleep in areas routinely used or specifically designated as bedrooms as opposed to such areas as doorways, hallways, bathrooms, closets, crawl spaces, fire escapes, kitchens, and communal living areas.
- The rule will be updated to clarify that all Institutions must maintain a living room or den for residents.
- The rule regarding windows will be amended to reflect that windows accessible from the outside must be able to be locked and easily opened from the inside. The rule will also prohibit the manufacturer's designed functions of windows from being altered unless approved by the State Fire Marshal.
- A new rule will require that domestic and farm animals owned or residing in the Institution are vaccinated against rabies.
- The rule provision that refers to the various component parts that must be inspected during an annual inspection of vehicles used by an Institution to transport children will be removed. The rule will be revised to include a provision that requires all vehicle inspections to be documented on a form provided by the Department and signed by a certified inspector or mechanic.
- The current rule that requires a first aid kit and instruction manual in each living unit will be relocated from Rule .12 to this section.

Rule 290-2-5-19 (Enforcement and Penalties). The statutory authority for this rule section will be updated.

Rule 290-2-5-20 (Emergency Orders). The statutory authority for this rule section will be updated.

Rule 290-2-5-21 (Disaster Preparedness). The statutory authority for this rule section will be updated.

Rule 290-2-5-22 (Waivers and Variances). This rule includes no substantive updates.

Rule 290-2-5-23 (Severability). This rule includes no substantive updates.

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Rule 290-2-5-.01 Legal Authority

These rules are adopted and published pursuant to the Official Code of Georgia Annotated (O.C.G.A.) ~~Section-~~ 49-5-1 *et seq.*

Authority: ~~_~~O.C.G.A. ~~Section-~~s. 49-5-3, 49-5-8.

Rule 290-2-5-.02 Title and Purpose

These rules shall be known as the Rules and Regulations for Child-Caring Institutions. The purpose of these rules is to provide for the licensing and inspection of child-caring institutions within the state of Georgia.

Authority: O.C.G.A. §§Sections 49-5-3, 49-5-8.

Rule 290-2-5-.03 Definitions

In these rules, unless the context otherwise requires, the words, phrases and symbols set forth herein shall mean the following:

- (a) "Adult" means a person eighteen (18) years of age or older. This term does not include an eighteen (18) year old who is a resident of the Institution.
- (b) "Applicant" means the following:
 - 1. When the ~~i~~Institution is owned by a sole proprietorship, the individual proprietor shall be the applicant for the license, complete the statement of responsibility and serve as the licensee;
 - 2. When the ~~i~~Institution is owned by a partnership, the general partners shall be the applicant for the license, complete the statement of responsibility and serve as the licensee;
 - 3. When the ~~i~~Institution is owned by an association, the governing body of the association shall authorize the application for the license and complete the statement of responsibility and the association shall serve as the licensee; and
 - 4. When the ~~i~~Institution is owned by a corporation, the governing body of the corporation shall authorize the application for the license and complete the statement of responsibility and the corporation shall serve as the licensee.
- (c) "Behavior management" means those principles and techniques used by a facility to assist a resident in facilitating self-control, addressing inappropriate behavior, and achieving positive outcomes in a constructive and safe manner. Behavior management principles and techniques shall be used in accordance with the individual service plan, written policies and procedures governing service expectations, service plan goals, safety, security, and these rules and regulations.
- (d) "Chemical restraint" means ~~drugs~~medications that are administered to manage a resident's behavior in a way that reduces the safety risk to the resident or others; that have the temporary effect of restricting the resident's freedom of movement; and that are not being used as part of a standard regimen, as specified in the child's service plan, to treat current symptoms of a medical or psychiatric condition.
- (e) "Child care worker" means the person employed by the Institution who is responsible for providing direct care, supervision, and support to residents. This includes a child care worker who resides in the living unit(s) with residents.
- ~~(e)~~(f) "Child-caring institution" means a child welfare agency that is any institution, society, agency, or facility, whether incorporated or not, which either primarily or

incidentally provides full-time care for children through 18 years of age outside of their own homes, subject to such exceptions as may be provided in rules and regulations of the Board of Human Services. This full-time care is referred to as room, board and watchful oversight. For purposes of these rules, a child_caring institution means any institution, society, agency, or facility that provides such care to six or more children. The term "child-caring institution" includes a qualified residential treatment program and a commercial sexual exploitation recovery center. The term "facility" or "institution" may be used interchangeably with the term "child-caring institution" in these rules.

- ~~(f)~~(g) "Child-placing agency" means ~~a child-welfare agency that is~~ any institution, society, agency, or facility, whether incorporated or not, ~~that~~which places children in foster homes for temporary care or in prospective adoptive homes for adoption. For purposes of this definition, agencies that engage in placement activities are required to be licensed as Child-Placing Agencies. This term does not apply to a licensed professional providing only home study preparation services as an evaluator.
- ~~(h)~~ "Commercial sexual exploitation recovery center" means a child-caring institution certified as a victim assistance program, as provided for in subsection (e) of Code Section 15-21-132, which provides full-time residential care and support services to youth through 18 years of age who are victims of sexual exploitation as defined in Code Section 49-5-40.
- ~~(h)~~(i) "Commissioner" means the Commissioner of the Department of Human Services.
- ~~(g)~~(j) "Criminal history background check" means a search as required by law of the criminal records maintained by law enforcement authorities to determine whether the applicant has a criminal record as defined in these rules.
- ~~(k)~~ "Criminal Justice Coordinating Council" means an executive branch agency that is a statewide body established to build consensus and unity among the State's diverse and interdependent criminal justice system components as defined in Code Section 35-6a-1 et seq.
- ~~(j)~~(l) "Criminal record" means:
1. Conviction of a crime; or
 2. Arrest, charge, and sentencing for a crime where:
 - (i) A plea of nolo contendere was entered to the charge; or
 - (ii) First offender treatment without adjudication of guilt pursuant to the charge was granted; or

(iii) Adjudication or sentence was otherwise withheld or not entered on the charge; or

~~(iv)~~³. Arrest and being charged for a crime if the charge is pending, unless the time for prosecuting such crime has expired pursuant to O.C.G.A. Section ~~17-3-1~~ et seq.

~~(j)~~^(m) "Department" means the Georgia Department of Human Services.

~~(k)~~⁽ⁿ⁾ "Director" means the chief administrative or executive officer of the ~~i~~ⁱnstitution.

~~(l)~~^(o) "Emergency safety interventions" mean those behavioral intervention techniques that are authorized under an approved emergency safety intervention plan and are utilized by properly trained staff in an urgent situation to prevent a child from doing immediate harm to self or others.

~~(m)~~^(p) "Emergency safety intervention plan" means the plan developed by the facility utilizing a nationally recognized, evidence-based, training program for emergency safety intervention, approved by the Department. The plan shall clearly identify the emergency safety interventions staff may utilize and those that may never be used.

~~(n)~~^(q) "Employee" means any person, other than a director, employed by an ~~i~~ⁱnstitution to perform any duties at any of the ~~i~~ⁱnstitution's facilities which involve personal contact between that person and any child being cared for at the ~~i~~ⁱnstitution and also includes any adult person who resides at the ~~i~~ⁱnstitution or who, with or without compensation, performs duties for the ~~i~~ⁱnstitution which involve personal contact between that person and any child cared for by the ~~i~~ⁱnstitution. For purposes of these rules, ~~an~~ the term "employee" does not ~~mean include~~ a ~~child resident that resides at of the facility and performs duties for the~~ⁱnstitution.

~~(r)~~ "Fictive kin" means a person who is not related to a child by blood, marriage, or adoption but who prior to the child's placement in foster care is known to the child's family, has a substantial and positive relationship with the child, and is willing and able to provide a suitable home for the child.

~~(s)~~^(s) "Fingerprint records check determination" means a satisfactory or unsatisfactory determination by the ~~d~~^department based upon a records check comparison of Georgia Crime Information Center (GCIC) information with fingerprints and other information in a records check application.

~~(t)~~^(t) "Foster Care" means supervised care in a substitute home on a 24 hour full-time basis for a temporary period of time.

~~(q)~~ ~~"Foster Home" or "foster care home" means a private home where the foster parent(s) live which has been approved by a child placing agency to provide 24 hour care, lodging, supervision and maintenance for no more than six children under the age of 19.~~

- ~~(f)~~ ~~"Foster Parent" means an adult person approved by a child-placing agency who has a satisfactory criminal history background check determination and provides care, lodging, supervision, and maintenance on a 24-hour basis for a child who must receive care out of his own home.~~
- ~~(s)~~(u) "Human ~~S~~services ~~P~~professional" means the person(s) employed by the facility who is ~~(are)~~ responsible for providing oversight of services to children and their families in the home setting. The ~~HSP~~human services professional is responsible for monitoring the residents' needs and ensuring that appropriate services are being provided and arranged for in order to meet those needs. Duties include, but are not limited to: the coordination of the facility's admission evaluation; the development of the service and Room, Board, Watchful Oversight plans; case work services as provided in the resident's service plans; and monitoring of the resident's educational and/or vocational needs.
- ~~(t)~~(v) "Living unit" means the physical location where residents live within the ~~i~~institution.
- ~~(u)~~(w) "Manual hold" means the application of physical force, without the use of any device, for the purpose of restricting the free movement of a child's body and is considered a form of restraint. A manual hold does not include briefly holding a child without undue force to calm or comfort the child, holding a child by the hand or by the shoulders or back to walk the child safely from one area to another where the child is not forcefully resisting the assistance, or assisting the child in voluntarily participating in activities of daily living.
- ~~(v)~~(x) "Mechanical restraint" means a device attached or adjacent to the child's body that is not a prescribed and approved medical protection device and that he or she cannot easily remove that restricts freedom of movement or normal access to his or her body. A mechanical restraint does not include devices used to assist a child with appropriate positioning or posture secondary to physical impairments or disabilities.
- ~~(w)~~(y) "Medicaid Rehabilitation Option Provider (MRO)" means that category of behavioral health services designed for the maximum reduction of impairments related to mental illness or addiction and restoration of a Medicaid recipient to his/her best possible functional level.
- ~~(x)~~(z) "Owner" means any individual or any person affiliated with a corporation, partnership, or association with 10 percent or greater ownership interest in the business or agency-facility licensed as a child-caring institution and who:
1. Purports to or exercises authority of the owner in a child-aring institution;
 2. Applies to operate or operates a child-caring institution;
 3. Enters into a contract to acquire ownership of a child-caring institution.

- ~~(y)~~(aa) "Preliminary records check application" means an application for a preliminary records check determination on forms provided by the ~~e~~D Department.
- ~~(z)~~(bb) "Preliminary records check determination" means a satisfactory or unsatisfactory determination by the ~~e~~D Department based only upon a comparison of Georgia Crime Information Center (GCIC) information with other than fingerprint information regarding the person upon whom the records check is being performed.
- (cc) "Qualified individual" means a trained professional or licensed clinician designated by the Division of Family and Children Services to complete an assessment, which will assist in determining the resident's appropriate level of care.
- (dd) "Qualified residential treatment program" means a program that is licensed as a child-caring institution in accordance with 42 U.S.C. Section 671(a)(10) that:
1. Has a trauma-informed treatment model that is designed to address the needs, including clinical needs as appropriate, of children with serious emotional or behavioral disorders or disturbances and, with respect to a child, is able to implement the treatment identified for the child by the assessment to determine appropriateness of placement as provided for in Code Section 15-11-219;
 2. Has registered or licensed nursing staff and other licensed clinical staff who:
 - (i) Provide care within the scope of their practice;
 - (ii) Are onsite in accordance with the treatment model referred to in paragraph 1 of this rule; and
 - (iii) Are available 24 hours a day and seven days a week;
 3. To the extent appropriate, in accordance with the child's best interests, facilitates participation of family members in the child's treatment program;
 4. Facilitates outreach to the family members of the child, including siblings, documents how the outreach is made, including contact information, and maintains contact information for any known biological family and fictive kin of the child;
 5. Documents how family members are integrated into the treatment process for the child, including post-discharge, and how sibling connections are maintained;

6. Provides discharge planning and family-based aftercare support for at least six months post-discharge; and
7. Is accredited in accordance with 42 U.S.C. Section 672(k)(4)(G).
- (ee) "Reasonable and prudent parenting" means the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child, that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the State to participate in extracurricular, enrichment, cultural, and social activities.
- (ff) "Records" mean the individual files in any format established and maintained by a child-caring institution which include data concerning an employee, director, child, or applicant.
- ~~(aa)~~(gg)"Records check application" means two sets of classifiable fingerprints, a records search fee to be established by the ~~d~~Department by rule and regulation, payable in such form as the ~~d~~Department may direct to cover the cost of a fingerprint records check, and an affidavit by the applicant disclosing the nature and date of any arrest, charge, or conviction of the applicant for the violation of any law; except for motor vehicle parking violations, whether or not the violation occurred in this state, and such additional information as the ~~d~~Department may require.
- (hh) "Resident" means a person who receives full-time care and services at the Institution in accordance with these rules and regulations. This term shall be used interchangeably with the term "child."
- ~~(bb)~~(ii)"Room, ~~B~~board and ~~W~~watchful ~~O~~oversight" means providing ~~a safe, comfortable room lodging,~~ adequately nutritious meals, and continuous care and oversight to ensure a child's basic ~~safety~~ needs are met.
- ~~(ee)~~(jj)"Satisfactory criminal history background check determination" means a written determination that a person for whom a records check was performed was found to have no criminal record.
- ~~(dd)~~(kk)"Seclusion" means the involuntary confinement of a child away from other children, due to imminent risk of harm to self or others, in a room or an area from which the child is physically prevented from leaving.
- (ll) "Serious occurrence" means an occurrence that has or may have dangerous or significant consequences relating to the care, supervision, or treatment of a child.
- ~~(ee)~~(mm)"Supervision" means the continued responsibility of the ~~licensee~~Institution to take reasonable action to provide for the health, safety, and well-being of a resident while under the supervision of ~~the licensee or the agent or employee of~~

~~the licensee~~ director, employees, contractors, and volunteers of the Institution, including protection from physical, emotional, social, moral, financial harm and personal exploitation while in care. The ~~licensee~~ Institution is responsible for providing the degree of supervision indicated by a child's age, developmental level, physical, emotional, and social needs.

~~(ff)~~(nn) "Time-out" means a behavior management technique that involves the brief separation of a child from ~~the a~~ group or setting where a child is experiencing some behavioral or emotional distress, not to exceed twenty (20) minutes, designed to de-escalate the emotionally charged condition of the child. During "time-out" a child's freedom of movement is not physically restricted.

(oo) "Trauma-informed treatment" means a treatment model designed to address the identified needs, including clinical needs as appropriate, of a resident with serious emotional or behavior disorders or disturbances and is able to implement the treatment identified for the resident by the assessment completed by the qualified individual.

~~(gg)~~(pp) "Unsatisfactory criminal history background check determination" means a written determination that a person for whom a records check was performed has a criminal record.

~~(hh)~~(qq) "Variance" means a decision by the ~~e~~Department to grant a modification to all or part of the literal requirements of a rule.

~~(ii)~~(rr) "Waiver" means a decision by the ~~e~~Department not to apply all or part of a rule.

(ss) The singular includes the plural, the plural the singular, and the masculine the feminine, when consistent with the intent of these Rules.

Authority: O.C.G.A. §§Sections 49-5-3, 49-5-8, 49-5-12, 15-11-2.

Rule 290-2-5-.04 Governing Body

Each institution shall have a clearly identified governing body ~~which is required by state law that is responsible for and has authority over the Institution. The governing body~~ shall be empowered and responsible for determining all policies and procedures and ensuring compliance with these rules and regulations. The chairperson or chief executive officer of the governing body shall complete a statement of responsibility on behalf of the governing body acknowledging the same in connection with any application for a license on a form provided by the ~~d~~D~~e~~partment. If an institution is individually owned, then the owner(s) will complete the statement of responsibility. ~~If an institution is governed by a board, there shall be policies and procedures for periodic rotation of members.~~

Authority: O.C.G.A. Sections 49-5-8, 49-5-12.

Rule 290-2-5-.05 Criminal History Background Checks, Licenses and Exemptions

- (1) Criminal History Background Checks for Owners Required. Prior to approving any license for a new child_caring institution and periodically as established by the ~~e~~D Department by rule and regulation, the ~~e~~D Department shall require an owner to submit a records check application so as to permit the ~~e~~D Department to obtain criminal history background information on the owner.
- (a) An owner may not be required to submit a records check application if it is determined that the owner does not do at least one of the following:
1. Maintains an office ~~at the location~~ on the premises where services are provided to children;
 2. Resides ~~at a location~~ on the premises where services are provided to children;
 3. Has direct access to residents receiving care; or
 4. Provides direct personal supervision of personnel by being immediately available to provide assistance and direction during the time services are being provided to children.
- (b) In lieu of a records check application, an owner may submit evidence, satisfactory to the ~~e~~D Department, that within the immediately preceding 12 months the owner has received a satisfactory criminal history background check determination.
- (2) A child_caring institution license shall not be issued, and any license issued shall be revoked where it has been determined that the owner has a criminal record involving any of the following covered crimes, as outlined in O.C.G.A. Section ~~49-2-14.1 et seq.~~ and the Department's decision to deny or revoke a license has not been reversed in accordance with O.C.G.A. Section 49-2-14.1.
- ~~(a) — A violation of Code Section 16-5-1, relating to murder and felony murder;~~
- ~~(b) — A violation of Code Section 16-5-21, relating to aggravated assault;~~
- ~~(c) — A violation of Code Section 16-5-24, relating to aggravated battery;~~
- ~~(d) — A violation of Code Section 16-5-70, relating to cruelty to children;~~
- ~~(e) — A violation of Article 8 of Chapter 5 of Title 16, relating to crimes against elderly persons;~~
- ~~(f) — A violation of Code Section 16-6-1, relating to rape;~~
- ~~(g) — A violation of Code Section 16-6-2, relating to aggravated sodomy;~~
- ~~(h) — A violation of Code Section 16-6-4, relating to child molestation;~~

- ~~(i) A violation of Code Section 16-6-5, relating to enticing a child for indecent purposes;~~
 - ~~(j) A violation of Code Section 16-6-5.1, relating to improper sexual contact by employee or agent and improper sexual contact by a foster parent;~~
 - ~~(k) A violation of Code Section 16-6-22.2, relating to aggravated sexual battery;~~
 - ~~(l) A violation of Code Section 16-8-41, relating to armed robbery; or~~
 - ~~(m) Any other offense committed in another jurisdiction that, if committed in this state, would be deemed to be a crime listed in this paragraph without regard to its designation elsewhere.~~
- (3) ~~An owner with a valid child_caring institution license issued on or before June 30, 2007 shall be required to obtain a criminal records check determination no later than December 31, 2008.~~
- ~~(a) An owner with a valid child_caring institution license issued on or before June 30, 2007 who is determined to have a criminal record for any of the crimes listed in Rule .05(2)(a) (m) above, shall not have the license revoked prior to a hearing being held before a hearing officer pursuant to Chapter 13 of Title 50, the "Georgia Administrative Procedure Act."~~
 - ~~(b) An owner with a valid child_caring institution license who acquires a criminal record as defined in Rule .05(2)(a) (m) above subsequent to the effective date of these rules involving any of the covered crimes identified in O.C.G.A. Section 49-2-14.1 shall disclose the criminal record to the dDepartment.~~
- (4) If at any time the dDepartment has reason to believe an owner holding a valid license has a criminal record ~~for any of the crimes listed in Rule .05(2)(a) (m) above~~involving any of the covered crimes identified in O.C.G.A. Section 49-2-14.1, the dDepartment shall require the owner to submit a records check application immediately for determination of whether a revocation action is necessary. Prior to the revocation of the license becoming final, the owner is entitled to an administrative hearing unless the owner has not begun providing services under the license. Where services are not currently being provided under the license, the decision of the administrative hearing officer must precede the initiation of services.
- (5) Criminal History Background Checks for Director and Employees Required. Prior to serving as a director of a licensed institution, a person newly hired, rehired, or transferred to the director position shall submit a records check application and receive a satisfactory determination or be eligible to serve as a director as a result of an administrative hearing.

- (a) A person with an unsatisfactory criminal history background check determination may not serve as a director of a licensed child_caring institution if it is determined that such person has a criminal record involving any of the following covered crimes: as identified in O.C.G.A. Section 49-5-60 and has not had an unsatisfactory determination reversed in accordance with O.C.G.A. Sections 49-5-60 et seq., and 49-5-73.
- ~~1. Any felony under Georgia law;~~
 - ~~2. A violation of Code Section O.C.G.A. Sec. 16-4-1, relating to criminal attempt when the crime attempted is any of the crimes specified by this paragraph;~~
 - ~~3. A violation of Code Section O.C.G.A. Sec. 16-5-23, relating to simple battery; where the victim is a minor;~~
 - ~~4. A violation of Code Section O.C.G.A. Sec. 16-6-1 et seq., relating to sexual offenses, excluding the offenses of bigamy or marrying a bigamist;~~
 - ~~5. A violation of Code Section O.C.G.A. Sec. 16-12-1, relating to contributing to the delinquency of a minor; or~~
 - ~~6. Any other offense committed in another jurisdiction that, if committed in this state, would be deemed to be a crime listed in this paragraph without regard to its designation elsewhere.~~
- (b) Prior to serving as an employee other than a director of a licensed iInstitution, a person must submit a preliminary record check application and receive a satisfactory determination. Provided however, should there be an unsatisfactory determination, the person must submit to a fingerprint record check and get a satisfactory determination or be determined eligible to be employed by the iInstitution as a result of an administrative hearing.
- (c) A person with an unsatisfactory background check determination may not serve as an employee of a licensed child_caring institution if it is determined that such person has a criminal record involving any of the covered crimes outlined in Rule .05(5)(a)1. – 6. above as identified in O.C.G.A. Section 49-5-60 and has not had an unsatisfactory determination reversed in accordance with O.C.G.A. Sections 49-5-60 et seq., and 49-5-73.
- (d) In lieu of a records check application, a director or employee may submit evidence, satisfactory to the eDepartment, that within the immediately preceding 12 months the above personnel have received a satisfactory

records check determination or a satisfactory preliminary records check determination.

- (6) Licenses. No person, partnership, association, corporation or entity shall operate a child_caring institution in the state without first obtaining a license to operate the institution by demonstrating compliance with the necessary requirements set forth in these rules. No ~~licensed~~ child-caring institution ~~first licensed after the effective date of these rules~~ shall provide room, board and watchful oversight to more than 16 children on its premises without approval by the Department's Residential Child Care Licensing in accordance with applicable policies and procedures.
- (a) ~~Institutions with a valid child-caring institution license issued on or before December 31, 2019, that includes authorization to place children in private foster homes where foster parents live, shall be required to obtain a child-placing agency license no later than June 30, 2021 if the entity would like to continue placing children in foster care in private foster homes.~~
- Effective January 1, 2025, any Institution with multiple separate living units located on the same premises that provides or proposes to provide room, board, and watchful oversight to a combined total of six or more children shall be licensed.
- (b) Institutions operated as a part of a local church ministry or religious nonprofit school or a nonprofit religious charitable organization may request to be commissioned in lieu of licensed. All provisions of these rules shall apply to institutions that request to be commissioned, and for the purposes of these rules, the term license shall have the same meaning as commission.
- (c) A license may be issued, upon presentation of evidence satisfactory to the eD~~e~~partment, that the facility is in compliance with applicable statutes and these rules. The license is valid for the period of time specified by the eD~~e~~partment, unless voluntarily surrendered by the holder, reduced to a restricted or temporary license or suspended or revoked by the eD~~e~~partment.
- (7) Temporary License. The eD~~e~~partment may in its discretion issue a temporary license if the health and safety of the children to be served by the institution will not be endangered. A temporary license will be valid for a specified period not to exceed one (1) year and may be issued in the following instances:
- (a) If an institution complies with these rules but has not yet enrolled children; or
- (b) If an institution is not in full compliance with these rules but has demonstrated satisfactory evidence that it is making progress toward

meeting these rules and has submitted an acceptable plan of correction;
or

- (c) If the dDepartment finds that any child-caring institution applicant does not meet rules and regulations prescribed by the dDepartment but is attempting to meet such rules and regulations, the dDepartment may, in its discretion, issue a temporary license or commission to such child-caring institution, but such temporary license or commission shall not be issued for more than a one-year period.
1. Upon presentation of satisfactory evidence that such institution is making progress toward meeting prescribed rules and regulations of the dDepartment, the dDepartment may, in its discretion, reissue such temporary license or commission for one additional period not to exceed one year.
 2. As an alternative to a temporary license or commission, the dDepartment, in its discretion, may issue a restricted license or commission which states the restrictions on its face.
- (8) **Restricted License.** The dDepartment may in its discretion issue a restricted license in lieu of a temporary or regular license. The restricted license may be granted either in connection with the initial application process for a license or as a result of a subsequent determination made by the dDepartment concerning compliance with these rules. The restriction shall appear on the face of the license and shall restrict an institution from providing care or services which are beyond the capability of the licensee to provide. The restriction may include but is not limited to the number and/or age of the children served by the institution.
- (9) **License Qualifications Requirement.** In order to obtain or retain a license, the following conditions shall be met:-
- (a) tThe director of the institution and its employees must be qualified, as defined in these rules, to administer or work in an institution. The dDepartment may presume that the director and employees are qualified, subject to satisfactory determinations on the criminal history background checks. However, the dDepartment may require additional reasonable verification of the qualifications of the director and employees either at the time of application for a license or at any time during the license period ~~whenever the department has reason to believe that a director or employee is not qualified under these rules to administer or work in an institution.~~ The Institution shall electronically notify the Department's Residential Child Care Licensing unit on forms provided by the Department within three (3) business days when there is a change in the director, human services professional or in the corporate structure, organization, or administration of the Institution.

- (b) A qualified residential treatment program shall be accredited by an independent, not-for-profit organization in accordance with the provisions of 42 U.S.C. Section 672(k)(4)(G) and maintain such accreditation. Denial, loss of, or any negative change in accreditation status must be reported to the Department's, Residential Child Care Licensing unit within three (3) business days upon notification by the accreditation body.
- (c) A commercial sexual exploitation recovery center shall be certified as a victim assistance program in accordance with the provisions of O.C.G.A. Section 15-21-132(e) and maintain such certification. Denial, loss of, or any negative change in certification status must be reported to the Department's, Residential Child Care Licensing unit within three (3) business days upon notification by the Criminal Justice Coordinating Council.
- (10) License is Nontransferable. A license to operate an institution is not transferable in any way. Each license shall be returned to the Department immediately upon the suspension, revocation, restriction of the license or termination of the operation.
- (11) Renewal of License. A license will be renewed upon a determination by the Department that the institution presents satisfactory evidence of meeting the requirements set forth in these rules.
- (12) Exemptions. ~~Anyone operating or desiring to provide a service~~All programs providing or planning to provide full-time care to six or more children through the age of 18 outside their homes and meet all other criteria of a child-caring institution shall obtain either a child-caring institution license or an exemption from licensure. Any person or entity believed to be exempt from licensure shall apply to the Department for exemption. A program that is not exempt from licensure shall be subject to applicable rules and regulations. ~~The~~An exemptions granted by the Department ~~are~~is an exemptions from licensure, and ~~does~~es not affect the authority of local, regional or state health department officials, the state fire marshal or local fire prevention officials to inspect facilities. These rules shall not apply to the following kinds of programs providing care to children:
- (a) Child welfare agencies and other facilities and institutions wherein children and youths are detained which are operated by any Department or agency of state, county, or municipal government.
- (b) Any bona fide boarding school whose primary purpose of admission is education, provided that such facility in order to claim exemption shall operate ~~under a published academic educational curriculum which meets the requirements of the State Department of Education as a private school in accordance with O.C.G.A. Section 20-2-690 et seq., or its successor statute~~, shall have classroom facilities which are not used for residential

living and shall not have been granted nor have assumed legal custody of children attending the facility.

- (c) Facilities or programs both owned and operated by any ~~e~~D~~e~~partment or agency of federal, state, county, or municipal government. For purposes of this rule, facilities or programs are not exempt from licensure as a child-caring institution if facility or program premises are leased, rather than owned, by federal, state, county, or municipal government. In addition, facilities or programs are not exempt from licensure if the government entity assumes or exercises no authority nor control over daily program services, functions or operations.
- (d) Temporary recreational facilities and programs which limit residency to no more than three months, such as summer camps.

Authority: O.C.G.A. §§Sections 49-5-8, 49-5-12, 49-2-14.1, 49-5-60 et seq., 15-11-2(60.2), 15-21-132(e).

Rule 290-2-5-.06 Applications

- (1) All applicants seeking a license must attend training conducted by the Department's Residential Child Care Licensing unit prior to submitting an application for an initial license.
- (~~1~~)(2) An application for a license to operate an ~~i~~institution shall be submitted to the ~~e~~eDpartment on the forms provided by the ~~e~~eDpartment.
 - (a) Time for Filing. An application for a license shall be submitted at least ~~thirtyninety~~ (~~30~~90) days prior to the proposed opening date of the new ~~i~~institution.
 - (b) Records Check and Preliminary Records Check Applications. Accompanying any application for a new license for an ~~i~~institution, the applicant shall furnish to the ~~e~~eDpartment a records check application for the owner and director and a preliminary records check application for each employee, if applicable as defined in these rules.
 - (c) Separate Licenses or Commissions. A separate license or commission application is required for each geographical location which an ~~i~~institution is proposed to operate even when all of the proposed ~~i~~institutions are owned by the same person or entity.
 - (d) Amended License. If there is to be a change in the name of the ~~i~~institution, change in ownership, changes in the ages of children to be served, or additions or changes in the uses of the buildings that will affect the facility's licensed capacity, an application for an amended license shall be submitted at least thirty (30) days prior to the changes or additions, except in cases of emergencies. In such cases of emergencies, which make it impossible to submit an application within thirty (30) days, the governing body or director shall notify the ~~e~~eDpartment ~~by telephone~~electronically and shall submit an application for the amended license as soon as the governing body or the director becomes aware of the change or addition.
 - (e) Notice of Denial. If the ~~e~~eDpartment determines that the applicant does not comply with these rules and determines that the issuance of a temporary or restricted license is not appropriate, the ~~e~~eDpartment will provide a written notice of the denial of licensure and the opportunity for a hearing to the applicant.
 - (f) False or Misleading Information. The application for a license including the application for a criminal history background check must be truthfully and fully completed. In the event that the ~~e~~eDpartment has reason to believe that any required application has not been completed truthfully, the ~~e~~eDpartment may require additional verification of the facts alleged. The ~~e~~eDpartment may refuse to issue a license where false statements have

been made in connection with the application or any other documents required by the Department.

- (g) The Department may deny a license or otherwise restrict a license for any applicant who has had a license denied, revoked, or suspended within one year of the date of the application or who has transferred ownership or governing authority of an agency, facility, institution, or entity subject to regulations by the Department within one year of the date of a new application when such transfer was made in order to avert denial, revocation, or suspension of a license.
- (h) An Institution shall not begin operation without Departmental approval.

Authority: O.C.G.A. §§Sections 49-5-8, 49-5-12, 49-5-60.

Rule 290-2-5-.07 Inspections and Investigations

The ~~e~~D~~e~~partment is authorized and empowered to conduct investigations and on-site inspections of any ~~i~~nstitution required by these rules to be licensed. The proposed and current licensee and staff shall cooperate with any inspection or investigation by responding truthfully to any legitimate departmental inquiry.

- (a) Initial Inspection. Following receipt and review of a complete application package, the ~~e~~D~~e~~partment may conduct an on-site inspection of the ~~i~~nstitution to assess compliance with these rules.
- (b) Consent to Access. An application for a license or commission to operate an ~~i~~nstitution or the issuance of a license by the ~~e~~D~~e~~partment constitutes consent by the applicant, the proposed holder of the license and the owner of the premises for the ~~e~~D~~e~~partment's representative, ~~after displaying picture identification to any institution staff,~~ to enter the premises at any time ~~during operating hours~~ after confirming his/her identity to any Institution employee or director, for the purpose of inspecting the facility. This includes both scheduled and unscheduled inspections and includes ~~consent for meaningful~~ access to all staff, parts of the premises, all children present, and all records required by these rules.
- (c) Other Inspections. The ~~e~~D~~e~~partment may conduct scheduled and unscheduled on-site inspections of an ~~i~~nstitution in the following instances:
 1. Annually or at other regular intervals as the ~~e~~D~~e~~partment may determine or at the expiration of the current license; or
 2. Upon receiving a report, including a report submitted by the ~~i~~nstitution, alleging child abuse, neglect, or sexual exploitation as defined in O.C.G.A. § 15-11-2 which occurred while the child was in the care of the ~~i~~nstitution, director or employees; or
 3. Upon receiving information of alleged violations of these rules, including information provided by the ~~i~~nstitution, which, if true, could endanger the health, safety or welfare of the children in care; or
 4. Upon receipt and review of a request for an amended license, where the ~~e~~D~~e~~partment determines that an inspection is advisable; or
 5. Upon the ~~e~~D~~e~~partment or its duly authorized representative being made aware of any flagrant abuses, derelictions or deficiencies during the course of the ~~e~~D~~e~~partment's inspection or at any other time; ~~the~~ ~~e~~D~~e~~partment shall immediately investigate such matters and may conduct an inspection so as to take such actions as conditions may require; or

6. Subsequent to the receipt of a plan of correction, as determined necessary by the ~~d~~Department, to monitor whether the plan of correction is being complied with by the ~~i~~Institution's personnel.
- (d) Failure to Allow Access. The Institution shall submit on a timely basis any records, reports and other information as may be required by the Department. Failure to allow timely access of the ~~d~~Department's representative to the ~~i~~Institution, its staff, or the children receiving care at the ~~i~~Institution or the books, records, papers, or other information related to initial or continued licensing, or failure to cooperate with a departmental inspection or investigation shall constitute good cause for the denial, restriction, revocation or suspension of a license, or other penalty as provided by law.
- (e) False or Misleading Statements. No licensee, director, employee, or contractor of a licensee shall knowingly make ~~or condone any employee making any verbal or written~~ false or misleading statements to the ~~d~~Department or on documents submitted to the Department or maintained by the Institution in connection with any authorized investigation or inspection being conducted by the ~~d~~Department.

Authority: O.C.G.A. §§Sections 49-5-8, 49-5-12.

Rule 290-2-5-.08 Administration and Organization

- (1) Program Purpose. In accordance with these rules and regulations, a licensed child_caring institution shall develop, implement and comply with written policies and procedures that specify its philosophy, purpose, and program orientation. Such policies and procedures shall identify the characteristics and ages of the children it serves, including the referral sources.
- (2) Program Description and Implementation. In accordance with these rules and regulations, a licensed child_caring institution shall develop, implement and comply with written policies and procedures that describe the range of services including room, board and watchful oversight and the manner in which such services will be provided by the facility. Such policies and procedures shall describe how identified services will be provided, the specific emergency safety intervention plan, including the emergency safety interventions, that will be used, and how such services will be assessed and evaluated. Such policies and procedures shall describe how reasonable and prudent parenting standards will be administered. A program description must show what services are provided directly by the facility and how it will coordinate its services with those provided by any Medicaid ~~r~~Rehabilitation ~~e~~Option ~~p~~P Provider or other available community or contract resources.
- (3) Director. The governing body of the ~~i~~Institution shall designate a director who shall be authorized to manage the ~~i~~Institution.
- (a) Any director employed by the Institution on or after the effective date of these rules shall possess at least one of the following qualifications:
1. A master's degree from an accredited college or university in the area of social sciences, social work, childhood education, or business or public administration or a related field plus two years of administrative or supervisory experience in ~~the field of child care~~ human services delivery field;
 2. A bachelor's degree from an accredited college or university in the area of social sciences, social work, childhood education, or business or public administration or a related field plus four years of administrative or supervisory experience in ~~the field of child care~~ human services delivery field;
 3. A licensed registered nurse, ~~doctor or other health care professional~~ nurse practitioner, physician, or physician assistant where the child-caring institution chooses to serve primarily children with special medical needs.
- (b) Any director employed by the Institution on or after the effective date of these rules must meet the following additional minimum qualifications.

1. Never have been shown by credible evidence (e.g. a court or jury, a ~~d~~Department investigation, or other reliable evidence) to have abused, neglected, or sexually exploited a child as those terms are defined in O.C.G.A. § 15-11-2 or to have abused, neglected, or sexually exploited an adult or to have subjected any person to serious injury as a result of intentional or grossly negligent misconduct as evidenced by an oral or written statement to this effect obtained at the time of application and evidence of having made efforts to obtain and evaluate references from previous employers;
 2. Participate in the orientation and training required by these rules; and
 3. Not have made any material false statements concerning qualifications requirements either to the ~~d~~Department or the proposed licensee.
- (c) When the director is absent from the ~~i~~Institution at any time, there shall be an officially designated person to assume responsibility for the operation of the ~~i~~Institution.
- (4) Finances. The ~~governing body~~facility shall have sufficient funds available to pay operating costs including compensation for a sufficient number of administrative and service staff through the current year of operation and shall provide for the preparation of an annual approved budget ~~and approve such budget~~. Copies of the current year's budget and expenditure records shall be maintained for examination and review by the ~~d~~Department.
- (a) The director and all persons authorized to receive or disburse operating funds shall be bonded or insured.
- (b) A schedule of fees shall be established and implemented and made available to a parent(s) or guardian(s), or representative(s) of children considered for admission to the ~~i~~Institution. The schedule shall detail the basic cost of services and any additional costs for other services.
- (5) Recordkeeping. Records shall be confidential and protected from unauthorized use, fire, damage or theft. Institutions that plan to utilize electronic records for any electronic files that are subject to regulatory review shall submit written policies and procedures for review and approval by the Department. If approved by the Department, electronic records should be reasonably secure with a data recovery system to prevent data loss and maintain data integrity and accessibility.

- (a) Case Records. An institution shall maintain ~~a written~~ or electronic records at the Institution for each child. ~~Case records which~~ shall include the following:
1. Identifying information including name, sex, and birth date or age;
 2. Date of admission and source of referral including all documents related to the referral and admission of the child to the institution;
 3. Name, ~~address,~~ and ~~telephone numbers~~ contact information of the parent(s) or guardian(s) or representative(s);
 4. Name and ~~telephone number~~ contact information of placing agency and agency's ~~contact~~ representative(s), if applicable;
 5. Documentation of current custody if not placed by ~~natural~~ biological or adoptive parents and any court documents related to placement, if applicable;
 6. A copy of the child's birth certificate, or an appropriate record of birth;
 7. Any written Assessments plans;
 8. Service plans, treatment plans and ~~review and~~ any progress notes and collateral communications with MRO and/or other service providers;
 9. Records of behavior management, emergency safety interventions, and written grievances, as described in Rule .14 and Rule .15;
 10. Documentation of health history; as required at admission;
 11. Medical records, including documentation of visits to physicians and dentists, records of prescriptions and administration of medicines, immunization records, and orders for modified diets;
 12. Educational and vocational information such as report cards, progress reports, and related materials received during a child's residency in the institution; and
 13. Discharge plans required by Rule .11, if applicable.
- (b) Retention of Case Records. Case records shall be retained in the institution for at least one year following discharge of residents.
- (c) Confidentiality of Case Records.
1. Written policies and procedures shall be established and implemented for the maintenance and security of case records

specifying who shall supervise the maintenance of records, who shall have custody of records, and to whom records may be released and for what purposes.

2. An ~~it~~ Institution shall maintain the confidentiality of all children's case records. Employees of the ~~it~~ Institution shall not disclose or knowingly permit the disclosure of any information in a case record except to appropriate ~~direct care staff~~ child care workers, the parent(s) or guardian(s), their respective legal counsel, a court of legal jurisdiction, licensing staff, ~~and~~ other authorized public officials in the performance of their mandated duties, or the child's placing agency.

(d) Personnel Records. An ~~it~~ Institution shall maintain written or electronic records at the Institution for each employee and the director. ~~Such~~ Personnel records shall include the following:

1. Identifying information such as name, address, telephone number, and emergency contact person(s);
2. A 10-year employment history or a complete employment history if the person has not worked 10 years;
3. Records of educational qualifications;
4. Documentation of at least two professional, educational, or personal references completed prior to employment that attest to the person's capabilities of performing the duties for which they are employed and to the person's suitability of working with or around children;
5. Satisfactory preliminary criminal history background check determination and a satisfactory fingerprint records check determination as required by law for the director, and a satisfactory determination on a preliminary records check and fingerprint records check for employees as required by law;
6. Documentation of a health screening examination completed by ~~from~~ a licensed physician or other licensed healthcare professional ~~of a health screening examination within thirty (30) days of hiring~~ sufficient in scope to identify conditions that may place ~~the~~ children at risk of infection, injury or improper care; such examination shall be completed within thirty (30) days of hiring or within one (1) year prior to hire date;
7. Date of employment;

8. The person's job description or statements of the person's duties and responsibilities;
 9. Documentation of orientation and training, including dates of all such training, as required by Rule .08(6)(d) of these rules; and
 10. ~~Any d~~Documentation of the individual's performance, including annual work performance evaluations and any all records of employee discipline ~~arising from the inappropriate use of behavior management techniques and emergency safety interventions~~ and grievance reports described in ~~Rule .14 and~~ Rule .15 related to children in care and the employee.
- (6) Staffing. ~~The institution shall have sufficient numbers of qualified and trained staff as required by these rules to provide for the needs, care, protection, supervision and room, board and watchful oversight of children. In accordance with these rules and regulations, an Institution shall have the qualified and trained staff necessary to provide the services it is authorized to provide.~~ All staff and volunteers shall be supervised to ensure that assigned duties are performed adequately ~~and to protect the health, safety and well-being of the children in care.~~
- (a) All staff employed by the Institution on or after the effective date of these rule must meet the following minimum qualifications:
1. Never have been shown by credible evidence (such as a decision of a court or jury, or a ~~d~~Department investigation or other reliable evidence) to have abused, neglected, or sexually exploited a child as those terms are defined in O.C.G.A. Section 15-11-2 or to have abused, neglected, or sexually exploited an adult or to have subjected any person to serious injury as a result of intentional or grossly serious injury as a result of intentional or grossly negligent misconduct as evidenced by an oral or written statement to this effect obtained at the time of application;
 2. Participate in the orientation and training as stated in subparagraph (d) of this Rule; and
 3. Not have made any material false statements concerning qualifications requirements either to the ~~d~~Department or the proposed licensee.
- (b) Human Services Professionals. The ~~i~~nstitution shall have designated human services professionals to provide oversight of services to children and their families in the home setting. ~~Within six months of the effective date of these rules, t~~here shall be one human services professional employed for every 16 children in care or fraction thereof ~~for these~~

~~institutions first licensed after the effective date of these rules. For those institutions licensed prior to the effective date of these rules, there shall be one human service professional employed for every 30 children in care or fraction thereof. However, a human services professional assigned referral and intake duties and responsibilities shall provide oversight of services to not more than 16 children.~~ The institution's director, if qualified by education, may perform the duties of a human services professional.

1. Any human services professional ~~employed on or after the effective date of these rules~~ shall either:
 - (i) Possess a bachelor's degree from an accredited college or university in social work, psychology, childhood education, education counseling and psychology, or a related field and ~~either~~ have two years experience in the a human services delivery field of child care or be supervised by another human service professional with a master's degree in one of the above disciplines as it relates to child welfare; or
 - (ii) Possess a master's degree from an accredited college or university in one of the above disciplines.
- (c) Child Care Workers. The institution shall have designated child care workers to supervise children and be responsible for living units where the children reside.
 - ~~1. No institution shall admit or retain children whose needs for room, board and watchful oversight cannot be met. The institution shall have sufficient numbers of qualified and trained staff to provide for the room, board and watchful oversight of children pursuant to Rule .08(6).~~
 2. Any child care worker shall be at least 21 years of age and possess a high school diploma or general education diploma (GED). ~~and have current evidence of successful completion of a biennial training program in cardiopulmonary resuscitation (CPR) and a triennial training program in first aid which have been offered by certified or licensed health care professionals. Such training programs shall be completed within the first year of employment.~~
- (d) Staff Training. Prior to working with children, all staff who work with children, including the director, ~~who work with children and are hired after the effective date of these rules~~ shall be oriented in accordance with these rules and shall thereafter periodically receive additional training in accordance with these rules.
 1. Orientation shall include instruction in:

- (i) The ~~i~~Institution's purpose and description of services and its policies and procedures;
 - (ii) The employee's assigned duties and responsibilities;
 - (iii) Grievance policies and procedures;
 - (iv) Child abuse policies and procedures;
 - (v) Reporting requirements for suspected cases of child abuse and sexual exploitation and notifiable diseases and serious injuries;
 - (vi) The ~~i~~Institution's policies and procedures for handling medical emergencies (life-threatening, limb-threatening, or function-threatening conditions), and managing use of medications by children in care; and
 - (vii) The ~~i~~Institution's policies and procedures regarding appropriate behavior management and emergency safety interventions.
2. Additional training shall include:
- (i) Evidence of current certification in first aid and in cardiopulmonary resuscitation (CPR) that includes an in-person skill session; such certifications shall be obtained from a certified or licensed health care professional; the initial certifications shall occur within the first 60 days of employment, if the employee is not currently certified; and
 - (ii) ~~£~~Twenty-four (24) clock hours of formal, annual training or instruction in child care issues related to the employee's job assignment and to the types of services provided by the ~~i~~Institution; such trainings shall not include first aid, cardiopulmonary resuscitation (CPR), or emergency safety intervention (ESI) training.
- (e) All ~~direct care staff~~child care workers shall have at least one full day (24 hours) off each week and shall have at least two consecutive days off each month.
- (7) Reporting. Detailed written summary reports shall be made to the Department's ~~of Human Services~~ Residential Child Care Licensing ~~U~~unit electronically ~~or by fax on the required incident intake information form (IIF)~~ within 24 hours of a serious occurrence involving children in care, including but not limited to:
- (a) Accidents or injuries requiring medical treatment and/or hospitalization;

- (b) Death;
 - (c) Suicide attempts;
 - (d) Closure of the living unit due to disaster or emergency situations such as fires or severe weather;
 - (e) Emergency safety interventions resulting in any injury;
 - (f) Any incident which results in any federal, state or private legal action by or against the institution which affects any child or the conduct of the institution; However, legal action involving the juvenile justice system is not required to be reported; and
 - (g) Any illness of children or illness of facility staff having personal contact with children in care known to have resulted from an identified pandemic or infectious disease outbreak.
- (8) Child Abuse Reports. Whenever the child-caring institution has reason to believe that a child in care has been subjected to child abuse it shall cause a report of such abuse to be made to ~~the child welfare agency of the county of occurrence providing protective services as designated by~~ the Department of Human Services (Division of Family and Children Services, Child Protective Services) or in the absence of such ~~an agency~~ to an appropriate police authority or district attorney in accordance with the requirements of O.C.G.A. Sec. 19-7-5. A copy of such report shall also be filed with the Department of Human Services Residential ~~e~~Child ~~e~~Care Licensing ~~Unit~~.

Authority: O.C.G.A. §§Sections 49-5-8, 49-5-12.

Rule 290-2-5-.09 Referral and Admission

- (1) Referrals. An institution shall only accept referrals for children whose known needs can be met by the institution in accordance with its program purpose and program description.
- (a) Referral agreements with any public or private agencies that place children in the institution shall be in writing and shall include the following provisions and requirements.
1. Preplacement assessment and planning with the placing agency regarding the institution's abilities to meet the needs of the child shall be done. To the degree possible, all relevant information required for admission to the facility shall be reviewed in preplacement assessment and planning.
 2. To the degree possible, there shall be a preplacement visit by the child, and the parent(s) or guardian(s), or placing agency representative if there is a reasonable likelihood that the child will be admitted.
- (b) Referrals from any persons other than placing agencies (such as a parent or guardian) shall be handled in the same manner as described above for referrals from placing agencies.
- (2) Admissions. An institution shall only admit children whose known needs can be met by the institution based on preplacement assessment, planning and room, board and watchful oversight capacity.
- (a) A child under the age of six (6) shall not be admitted to an institution, unless the child is a member of a sibling group with at least one of the siblings being 6 years of age or older who will reside in the institution, or the mother who is under the age of 19 and her child are placed in the home together. Where a child under the age of six (6) is admitted, the child-caring institution shall provide developmentally-appropriate sleeping facilities, diapering facilities and daily child-care arrangements.
- (b) Prior to admission, the facility shall:
1. Provide information to the custodian about the services, environment, age ranges and behavioral characteristics of the other children in placement.
 2. Maintain signed documentation from the custodian that they have received and considered the information provided in Rule .09(1)(a)1- above and have determined that the placement environment is appropriate and does not represent an undue risk to the health and safety of the child or children being placed.

- (c) The facility shall comply with the Interstate Compact on Placement when admitting children from another state.
- (d) Written admission policies and procedures shall be established and implemented and shall include the following provisions or requirements.
1. An intake referral form that includes a social, health, educational, family, behavioral and personal developmental history, shall be done to determine the placement and room, board and watchful oversight needs (services, supports, setting, etc.) of each child and whether that placement is appropriate.
 2. A completed written placement agreement shall be developed with the involvement of the child, and the parent(s) or guardian(s), or placing agency representative and signed by all parties; such agreement shall include the following:
 - (i) Written authorization to care for the child;
 - (ii) Written authorization to obtain medical care for the child;
 - (iii) Written summary of discussions among the child and the parent(s) or guardian(s), or placing agency, and the Institution's Human Services Professional regarding basic care, any specialized services to be provided, room, board and watchful oversight, the description of the Institution as outlined in Rule .09(2)(b); and involvement of the parent(s) or guardian(s), or the placing agency in service planning.
- (e) A written description of the Institution shall be provided to the child, the parent(s) or guardian(s), or placing agency and shall include:
1. The Institution's program purpose and program description;
 2. The description of service planning and normal daily routines of children;
 3. The description of health services including how the Institution handles illnesses, injuries, and medical emergencies (life-threatening, limb-threatening, and function-threatening conditions);
 4. The Institution's policies and procedures for behavior management and grievances;
 5. Policies and procedures for visiting hours and communications with persons outside the Institutions;

6. The names and telephone numbers of the child's designated ~~H~~uman ~~S~~ervices ~~P~~rofessional and primary ~~C~~hild ~~C~~are ~~W~~orker; and
 7. Schedule of fees if placement is not done under a Purchase of Service Agreement.
- (f) Emergency Admissions. In situations that require emergency admission to an ~~i~~nstitution and when completion of the intake referral form, as described in Rule .09(1)(a)1~~-,~~ and intake evaluation and placement agreements, as described in Rules .09(2)(~~ad~~)1~~- and 2-~~ are not possible, the ~~i~~nstitution shall obtain as much information as possible about the child to be admitted, and as much information as possible about the circumstances requiring admission. Such information shall be obtained from the referring person(s) or entity(ies) within 72 hours. When all the information to complete the intake referral form is not available, a health assessment shall be scheduled within 24 hours of emergency admission.

Authority: ~~O.C.G.A. Sections:~~ 49-5-8, 49-5-12.

Rule 290-2-5-.10 Assessment and Planning

~~(1)~~—An ~~i~~institution shall complete a full written assessment of each child admitted for care and of each child's family within thirty days of admission and develop an individual written service plan for each child based on the assessments within thirty days of admission. If an assessment is not completed within thirty days, the reasons for the delay shall be documented in the child's case record and such documentation shall include statements indicating when the assessment is expected to be completed.

- (a) The facility's admission evaluation shall be coordinated by the child's designated ~~H~~human ~~S~~services ~~P~~professional. The facility shall assess the needs of the child in the areas of health care, room, board and watchful oversight, education, family relationships, personal, social and vocational development, and any behavioral issues that require monitoring.
1. This assessment is intended to expand upon the initial intake evaluation required by Rule .09~~(21)~~(a)1~~;~~;
 2. The ~~i~~institution shall obtain the child's school records from the last school attended in order to complete the education needs component of the assessment.
- (b) A service and room, board and watchful oversight plan shall be developed by the child's ~~H~~human ~~S~~services ~~P~~professional in concert with the child's primary ~~C~~child ~~C~~care ~~W~~worker, meaning the worker who has responsibility for supervision of the child in the living unit where the child resides. The plan shall contain the following ~~data-information~~:
1. The results of the assessment and identified needs;
 2. Statements of time-limited goals and objectives for the child and family and methods of achieving them and evaluating them;
 3. Statements of activities to be followed by the child and staff members in pursuit of the stated goals and objectives;
 4. Statements of any special care and services that will be arranged for or provided directly;
 5. Statements of goals and preliminary plans for discharge;
 6. Statements about the types of discipline that should be employed when necessary; and
 7. Statements ~~about of any visitation plans of the child with the biological family, including siblings, and fictive kin;~~ any restrictions of communications or visitations with any persons; ~~such statements~~

shall clearly show that the health, safety, and welfare of the child would be adversely affected by such communications or visits.

- (c) The child, and the parent(s) or guardian(s), or child-placing agency representative shall be involved in the development of the service and room, board and watchful oversight plans, and its periodic updates as described below.
- (d) The service and room, board and watchful oversight plan shall be updated by the ~~H~~human ~~S~~services ~~P~~professional at a minimum of every six months and pertinent progress notes and data shall be incorporated in the plan to measure attainment of stated goals and objectives.
 - 1. The child's primary ~~C~~child ~~C~~care ~~W~~worker shall participate in updating the service and room, board and watchful oversight plan.
 - 2. The facility shall be responsible for implementing the service and room, board and watchful oversight plan.

Authority: ~~O.C.G.A. Sections~~ 49-5-8, 49-5-12.

Rule 290-2-5-.11 Discharge and Aftercare

- (1) During a child's placement in an ~~i~~nstitution, the preliminary plans for discharge required by Rule .10(b)5- shall be adjusted according to the child's circumstances. At least three months prior to planned discharge, except in cases of emergency discharges, an ~~i~~nstitution shall formulate an aftercare plan that identifies the supports, room, board and watchful oversight summary and resources that the child and child's family are expected to need following discharge. When a child is being discharged for placement in another ~~i~~nstitution or similar program, the receiving ~~i~~nstitution or program, except in cases of emergency discharges, shall be given at least thirty days notice of the proposed date of placement.
- (2) Emergency discharges are authorized when the health, safety and room, board and watchful oversight needs of ~~the a~~ child or other children in residence might be endangered by the child's further placement in the ~~i~~nstitution. At least 72 hours of prior notice of discharge shall be provided to the parent(s) or guardian(s), or placement agency. If such notice is not possible, the reasons for the inability to provide the required notice shall be documented in the child's case record.
- (3) When a child is discharged, an ~~i~~nstitution shall compile a complete written discharge summary within thirty days of the discharge. Such summary shall include:
 - (a) The name, address, telephone number and relationship of the person or entity to whom the child was discharged, or the name of the placing agency if discharged to a placement agency;
 - (b) A summary of all the services and room, board and watchful oversight activities provided for the child to meet assessed needs while the child was in the ~~i~~nstitution;
 - (c) A summary of the child's and the family's goals and objectives and accomplishments during care;
 - (d) A summary of any problems encountered by the child and the family during care; and
 - (e) A summary of assessed needs which were not met during care, and a summary of the reasons why they were not met.
- (4) A copy of the completed discharge summary shall be made available to the child's parent(s) or guardian(s), or placement agency representative when it is completed.

Authority: O.C.G.A. Sections. 49-5-3, 49-5-8

Rule 290-2-5-.12 Child Care Services

- (1) The Institution shall have sufficient numbers of qualified and trained staff to provide for the room, board and watchful oversight of children in accordance with Rule .08(6). Staff and volunteers shall adequately provide for the needs, protection, well-being and supervision of residents.
- (1)(2) Casework Services. All children in care and families of children in care shall receive case work services as provided in their service plan from their assigned ~~H~~human ~~S~~services ~~P~~professional or other appropriate professionals (internal and external of facility) who shall meet with and counsel with the children. The results of such counseling shall be recorded in the children's case records. The purposes of such services ~~are~~ is to identify and monitor the children's and families' progress relative to the needs, goals and objectives identified in child care assessments and service plans and to discuss any problems being encountered by or with the children in care.
- (2)(3) Educational and Vocational Services. An ~~i~~nstitution shall not admit a child unless an educational program commensurate with the specific educational and vocational needs of the child can be provided.
- (a) Provisions shall be made for mandatory education of all children in care in accordance with O.C.G.A. 20-2-690 et seq. or its successor statute. For purposes of these rules, an on-campus school is defined as a private school, and must be in compliance with the above law.
- (b) A child's assigned ~~H~~human ~~S~~services ~~P~~professional shall monitor the child's educational or vocational progress in the course of providing case work services and planning. Progress reports, such as report cards, and other records or documentation of a child's educational or vocational performance while residing in the ~~i~~nstitution shall be maintained in the child's case record.
- (c) Children attending public schools who wish to participate in extracurricular activities shall be provided such reasonable opportunities by the ~~i~~nstitution in accordance with the child's service plan.
- (d) Children's daily activities as stated in their service plans shall provide for study time during the periods the children are attending school.
- (3)(4) Health Services. The facility shall provide for a comprehensive program of preventive, routine, and emergency medical and dental care for all children. Arrangements shall be made with at least one physician and one dentist or a health care agency that provides medical and dental care for children.
- (a) Within thirty days of admission, the human services professional shall ensure an assessment of the children's medical and dental health ~~shall~~

~~be has been~~ completed ~~by the designated intake Human Services Professional.~~

1. A ~~general~~comprehensive physical examination of ~~the a~~ child shall be provided within ~~72 hours (excluding weekends and holidays)~~10 calendar days of admission unless such an examination has been completed within one year prior to admission.
 - (i) Such examination shall be ~~done~~completed by a medical doctor, physician's assistant, nurse practitioner or public health department and shall include immunizationsstatus, vision and hearing ~~testsscreenings~~, in addition to, and basic diagnostic laboratory ~~worktesting~~, such as a Complete Blood Count (CBC) and basic urinalysis when recommended by a physician.
 - (ii) Required Immunization. All children shall have current immunizations as outlined in Rules and Regulations of the Department of Public Health, Immunization of School Children, Chapter 511-2-2 et seq., or its successor rule.
2. A general dental examination of ~~the a~~ child over the age of 12 months shall be provided ~~for~~within 30 days of admission unless such an examination has been completed within six months prior to admission. Such examinations shall be ~~done~~completed by either a dentist or a licensed dental hygienist ~~that is employed by the dDepartment and County Boards of Health to screen school pupils.~~
 - (b) An ~~i~~ Institution shall ensure that children continue to receive timely, qualified medical, ~~and dental care, and follow-up care as recommended by a licensed medical professional and~~ when they are ill or injured ~~and that they continue to receive necessary follow-up medical care or~~ when there is a reasonable likelihood that qualified medical and dental care is needed. The ~~child-caring i~~ Institution shall take appropriate safety ~~and sanitary~~ precautions to ensure that underlying medical conditions are not exacerbated or infections not transmitted to others ~~where required~~when indicated by the medical condition of the child. ~~Arrangements shall be made with at least one physician and one dentist or a health care agency that provides physician and dental services for the medical care of the children.~~ Children shall receive annual medical check-ups at least every 12 months and semiannual dental check-ups at least every 6 months.
 - (c) An ~~i~~ Institution shall ensure that children receive timely, qualified medical care in cases of medical emergencies (life-threatening, limb-threatening, or function-threatening conditions). Policies shall be in place for the

emergency medical care of children with a local hospital or other health care facility that provides emergency services or with a local physician.

- (d) Medications. The ~~institution~~s shall develop and implement policies and procedures for the use and management of all types of medications. All ~~direct care staff~~child care workers shall receive orientation on the policies and procedures. Such policies and procedures shall include the following:
1. Non-prescription medications. No child shall be given a non-prescription medication by staff members of the ~~institution~~ unless the child exhibits symptoms that the medication is designed to relieve.
 2. Prescription medications. No child shall be given a prescription medication unless the medication is prescribed for the child by an authorized health care professional.
 - (i) Prescription medications shall only be given to a child as ordered in the child's prescription. An ~~institution~~ shall not permit such medications prescribed for one child to be given to any other child.
 - (ii) A child's attending physician shall be notified in cases of dosage errors, drug reactions, or if the prescription medication does not appear to be effective.
 3. Psychotropic medications. No child shall be given psychotropic medications unless use is in accordance with the goals and objectives of the child's service plan developed by an external physician and/or MRO provider.
 - (i) Psychotropic medications must be prescribed by an external physician or MRO provider who has responsibility for the diagnosis and treatment of the child's conditions that necessitate such medication. Continued use of psychotropic medications shall be reviewed by the external prescribing Physician and/or MRO provider every sixty days.
 - (ii) Psychotropic medication shall only be given to a child as ordered in the child's prescription. An ~~institution~~ shall not permit such medications prescribed for one child to be given to another child.
 - (iii) The external prescribing physician and/or MRO provider shall be notified in cases of dosage errors, drug reactions, or if the psychotropic medication does not appear to be effective.

4. An institution shall designate and authorize classes of staff, such as Child Care Workers, to hand out medications and supervise the taking of medications. Only designated and authorized staff shall hand out and supervise the taking of medication.
 5. An institution shall maintain a record of all medications administered by staff to include: name of child taking medication; name of prescribing physician and date of prescription (if the medication is prescription or psychotropic); required dosage; date and time taken, refused, or missed; dosage taken; and name and signature of staff member responsible for administering the medication.
 6. All prescription and non-prescription medications shall be kept in a locked storage cabinet or container which is not accessible to ~~the children~~ residents and stored separate from cleaning chemicals and supplies or poisons. The keys to the locked cabinets or containers shall not be accessible to residents.
 7. All expired medications shall be discarded and not handed out for use.
- ~~(e) First Aid Supplies. Each living unit shall have a first aid kit and instruction manual; such kit shall contain scissors, tweezers, gauze pads, adhesive tape, thermometer, assorted band-aids, antiseptic cleaning solution, and bandages.~~
- ~~(4)~~(5) Recreation and Leisure. The institution shall provide for a program of indoor and outdoor recreational and leisure activities. When providing these activities, ~~it the~~ Institution shall utilize the community's cultural, social, and recreational resources whenever possible and appropriate. Children's activities as stated in their service plans shall provide for leisure and recreational time. An institution shall procure and maintain a variety of recreational and leisure equipment and supplies such as games, sporting equipment, reading materials, and art supplies.
- ~~(5)~~(6) Other Services.
- (a) The institution shall ensure that all children have adequate, properly fitting, seasonable clothing as required for health, comfort and physical well-being. Clothes shall be appropriate to age, gender, and individual needs.
 - (b) Daily routines of children shall provide for appropriate personal care, hygiene, and grooming commensurate with age, gender, and cultural heritage. All necessary toiletry items and supplies, such as soap, shampoo, hair brushes, tooth brushes and paste, deodorant, and bath towels, shall be provided.

- (c) Children shall not be held solely responsible for ~~the accomplishments of any performing work duties work activity of the institution~~ such as food preparation, laundering, housekeeping, or facility maintenance. Children shall not be considered substitutes for employed staff.
- (d) Children shall not be used for the purposes of soliciting funds for the ~~i~~nstitution, nor shall children be used in connection with any advertisement or publicity without the consent of the child and the parent(s) or guardian(s).
- (e) Children shall be permitted to participate in religious and cultural activities in accordance with their cultural and ethnic heritage.
- (f) No resident shall be responsible for the care of another resident. In accordance with his or her service plan, a parenting youth can assume responsibility for his or her child(ren).

Authority: O.C.G.A. §§Sections 20-2-690-1 et seq., 49-5-8, 49-5-12.

Rule 290-2-5-.13 ~~Repealed~~ Qualified Residential Treatment Program

- (1) Qualified Residential Treatment Programs. Qualified residential treatment programs must meet all rule requirements for licensing as a child-caring institution in addition to all requirements in Rule .13.
- (2) A qualified residential treatment program shall meet the requirements set forth below:
 - (a) Designation Requirements. The Institution shall be designated as a child-caring institution licensed by the Department of Human Services Residential Child Care Licensing.
 - (b) The Institution shall be accredited by any of the following independent, not-for-profit organizations and maintain such accreditation:
 1. The Commission on Accreditation of Rehabilitation Facilities (CARF);
 2. The Joint Commission on Accreditation of Healthcare Organizations (JCAHO);
 3. The Council on Accreditation (COA); or
 4. Any other independent, not-for-profit accrediting organization approved by the Secretary of Health and Human Services.
 - (c) The Institution shall have a trauma-informed treatment model designed to address the needs of children in the program. The treatment model shall be approved by the Department's Division of Family and Children Services.
 - (d) The Institution shall be equipped to meet the clinical needs, as appropriate, of children with serious emotional or behavioral disorders or disturbances, as appropriate for the Institution's residential treatment license.
 - (e) The Institution shall be equipped to implement the necessary treatment for a child that is identified by an assessment to determine appropriateness of placement in the program.
 - (f) The Institution shall have registered or licensed nursing staff and other licensed clinical staff who:
 1. Provide care within the scope of their practice as allowed by applicable law or a professional certification or license;

2. Are onsite according to the qualified residential treatment program treatment model; and
 3. Are available twenty-four (24) hours a day and seven (7) days a week.
- (3) Admissions. An Institution shall document an initial qualified residential treatment program assessment made by a qualified individual that determines the appropriateness of placement of a child in a qualified residential treatment program. The initial qualified residential treatment program assessment shall be completed prior to the child's placement in a qualified residential treatment program, but no later than 30 days following the start of such placement.
- (4) Family Engagement Plan. An Institution shall:
 - (a) To the extent appropriate, and in accordance with the child's best interests, facilitate participation of family members in the child's treatment program;
 - (b) Facilitate outreach to the family members of the child, including siblings; document how the outreach is made, including contact information, and maintain contact information for any known biological family and fictive kin of the child; and
 - (c) Document how family members are integrated into the treatment process for the child, including post-discharge, and how sibling connections are maintained.
- (5) An Institution shall provide discharge planning and family-based aftercare support for at least six months post-discharge.
- (6) Application. An application for the issuance of an initial license to operate a qualified residential treatment program shall be made in writing on forms provided by the Department, signed by the person seeking authority to operate the Institution and include at least the following information:
 - (a) Verification of accreditation, in accordance with Rule .13(2)b;
 - (b) Documentation of policies and procedures regarding the approved trauma informed care model;
 - (c) A written statement that the Institution has access to nursing staff and clinical staff, in accordance with Rule.13(2)f;
 - (d) Documentation of policies and procedures regarding family engagement; and

- (e) Documentation of policies and procedures regarding the discharge plan and family-based aftercare support.
- (7) The Department may conduct site visits, a review of records, and interviews with staff and residents as part of a review and assessment of application materials and compliance with applicable licensing rules and regulations.
- (8) Upon receipt of all application documents and information, the Department shall review and determine if all requirements are met for designation as a qualified residential treatment program.
- (9) The Department may request additional supporting documentation or information to demonstrate compliance with licensing requirements for child-caring institutions along with requirements for designation as a qualified residential treatment program.

Authority: O.C.G.A. §§Sections 49-5-8, 49-5-12, 15-11-2, 15-11-201, 15-11-219, 15-11-220, 15-11-231.

Rule 290-2-5-.14 Behavior Management and Emergency Safety Interventions

(1) Behavior Management.

- (a) Every ~~i~~institution shall develop and implement policies and procedures on behavior management. Such policies and procedures shall set forth ~~the types of children served and room, board and watchful oversight capacities in accordance with its program purpose,~~ the anticipated behavioral problems of the children, and acceptable methods of managing such problems.
- (b) Such ~~B~~behavior management policies and procedures shall incorporate the following minimum requirements:
1. Behavior management principles and techniques shall be used in accordance with the individual service plan and written policies and procedures governing service expectations, service plan goals, safety, security, and these rules and regulations.
 2. Behavior management shall be limited to the least restrictive appropriate method, as described in the child's service plan pursuant to Rule .10(b)6- and in accordance with the prohibitions as specified in these rules and regulations.
- (c) The following forms of behavior management shall not be used:
1. Assignment of excessive or unreasonable work tasks;
 2. Denial of meals and hydration;
 3. Denial of sleep;
 4. Denial of shelter, clothing, or essential personal needs;
 5. Denial of essential program services;
 6. Verbal abuse, ridicule, or humiliation;
 7. Chemical restraint, manual holds, and seclusion used as a means of coercion, discipline, convenience, or retaliation;
 8. Denial of communication and visits unless restricted in accordance with Rule .10(b)7-;
 9. Corporal punishment; and
 10. Seclusion not used appropriately as an emergency safety intervention.
- (d) Residents shall not be permitted to participate in the behavior management of other residents or to discipline other residents, ~~;~~ **except as**

~~part of an organized therapeutic self-governing program in accordance with accepted standards of practice that is conducted in accordance with written policy and is supervised directly by designated staff. A parenting resident may participate in the behavior management of his or her own child under staff supervision and in accordance with the parenting resident's individual service plan.~~

- (e) Institutions shall submit to the Department electronically ~~or by facsimile~~ a report within 24 hours whenever an unusual incident occurs regarding behavior management, including any injury ~~requiring medical treatment~~ that is received by a child as a result of any behavior management.
 - (f) All forms of behavior management used by ~~direct care staff~~ an employee or director shall also be documented in case records in order to ensure that such records reflect behavior management problems.
- (2) Emergency Safety Interventions.
- (a) Emergency safety interventions may be used only by staff trained in the proper use of such interventions when a child exhibits a dangerous behavior reasonably expected to lead to immediate physical harm to the child or others and less restrictive means of dealing with the injurious behavior have not proven successful or may subject the child or others to greater risk of injury.
 - (b) Emergency safety interventions shall not include the use of any physical or chemical restraint or manual hold that would potentially impair the child's ability to breathe or has been determined to be inappropriate for use on a particular child due to a ~~documented~~ medical or behavioral condition. Emergency safety interventions shall not be used on residents who are pregnant or who are younger than six (6) years old.
 - (c) The ~~i~~ Institution shall have and comply with written policies and procedures for the use of emergency safety interventions, a copy of which shall be provided to and discussed with each child and the child's parents and/or legal guardians prior to or at the time of admission. Emergency safety interventions policies and procedures shall include:
 - 1. Provisions for the documentation of assessments (which will include social, emotional, behavioral and room, board and watchful oversight needs) at admission and at each annual exam by the child's physician, a physician's assistant, a nurse practitioner or a registered nurse with advanced training working under the direction of a physician, or a public health clinic that states there are no medical issues that would be incompatible with the appropriate use of emergency safety interventions on that child. Such assessments

and documentation must be re-evaluated following any significant change in the child's medical condition; and

2. Provisions for the documentation of each use of an emergency safety intervention including:
 - (i) Date and description of the precipitating incident;
 - (ii) Description of the de-escalation techniques used prior to the emergency safety intervention, if applicable;
 - (iii) Environmental considerations;
 - (iv) Names of staff participating in the emergency safety intervention;
 - (v) Any witnesses to the precipitating incident and subsequent intervention;
 - (vi) Exact emergency safety intervention used;
 - (vii) Documentation of the 15 minute interval visual monitoring of a child in seclusion;
 - (viii) Beginning and ending time of the intervention;
 - (ix) Outcome of the intervention;
 - (x) Detailed description of any injury arising from the incident or intervention; and
 - (xi) Summary of any medical care provided.
3. Provisions for prohibiting manual hold use by any employee not trained in prevention and use of emergency safety interventions.
 - (d) Emergency safety interventions or the use of physical or chemical restraints may be used to prevent runaways only when the child presents an imminent threat of physical harm to self or others, or as specified in the individual service and room, board and watchful oversight plan.
 - (e) Facility staff shall be aware of each child's medical and behavioral conditions, as evidenced by written acknowledgement of such awareness, to ensure that the emergency safety intervention that is utilized does not pose any undue danger to the health and well-being of the child.
 - (f) Residents shall not be allowed to participate in the emergency safety intervention of another resident.
 - (g) Immediately following the conclusion of the emergency safety intervention and hourly thereafter for a period of at least four hours where the child is

with a staff member, the child's behavior will be assessed, monitored, and documented to ensure that the child does not appear to be exhibiting symptoms that would be associated with an injury.

- (h) At a minimum, the emergency safety intervention program that is utilized shall include the following:
1. Techniques for de-escalating problem behavior including child and staff debriefings;
 2. Appropriate use of emergency safety interventions;
 3. Recognizing aggressive behavior that may be related to a medical condition;
 4. Awareness of physiological impact of a restraint on the child;
 5. Recognizing signs and symptoms of positional and compression asphyxia and restraint associated cardiac arrest;
 6. Instructions as to how to monitor the breathing, verbal responsiveness, and motor control of a child who is the subject of an emergency safety intervention;
 7. Appropriate self-protection techniques;
 8. Policies and procedures relating to using manual holds, including the prohibition of any technique that would potentially impair a child's ability to breathe;
 9. ~~Agency-Facility~~ policies and reporting requirements;
 10. Alternatives to restraint;
 11. Avoiding power struggles;
 12. Escape and evasion techniques;
 13. Time limits for the use of restraint and seclusion;
 14. Process for obtaining approval for continual restraints and seclusion;
 15. Procedures to address problematic restraints;
 16. Documentation;
 17. Investigation of injuries and complaints;
 18. Monitoring physical signs of distress and obtaining medical assistance; and

19. Legal issues.

- (i) Emergency safety intervention training shall be in addition to the annual training required in Rule .08(6)(d)2- and shall be documented in the staff member's personnel record.
- (j) All actions taken that involve utilizing an emergency safety intervention shall be recorded in the child's case record showing the cause for the emergency safety intervention, the emergency safety intervention used, and, if needed, approval by the director, the staff member in charge of casework services, and the external physician and/or MRO provider who has responsibility for the diagnosis and treatment of the child's behavior.
- (k) Institutions shall submit to the Department electronically ~~or by facsimile~~ a report, in a format acceptable to the Department, within 24 hours whenever an unusual incident occurs regarding emergency safety interventions, including:
 - 1. Any injury ~~requiring medical treatment~~ that is received by a child as a result of any emergency safety intervention;
 - 2. Whenever an ~~i~~institution utilizes emergency safety interventions three or more times in one month with the same child and/or whenever the ~~i~~institution utilizes more than 10 emergency safety interventions for all children in care within a 30-day period.
- (l) ~~i~~Institutions shall submit a written report to the program's director on the use of any emergency safety intervention immediately after the conclusion of the intervention and shall further notify the child's parents or legal guardians regarding the use of the intervention. A copy of such report shall be maintained in the child's file.
- (m) At least once per quarter, the ~~i~~institution, utilizing a master agency restraint log and the child's case record, shall review the use of all emergency safety interventions for each child and staff member, including the type of intervention used and the length of time of each use, to determine whether there was an appropriate basis for the intervention, whether the use of the emergency safety intervention was warranted, whether any alternatives were considered or employed, the effectiveness of the intervention or alternative, and the need for additional training. Written documentation of all such reviews shall be maintained. Where the ~~i~~institution identifies opportunities for improvement as a result of such reviews or otherwise, the ~~i~~institution shall implement these changes through an effective quality improvement plan.
- (n) ~~No later than January 1, 2007 and ongoing thereafter, a~~All direct care staff~~child care workers~~ who may be involved in the use of emergency

safety interventions, shall have evidence of having satisfactorily completed a nationally recognized training program for emergency safety interventions to protect residents and others from injury, which has been approved by the ~~d~~Department and taught by an appropriately certified trainer in such program.

(o) Manual Holds.

1. Emergency safety interventions utilizing manual holds require at least one trained staff member to carry out the hold. Emergency safety interventions utilizing prone restraints require at least two trained staff members to carry out the hold.
2. Emergency safety interventions shall not include the use of any chemical or physical restraint or manual hold that would potentially impair the child's ability to breathe or has been determined to be inappropriate for use on a particular child due to a documented medical or behavioral condition.
3. When a manual hold is used upon any child whose primary mode of communication is sign language, the child shall be permitted to have his or her hands free from restraint for brief periods during the intervention, except when such freedom may result in physical harm to the child or others.
4. If the use of a manual hold exceeds 15 consecutive minutes, the facility director or his or her designee, who possesses at least the qualifications of the director and has been fully trained in the facility's emergency safety intervention plan, shall be contacted by a two-way communications device or in person and determine that the continuation of the manual hold is appropriate under the circumstances. Documentation of any consultations and outcomes shall be maintained for each application of a manual hold that exceeds 15 minutes. Manual holds shall not be permitted to continue if the restraint is determined to pose an undue risk to the child's health given the child's physical or mental condition.
5. A manual hold may not continue for more than 30 minutes at any one time without the consultation as specified in subparagraph (24) of this subparagraph, and under no circumstances may a manual hold be used for more than one hour total within a 24-hour period.
6. If the use of a manual hold on a child reaches a total of one hour within a 24-hour period, the staff shall reconsider alternative strategies, document same, and consider notifying the authorities

or transporting the child to a hospital or other appropriate facility for evaluation.

7. The child's breathing, verbal responsiveness, and motor control shall be continuously monitored during any manual hold. Written summaries of the monitoring by a trained staff member not currently directly involved in the manual hold shall be recorded every 15 minutes during the duration of the restraint. If only one trained staff member is involved in the restraint and no other staff member is available, written summaries of the monitoring of the manual hold shall be recorded as soon as is practicable, but no later than one hour after the conclusion of the restraint.

(p) Seclusion.

1. If used, seclusion procedures in excess of thirty (30) minutes must be approved by the director or designee. No child shall be placed in a seclusion room in excess of one (1) hour within any twenty-four (24) hour period without obtaining authorization for continuing such seclusion from the child's external physician and/or MRO provider and documenting such authorization in the child's record.
2. A seclusion room shall only be used if a child is in danger of harming himself or herself or others.
3. A child placed in a seclusion room shall be visually monitored at least every fifteen (15) minutes.
4. A room used for the purpose~~s~~ of seclusion must meet the following criteria:
 - (i) The room shall be constructed and used in such ways that the risk of harm to the child is minimized;
 - (ii) The room shall be equipped with a viewing window on the door so that staff can monitor the child;
 - (iii) The room shall be lighted and well-ventilated;
 - (iv) The room shall be a minimum fifty (50) square feet in area; and
 - (v) The room must be free of any item that may be used by the child to cause physical harm to himself/herself or others.
5. No more than one child shall be placed in the seclusion room at a time.

6. A seclusion room monitoring log shall be maintained and used to record the following information:
 - (i) Name of the secluded child;
 - (ii) Reason for child's seclusion;
 - (iii) Time of child's placement in the seclusion room;
 - (iv) Name and signature of the staff member that conducted visual monitoring;
 - (v) Signed observation notes; and
 - (vi) Time of the child's removal from the seclusion room.

Authority: O.C.G.A. §§Sections 49-5-8, 49-5-12.

Rule 290-2-5-.15 Grievances

- (1) The ~~i~~institution shall develop and implement policies and procedures for children to voice grievances and to submit written grievances without fear of retaliation.
- (2) All written grievances submitted by a child shall be recorded in the case record showing the grievance, description or method of explanation or resolution, and involved staff.

Authority: O.C.G.A. Sections 49-5-8, 49-5-12.

Rule 290-2-5-.16 Child Abuse and Sexual Exploitation

- (1) The ~~i~~stitution shall develop and implement policies and procedures that prohibit child abuse and sexual exploitation of children in care. Such policies and procedures shall incorporate requirements for the reporting of child abuse and sexual exploitation in accordance with state law.
- (2) All reports of alleged child abuse and sexual exploitation of children in care shall also be reported immediately to the Department's Residential Child Care Licensing ~~unit-Section of the department~~.
- (a) Such policies and procedures shall also include the following:
 1. Provisions for the immediate reporting by any staff member of any suspected incident of abuse or sexual exploitation of a child to the director of the ~~i~~stitution;
 2. Provisions for conducting internal investigations of such incidents (however, such provisions shall not relieve the ~~i~~stitution of the requirement to submit reports as required by ~~Rule .16 above this Rule~~);
 3. Provisions for preventing the recurrence of an alleged incident pending investigation;
 4. Provisions for evaluating the continued use, pending investigation, of any staff member alleged to be involved in a reported incident of abuse or sexual exploitation; and
- (b) As required in Rule .08(6)(d), all employees shall receive orientation and training on the ~~i~~stitution's abuse policies and procedures and reporting requirements.

Authority: ~~Authority~~ O.C.G.A. Sections- 19-7-5, 49-5-8, 49-5-12.

Rule 290-2-5-.17 Food Service

- (1) An institution shall provide each child with meals and snacks of serving sizes dependent upon the age of the child based upon nutrition guidelines as established by the United States Department of Agriculture Child and Adult Care Food Program.
 - (a) Meals and snacks shall be varied daily.
 - (b) Additional servingss of food shall be offered to children over and above the required daily minimum if not contraindicated by modified diets.
 - (c) Modified diets based on medical or religious reasons shall be served to children as needed. Modifications due to medical reasons shall be based on the written order of a physician and the order shall be placed in the child's case record.

- (2) An institution licensed to care for thirteen or more children must obtain a valid food service permit and remain in compliance with Department of Public Health food service requirements. ~~All Institutions licensed to care for twelve or less children are not required to obtain a food service permit but~~ shall meet the following requirements:
 - (a) Food shall be stored, prepared, and served in a safe and sanitary manner commensurate with generally accepted and recognized food service standards.
 - (b) Each institution shall have designated space for food preparation and storage areas separate from ~~rooms~~bathrooms, garbage storage areas, utility rooms, and bedrooms used by children.
 - (c) All perishable and potentially hazardous foods shall be refrigerated at a temperature of forty-five (45) degrees Fahrenheit or below and served promptly after cooking. Freezer temperature shall be maintained at zero (0) degrees Fahrenheit or below.
 - (d) Food shall be in sound condition, free from spoilage and contamination and shall be safe for human consumption.
 - (e) All raw fruits and vegetables shall be washed thoroughly before being cooked or served. Food not subject to further washing or cooking before serving shall be stored in such a manner as to be protected against contamination.
 - (f) Containers for food storage other than the original containers or packages in which the food was obtained shall be impervious and nonabsorbent and have tight fitting lids or covers.
 - (g) Eggs, pork, pork products, poultry, and fish, shall be thoroughly cooked.

- (h) Meats, poultry, fish, dairy products, bakery products and processed foods shall have been inspected under an official regulatory program.
- (i) Food service equipment and preparation areas shall be kept clean and free of accumulations of dust, dirt, food particles and grease deposits.
- (j) Non-disposable dishes, glasses and silverware shall be properly cleaned by pre-rinsing and scraping, washing, sanitizing and drying.

Authority: O.C.G.A. §§Sections 26-2-370 et seq., 49-5-8, 49-5-12.

Rule 290-2-5-.18 Physical Plant and Safety

An Institution shall maintain its buildings, grounds, furniture, and equipment in a clean, safe, and sanitary condition and in a good state of repair.

~~(1)~~(a) Required Approvals.

- ~~(a)~~1. An institution shall be in compliance with all applicable zoning laws, ordinances, or rules and regulations which apply to its operation.
- ~~(b)~~2. All water and sewage disposal systems, if other than approved city and county systems, shall be approved by the proper authorities having jurisdiction.
- ~~(c)~~3. An institution shall submit proof of compliance with applicable laws and regulations issued by the State Fire Marshal, the proper local fire marshal, or state inspector, including a certificate of occupancy if required. The premises of the institution shall have functioning fire extinguishers and smoke detectors.
- ~~(d)~~4. All buildings and grounds shall be constructed and maintained in accordance with these rules. Institutions that initially apply for a license or current licensees that plan to renovate buildings for housing residents shall submit building blueprints or similar schematic drawings or diagrams for review and approval by the eDepartment.

~~(2)~~(b) Sleeping Areas.

- ~~(a)~~1. The institution shall have separate sleeping areas which contain not less than 63 square feet of usable floor space per resident. Single bedrooms shall contain at least 75 square feet of usable floor space. Usable floor space does not include built-in closet space. The preceding requirements on usable floor space shall apply to any institution ~~licensed after the effective date of these rules and to any licensed institution~~ that renovates its current sleeping areas or increases its capacity by adding new buildings or areas to the institution. Beds shall be arranged to provide for at least three feet of space between the heads, foot, and sides of each bed. If bunk bed units are used, they shall be arranged to provide for at least five feet of space between the ends, foot and sides of each bunk bed unit. ~~Boys and girls~~Except for parenting youth sharing a sleeping area with their child(ren), boys and girls shall sleep in separate sleeping areas.
- ~~(b)~~2. Each child shall be provided with his or her own personal space and furnishings for storage of clothes and personal belongings.
- ~~(c)~~3. Children shall not co-sleep or bedshare. Each child shall be provided his or her own personal bed and mattress. Children six (6) years of age or older shall sleep on a mattress and bed that is no shorter than the child's

height and at least thirty inches wide. Children under the age of six (6) years shall sleep on a mattress and bed that is age, size, and developmentally appropriate. Clean sheets, pillows and pillow-cases, blankets or bed covering shall be provided and sheets and pillow-cases shall be changed or cleaned at least weekly. Water-proof mattresses shall be provided as needed or as required by the child's assessment and service plan.

~~(d)~~4. Bedrooms shall be provided with outside ventilation by means of windows, air conditioners, or mechanical ventilation.

~~(e)~~5. No staff member shall sleep in children's bedrooms. Separate sleeping quarters and lavatory for staff shall be provided in the living units.

6. Children shall not be required to sleep in areas of the premises that are not routinely used as or specifically designated as bedrooms, such as doorways, hallways, bathrooms, closets, crawl spaces, fire escapes, kitchens, communal living areas, etc.

~~(3)~~(c) Lavatory and Bathing Facilities.

~~(a)~~1. There shall be separate lavatory (water basin and toilet) and bathing facilities for boys and girls that shall be located near the sleeping areas. Such facilities shall not be used routinely by staff.

~~(b)~~2. There shall be at least one lavatory equipped with hot and cold water and mirror for every eight residents or fraction thereof. Rooms that contain more than one toilet shall contain stalls for individual privacy. Each lavatory shall be supplied with toilet paper and holders, and individual hand towels, or disposable towels, or mechanical hand drying equipment.

~~(c)~~3. There shall be at least one shower or bathtub with hot and cold water for every ten residents or fraction thereof. Bathtubs and shower stalls shall be equipped with nonslip surfaces.

~~(d)~~4. Lavatory areas shall be ventilated with either an open screened window or functioning exhaust fan.

~~(4)~~(d) Living Room. ~~For institutions licensed on or after the effective date of these rules, the~~An institution shall maintain a living room or den for the children residing in a living unit. Such space shall be equipped with comfortable furnishings suitable for relaxation and social interaction.

~~(5)~~(e) Dining Area. The institution shall maintain a dining area that is furnished to permit children, staff, and guests to eat together in a small group or groups.

- ~~(6)~~(f) Climate Control. The institution shall be maintained at a temperature range of sixty-five (65) degrees Fahrenheit to eighty-two (82) degrees Fahrenheit, depending upon the season of the year.
- ~~(7)~~(g) Ceilings and Walls. All ceilings shall be at least seven (7) feet in height. Ceiling and walls shall be of good repair.
- ~~(8)~~(h) Windows. ~~All windows that can be opened and that are used for ventilation shall have insect window screens. Windows and screens must be in good repair.~~ Windows which are accessible from the outside shall be lockable and easily opened from the inside. The manufacturer's designed functions of windows shall not be altered without the approval of the State Fire Marshal.
- ~~(9)~~(i) The institution shall be kept clean and free of hazards to health and safety and of debris and pests. Domestic and farm animals, owned or residing at the Institution, shall be inoculated against rabies as required by law.
- ~~(a)~~1. Any firearms or ammunition on the institution's premises shall not be allowed within any living units and shall be stored in locked cabinets or similar storage containers which are not accessible to children and which are in areas that are not accessible to children.
- ~~(b)~~2. An effective pest control system shall be implemented. Pesticides, disinfectants, chemicals, and cleaning supplies, with hazardous labels, shall be stored in designated areas away from children and if used by children, such use shall be supervised by staff.
- ~~(10)~~(j) Exterior Grounds. Exterior grounds of the institution shall be free of hazards to health and safety.
- ~~(a)~~1. Garbage which is stored outside shall be stored in covered containers and shall be emptied at least weekly. Garbage storage areas and containers shall be cleaned periodically to eliminate buildup of dirt and grime that attracts pests and rodents.
- ~~(b)~~2. Playgrounds and recreation areas used by children shall be kept clean and free from litter and hazards to health and safety.
- ~~(c)~~3. Swimming Pools. If an institution has a swimming pool on its grounds, such pool shall be enclosed with protective fencing and be free of contamination. A certified lifeguard shall be in attendance at all times that a swimming pool is in use by any resident.
- ~~(11)~~(k) Transportation.
- ~~(a)~~1. Vehicles used by an institution to transport children shall be insured and ~~shall~~ have a satisfactory annual safety inspection ~~of brakes, exhaust system, headlights, steering, stop lights, suspension, tail lights, tires, turn~~

~~signals, and windows and windshield wipers. Such~~ The inspection shall be documented on a ~~GDHR Annual Transportation Vehicle Safety Inspection Certification (Form 699) or its equivalent form provided by the Department and signed by a certified inspector or mechanic.~~

- ~~(b)~~2. When transporting children, an ~~i~~nstitution's vehicle shall only be operated by a staff member or an authorized resident who possesses a valid driver's license as required for the class of the vehicle operated. If an ~~i~~nstitution authorizes residents to drive, it shall establish and implement policies and procedures relative to the use of ~~agency~~Institution vehicles by such residents.
 - ~~(c)~~3. No vehicle shall be used to transport more children than the manufacturer's rated seating capacity for the vehicle.
 - ~~(d)~~4. All vehicles used to transport children shall be equipped with safety equipment as required by federal and state laws.
- ~~(12)~~(l) Accessibility. Where children are dependent upon a wheelchair or other mechanical device for mobility, the child-caring institution shall have:
- ~~(a)~~1. At least two exits from the child_caring institution, remote from each other that are accessible to the child and with easily negotiable ramps;
 - ~~(b)~~2. All doorways and hallways leading to exits, as well as bathrooms, must ~~accommodate~~be wheelchair accessible; and
 - ~~(c)~~3. The bathroom shall be sufficient to accommodate a wheelchair and a staff person ~~and~~with appropriate accessibility devices installed.
- ~~(13)~~(m)~~Children shall not be required to sleep in areas of the premises that are not routinely used as or specifically designated as bedrooms such as doorways, hallways, bathrooms, closets, crawl spaces, fire escapes, kitchens, communal living areas, etc.~~First Aid Supplies. Each living unit shall have a first aid kit and instruction manual; such kit shall contain scissors, tweezers, gauze pads, adhesive tape, thermometer, assorted band-aids, antiseptic cleaning solution, and bandages.

Authority: O.C.G.A. Sections. 40-8-76, 49-5-8, 49-5-12.

Rule 290-2-5-.19 Enforcement and Penalties

- (1) Plans of Correction. If the Department determines that either a child-caring institution or a facility applying to become licensed as a child-caring institution ~~does-is~~ not in compliance with ~~the~~ rules and regulations, the Department shall provide written notice specifying the rule(s) violated and setting a time for the institution, not to exceed ten (10) working days, ~~within which~~ to file an acceptable written plan of correction where the Department has determined that an opportunity to correct is permissible. If such plan of correction is determined not acceptable to the Department because it does not adequately correct the identified violation, the Department will advise the child-caring institution or facility applying to become licensed that the plan of correction is not acceptable. The Department may permit the institution to submit a revised plan of correction.
 - (a) The institution shall comply with an accepted plan of correction.
 - (b) Where the Department determines that either the child-caring institution or the facility applying to become licensed as a child-caring institution has not filed an acceptable plan of correction or has not complied with the accepted plan of correction, the Department may initiate an adverse action to enforce these rules.
- (2) All adverse actions to enforce the Rules and Regulations for Child-Caring Institutions shall be initiated in accordance with the Rules and Regulations for Enforcement of Licensing Requirements, Chapter 290-1-6, ~~and~~ O.C.G.A. §§ 49-5-12, ~~and~~ 49-5-12.1, ~~Penalties for Violation of Child Welfare Agency Laws and Regulations and~~ § 49-5-60 ~~et seq.~~, and the requirements set forth herein.
- (3) Required Notifications for Revocations and Suspensions. The institution shall notify each child's parents and/or legal guardians of the Department's actions to revoke the license or seek an emergency suspension of the institution's license to operate.
 - (a) The official notice of the revocation or emergency suspension action and any final resolution, together with the Department's complaint intake phone number and website address, shall be provided by the institution to each current and prospective child's parents and/or legal guardians.
 - (b) The institution shall ensure the posting of the official notice at the institution in an area that is visible to each child's parents and/or legal guardians.
 - (c) The institution shall ensure that the official notice continues to be visible to each child's parents and/or legal guardians throughout the pendency of the revocation and emergency suspension actions, including any appeals.

- (d) The ~~i~~institution shall have posted in an area that is readily visible to each child's parents and/or legal guardians any inspection reports that are prepared by the Department during the pendency of any revocation or emergency suspension action.
- (e) It shall be a violation of these rules for the ~~i~~institution to permit the removal or obliteration of any posted notices of revocation, emergency suspension action, resolution, or inspection survey during the pendency of any revocation or emergency suspension action.
- (f) The Department may post an official notice of the revocation or emergency suspension action on its website or share the notice of the revocation or emergency suspension action and any information pertaining thereto with any other agencies that may have an interest in the welfare of the children in care at the ~~i~~institution.
- (g) The Department may suspend any requirements of these rules and the enforcement of any rules where the Governor of the State of Georgia has declared a public health emergency.

Authority: ~~Authority~~ O.C.G.A. Sections- 49-5-8, 49-5-12, 49-5-12.1, 49-5-60 et seq.

Rule 290-2-5-.20 Emergency Orders

- (1) In accordance with O.C.G.A. 49-5-90 *et seq.*, notwithstanding other remedies available to the **dD**epartment which may be pursued at the same time, the commissioner or his/her designee may issue emergency orders. Such orders may include the following:
 - (a) Emergency relocation of residents when it is determined that the residents are subject to an imminent and substantial danger.
 - (b) Emergency placement of a monitor or monitors in an **iI**nstitution upon a finding that the **dD**epartment's rules and regulations are being violated which threaten the health, safety, or welfare of children in care and when one or more of the following conditions are present:
 1. The **iI**nstitution is operating without a license; or
 2. The **dD**epartment has denied the application for the license or has initiated action to revoke the existing license; or
 3. Children are suspected of being subjected to injury or life-threatening situations or the health or safety of a child or children is in danger.
 - (c) Emergency prohibition of admissions to an **iI**nstitution when residents are in imminent and substantial danger and the **iI**nstitution has failed to correct a violation of rules and regulations within a reasonable time, as specified by the **dD**epartment. Such violation giving rise to the prohibition could jeopardize the health and safety of the residents if allowed to remain uncorrected or is a repeat violation over a twelve month period.
- (2) An emergency order shall contain the following:
 - (a) The scope of the order;
 - (b) The reasons for the issuance of the order;
 - (c) The effective date of the order if other than the date the order is issued;
 - (d) The person to whom questions regarding the order are to be addressed; and
 - (e) Notice of the right to a preliminary hearing.
- (3) Unless otherwise provided in the order, an emergency order shall become effective upon its service to the owner, the director, or any other agent, employee, or person in charge of the **iI**nstitution at the time of the service of the order.

- (4) Prior to issuing an emergency order, the commissioner or his/her designee may consult with persons knowledgeable in the field of child care and a representative of the institution to determine if there is a potential for greater adverse effects on children in care as a result of the emergency order.

Authority: O.C.G.A. §§Sections 49-5-8, 49-5-12, 49-5-90 et seq.

Rule 290-2-5-.21 Disaster Preparedness

The facility shall prepare for potential emergency situations that may affect the care of children by developing and complying with an effective disaster preparedness plan that identifies emergency situations and outlines an appropriate course of action. The plan must be reviewed annually and revised, as appropriate, including any related written agreements.

- (a) The disaster preparedness plan shall include at a minimum plans for the following emergency situations:
 - 1. Local and widespread weather emergencies or natural disasters, such as tornadoes, hurricanes, earthquakes, ice or snow storms, or floods;
 - 2. Manmade disasters such as acts of terrorism and hazardous materials spills;
 - 3. Unanticipated interruption of service of utilities, including water, gas, or electricity, either within the facility or within a local or widespread area;
 - 4. Loss of heat or air conditioning;
 - 5. Fire, explosion, or other physical damage to the facility; and
 - 6. Pandemics, infectious disease outbreaks and illnesses or other situations where the community's need for services may exceed the availability of beds and services regularly offered by the facility.
- (b) There shall be plans to ensure sufficient staffing and supplies to provide room, board and watchful oversight during the emergency situation.
- (c) There shall be plans for the emergency transport or relocation of all the facility children, should it be necessary, in vehicles appropriate to the children's needs. Additionally, there shall be written agreements with any facilities which have agreed to receive the facility's children in these situations.
- (d) The facility shall document participation of all areas of the facility in quarterly fire drills.
- (e) In addition to fire drills, the facility shall have its staff rehearse portions of the disaster preparedness plan, with a minimum of two rehearsals each calendar year either in response to an emergency or through planned drills, with coordination of the drills with the local Emergency Management Agency (EMA) whenever possible.
- (f) The plan shall include the notification to the ~~e~~D department of the emergency situation as required by these rules and notification of the lawful custodians of the children's whereabouts and condition.

- (g) The facility shall provide a copy of the internal disaster preparedness plan to the local Emergency Management Agency (EMA) and shall include the local EMA in development of the facility's plan for the management of external disasters.
- (h) The facility's disaster preparedness plan shall also include the following additional items in efforts to limit and contain health hazards to children, staff, and the general public due to pandemic or infectious disease outbreaks:
1. Contact information for sources of public health information and guidance (e.g. Centers for Disease Control (CDC), state/local public health authorities);^{7.1}
 2. Name and contact information of facility staff designated to provide updates to the Department, upon request, regarding the status of the outbreak or illness;^{7.1}
 3. Process in place for providing notice of the outbreak or illness and any other necessary updates to parents/guardians;^{7.1}
 4. Plan for immediate isolation of affected children and staff from unexposed children and staff;^{7.1}
 5. Plan for minimizing the risk of exposure to unexposed children or staff;^{7.1} and
 6. Plan for addressing business continuity and programmatic issues relevant to pandemic or infectious disease outbreaks.
- (i) The facility's disaster preparedness plan shall be made available to the ~~e~~D~~e~~partment for inspection upon request.
- (j) The ~~e~~D~~e~~partment may suspend any requirements of these rules and the enforcement of any rules where the Governor of the State of Georgia has declared a public health emergency.

Authority: O.C.G.A. §§Sections 49-5-8, 49-5-12, ~~49-5-90~~.

Rule 290-2-5-.22 Waivers and Variances

- (1) The **d**Department may, in its discretion, grant waivers and variances of specific rules upon application or petition being filed by an **i**nstitution.
- (2) The **d**Department may grant a variance or waiver to a rule when an **i**nstitution demonstrates that the purpose of the underlying statute upon which the rule is based can be or has been achieved by other specific means and that strict application of the rule would create a substantial hardship. For purposes of this rule, a substantial hardship means a significant, unique, and demonstrable economic, technological, legal, or other type hardship which impairs the ability to continue to function as a child-caring institution.
- (3) Variance and waiver applications submitted to the **d**Department shall include, but are not limited to the following:
 - (a) The rule from which a variance or waiver is requested;
 - (b) The type of action requested (i.e. granting of waiver or variance);
 - (c) Specific facts detailing substantial hardship which would justify the variance or waiver;
 - (d) Alternative standards which the requestor agrees to meet with a showing that alternative standards will provide adequate protection for health, safety, and welfare; and
 - (e) The reason why a variance or waiver would serve the purpose of any underlying law.
- (4) The **i**nstitution must implement and comply with any terms and conditions established by the **d**Department in order to operate under any waiver or variance granted.
- (5) Variances or waivers shall not be sought or authorized when the granting of a waiver or variance would be harmful to public health, safety, or welfare or contrary to state law provisions.

Authority: O.C.G.A. §§Sections 50-13-9.1, 49-5-8, 49-5-12.

Rule 290-2-5-.23 Severability

In the event that any rule, sentence, clause or phrase of any of these rules and regulations may be construed by any court of competent jurisdiction to be invalid, illegal, unconstitutional, or otherwise unenforceable, such determination or adjudication shall in no manner affect the remaining rules or portions thereof. The remaining rules or portions thereof shall remain in full force and effect, as if such rule or portions thereof so determined, declared or adjudged invalid or unconstitutional were not originally a part of these rules.

Authority: O.C.G.A. §§Sections 49-5-8, 49-5-12.