

290-2-2-.03 Definitions.

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

(a) "*" means that the rule after which the symbol appears must be complied with prior to the issuance of an initial license or commission and the acceptance of any children for care by the applicant for a license or commission.** *

(b) "***" means that the rule after which the symbol appears designates those rules, or parts thereof, that an after-school day care center must meet in lieu of compliance with all of the rules, in order to obtain a restricted day care center license to serve only school-age children.** *

(c) "Administrator" or "Director" or "Executive Officer" means the licensee or commission holder, or a person designated in writing by the licensee or commission holder, who is responsible for the daily on premises supervision, operation and maintenance of the center.** *

(d) "Adult" means any competent individual eighteen (18) years of age or older.** *

(e) "Chaperon" means any adult parent or other adult relative of a child enrolled in the center, who occasionally accompanies a group of children from the center on a field trip and assists the center's personnel in providing supervision of the children during the field trip. The chaperon must be under the direct supervision of center personnel at all times.** *

(f) "Child with special needs" means a child enrolled in the center who, due to a physical problem, mental health disorder, mental retardation or developmental disability, which is either permanent or temporary, requires some adaptation of the center's standard program of care or activities to accommodate the child's special needs. The special adaptations that the center agrees to provide must be in writing and the result of a mutual agreement between the center and the parents of the child with special needs. The agreement shall be made in connection with the child's enrollment or at the time that the special need becomes apparent to the center or the parents.** *

(g) "Commission" means the document issued by the department in lieu of a license upon request of the governing body which authorizes the governing body of a local church ministry, religious nonprofit school or nonprofit religious charitable organization to operate a day care center in compliance with these rules. The requirements to obtain a commission under these rules shall be identical in all respects to those for obtaining a license.** *

(h) "Commission holder" means the local church ministry, religious nonprofit school or nonprofit religious charitable organization which holds a commission from the department to operate a day care center at a particular location and which is responsible for the operation and maintenance of the day care center in accordance with these rules.** *

(i) "Correctable abuse, dereliction or deficiency" means any conduct of a licensee or commission holder which violates any of these rules wherein the department has determined that the rule violation is not the result of any of the following: flagrant and shocking intentional misconduct on the part of the licensee or commission holder or their employees, a reckless and serious disregard for the physical or mental health or the safety of a child in care whether or not a child sustains a physical injury; some causal

connection between the rule violated and the death or serious injury of a child in care; or, a willful disregard of a particular rule where the licensee or commission holder has previously been cited for noncompliance with the particular rule(s) and has failed to maintain the remedial action(s) set forth in a previous plan of correction.** *

(j) "Crime " means any felony; a violation of O.C.G.A. Sec. 16-5-23, relating to simple battery, when the victim is a minor; a violation of O.C.G.A. Sec. 16-21-1, relating to contributing to the delinquency of a minor; a violation of O.C.G.A. Sec. 16-6-1 *et seq.*, relating to sexual offenses, excluding the offenses of bigamy or marrying a bigamist; a violation of 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; or any other offenses committed in another jurisdiction which, if committed in this state, would be one of the enumerated crimes listed in this paragraph.** *

(k) "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; provided, however, that this division shall not apply to a violation of O.C.G.A. Sec. 16-13-1 *et seq.*, relating to controlled substances, or any other offense committed in another jurisdiction which, if it were committed in this state, would be a violation of O.C.G.A. Sec. 16-13-1 *et seq.* if such violation or offense constituted only simple possession; or** *

(iii) Adjudication or sentence was otherwise withheld or not entered on the charge; provided, however, that this division shall not apply to a violation of O.C.G.A. Sec. 16-13-1 *et seq.* relating to controlled substances, or any other offense committed in another jurisdiction which, if it were committed in this state, would be a violation of Chapter 13 of Title 16 if such violation or offense constituted only simple possession; or** *

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. Sec. 17-3-1 *et seq.*** *

(l) "Day Care Center" or "Center" means any place operated by a person, society, agency, corporation, institution or group wherein are received for pay for group care, for fewer than 24 hours per day without transfer of legal custody, 19 or more children under 18 years of age, and which is required to be licensed or commissioned by the department.** *

(m) "Department" means the Georgia Department of Human Resources.** *

(n) "Employee" means any person, other than a director, employed by a center to perform at any of the center's facilities any duties which involve personal contact between that person and any child being cared for at the facility and also includes any adult person who resides at the facility or who, with or without compensation, performs duties for the center which involve personal contact between that person and any child being cared for by the center.** *

(o) "Employment history" means a record of where a person has worked for the past ten (10) years.** *

(p) "Evening care" means care provided to children at a center between the hours of 7:00 p.m. and 12:00 midnight.** *

- (q) "Field trip" means an excursion or program activity with a specific destination away from the center. It does not include routine school or home pick-up and deliveries or transporting children to and from activities or events where the provider of the activities or the events assume responsibility for the children during the entirety of the event or activity, such as in dance classes or art lessons or regularly scheduled trips to the local public libraries.** *
- (r) "Fingerprint records check determination" means a satisfactory or unsatisfactory determination by the department based upon a records check comparison of Georgia Crime Information Center (GCIC) information with fingerprints and other information in a records check application.** *
- (s) "Group" means a specific number of children assigned to specific staff throughout the day. More than one group may occupy the same physical space.** *
- (t) "Infant" means any child who is under twelve (12) months of age or any child who is under eighteen (18) months of age and who is not yet walking.** *
- (u) "License" means the document issued by the department to authorize the licensee to whom it is issued to operate a center under these rules. The requirements to obtain a license under these rules shall be identical to those for a commission.** *
- (v) "Licensee" means the person, partnership, association, corporation or agency holding a license issued by the department to operate a day care center at a particular location and having responsibility for the operation and maintenance of the day care center in accordance with these rules.** *
- (w) "Nighttime care" means care provided to children at the center between the hours of 12:00 midnight and 6:00 a.m.** *
- (x) "Non-correctable deficiency" means an abuse, dereliction or violation of these rules which demonstrates any one the following: flagrant and shocking intentional misconduct by the licensee or commission holder or center staff where the licensee or commission holder knew or should have known of the staffs likelihood to commit such acts; an intentional or reckless disregard for the physical or mental health or the safety of a child in care which may or may not result in physical injury to the child by the licensee or commission holder or the center staff where the licensee or commission holder knew or should have known of the staff's likelihood to disregard; or some causal connection between the intentional violation of a rule and the death or major injury of a child in care; or an intentional disregard of a particular rule(s) which relates directly to the health and safety of a child in care where the licensee or commission holder has previously been cited for non-compliance with the particular rule(s) within the past twelve (12) months and has failed to sustain the remedial action(s) set forth in a previous plan of correction within that twelve-month period.** *
- (y) "Parent" means the parent(s) with lawful custody of the child or the legal guardian(s) of a child enrolled or in the process of being enrolled in a day care center.** *
- (z) "Preliminary records check application" means an application for a preliminary records check determination on forms provided by the department.** *
- (aa) "Preliminary records check determination" means a satisfactory or unsatisfactory determination by the 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.** *

(bb) "Personnel" or "Staff" means all persons including the administrator, all full or part-time employees and volunteers, who perform consistent services for the day care center and have direct or indirect contact with children at the center. Personnel does not include those relatives who function as chaperons on field trips occasionally nor does it include students in training for limited periods of time provided that these chaperons and students in training work under the direct supervision of center personnel at all times.** *

(cc) "Plan of correction" means a written plan prepared by the administrator submitted to and approved by the department which states the procedure(s), method(s) and time frame that will be used by the licensee or commission holder to correct the area(s) of non-compliance with these rules.** *

(dd) "Qualified or qualifications" means that a person possesses, in addition to the other requirements set forth in these rules, certain minimum personal and health requirements necessary to administer or be employed in a day care center. A person may be considered by the department to be qualified with respect to the minimum personal and health criteria when he or she: has no criminal record; is not suffering from a physical or mental condition which would interfere with the person's ability to perform adequately the job duties of providing for the care and supervision of the children enrolled in the center in accordance with these rules; has not made any material false statements relating to any licensure requirement to the department or the licensee or commission holder and has not been shown by credible evidence, e.g. a finding of fact made by a court, jury or department investigation or other reliable evidence, to have abused, neglected, or deprived a child or adult or to have subjected any person to serious injury as a result of intentional or grossly negligent misconduct.** *

(ee) "Qualifying experience" means verifiable experience working directly with children.** *

(ff) "Satisfactory determination" means a written determination that a person for whom a records check was performed was found to have no criminal record.** *

(gg) "School-age children" means children who are at least five (5) years old by the first of September of the current school year and who are eligible to attend public school.** *

(hh) "School-age day care center" means a day care center, or part thereof with separate physical facilities and a separate license, which provides day-time care exclusively to school-age children before and/or after the normal school day. Such programs may operate a full-day program solely for the school-age children enrolled in the program during the regular school year during those periods when school is not in session. A school-age day care center which only serves school-age children shall be eligible to receive a restricted day care license and must meet only the rules after which the symbol, "***", appears.** *

(ii) "Students in training" means students enrolled in an educational course of study which requires or permits them to observe and participate in the care of children at a day care center during a limited period of time, i.e. one (1) quarter, one (1) trimester or (1) semester, provided that they are under the direct supervision of center personnel at all times.** *

(jj) "Substitute" means a person who is routinely used to replace regular personnel and performs consistent services for the day care center during the temporary or emergency absence of regular personnel and who has a satisfactory criminal records check determination and has received orientation training. If any substitutes serve in any one (1)

position longer than six (6) months, the substitutes so employed must meet all staffing requirements for that position.** *

(kk) "Supervision" means that the appropriate numbers of staff members are physically present in the area where children are being cared for and are providing watchful oversight to the children, chaperons and students in training. The persons supervising in the child care area must be alert, able to respond promptly to the needs and actions of the children being supervised, as well as the actions of the chaperons and students in training, and providing timely attention to the children's actions and needs.** *

(ll) "Unsatisfactory determination" means a written determination that a person for whom a records check was performed has a criminal record.** *

Authority O.C.G.A. Secs. 49-5-3, 49-5-8, 49-5-12, 49-5-60. **History.** Original Rule entitled "Records" adopted. F. Jan. 30, 1974; eff. Feb. 19, 1974. **Repealed:** New Rule entitled "Board Sponsored Centers" adopted. F. Oct. 1, 1974; eff. Oct. 21, 1974. **Repealed:** New Rule entitled "Organization and Administration" adopted. F. Feb. 21, 1983; eff. Mar. 23, 1983, as specified by the Agency. **Repealed:** New Rule entitled "Definitions" adopted. F. Jan. 18, 1991; eff. Mar. 1, 1991, as specified by the Agency.