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Graeff, Melissa

From: Jen DeBell <jdebell@pennaeyc.org>
Sent: Sunday, November 11, 2018 2:51 PM
To: Morris, Suzann; PW, CC Reg Changes
Cc: Grimm-Thomas, Karen; Vasquez, Tanya; Jodi Askins; Rose Snyder
Subject: PennAEYC comments on proposed certification regulations
Attachments: Child Care Certification Regulations - PennAEYC Letter and Comments - Final 11-11-18.pdf

Hi Suzann and Tamula -

Thank you for the opportunity to comment on the proposed certification regulations. Attached please find our cover letter and comments.

Take care,
Jen

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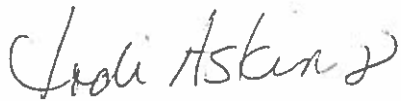
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We have provided our specific comments on the regulations in the chart attached to this letter. Know that we support the vast majority of the proposed changes, as they will improve child health and safety. However, there are some areas in which we request longer implementation periods or in which we make additional recommendations for consideration.

Thank you again for the opportunity to comment and your commitment to the children and families in Pennsylvania.

Sincerely,

A handwritten signature in cursive script that reads "Jodi Askins".

Jodi Askins



Pennsylvania Association for the Education of Young Children

November 11, 2018

Ms. Suzann Morris
Deputy Secretary
Office of Child Development and Early Learning
333 Market Street, 6th Floor
Harrisburg, PA 17126

Ms. Tamula Ferguson
Bureau of Certification Services
Office of Child Development and Early Learning
333 Market Street, 6th Floor
Harrisburg, PA 17126

Dear Deputy Secretary Morris and Ms. Ferguson:

On behalf of the Pennsylvania Association for the Education of Young Children (PennAEYC), I would like to thank you for the opportunity to comment on the child care facilities proposed rulemaking.

We applaud the Office of Child Development and Early Learning (OCDEL) and DHS leadership for your efforts to comply with the federal Child Care and Development Block Grant Act. As you know, reauthorization of the act resulted in a federal mandate to better protect the health and safety of children in care nationwide, as well as an emphasis on quality child care. Your efforts to reflect these changes – such as unannounced inspections, pre-certification inspections and one-time professional development – in the certification regulations are critical to protecting Pennsylvania's children in care and setting strong minimum standards for operation of child care centers, group child care homes and family child care homes in the commonwealth.

As a co-chair of Gov. Wolf's Ready to Start Task Force, I believe it is important to recognize that high-quality infant/toddler care improves cognitive, language, social and emotional development, early learning and school achievement and we are not doing enough to capitalize on the period of brain development that establishes the foundation for all future learning, behavior, and health. We are therefore appreciative that the proposed regulation "purpose" section refers several times to using inspections as an opportunity to talk about quality improvement with providers. We encourage DHS to consider actually requiring this in the regulatory language explicitly. PennAEYC also supports increasing the number of annual professional development hours to promote quality improvement.

In addition, we appreciate the proactive approach to complying with Act 40 of 2018, by changing references to "day care" to "child care" in the regulations. This terminology more accurately reflects the work early care and education programs and recognizes child care teachers as the professionals who promote positive child development.

Topic and Proposed Regulation	PennAEYC Comment
<p>Annual Unannounced Inspections</p> <p>3270.11(g), 3270.24(d)</p> <p>3280.11(h), 3280.23(d)</p> <p>3290.11(k), 3290.11(m)(2), 3290.21(d)</p>	<p>PennAEYC strongly supports the new federal requirement for annual, unannounced inspections and the inclusion of this provision in the regulation. Unannounced inspections provide a more accurate depiction of facility operations and the care provided to children than those which are planned. The National Association for the Education of Young Children (NAEYC) states the importance of an effective system of public regulation and monitoring to protect children's health and safety in early education settings in its position statement on licensing and public regulation of early childhood programs, including unannounced inspections (1997). Research has also demonstrated unannounced visits are especially effective when targeted to providers who have a history of poor compliance with state rules (Fiene 1996).</p> <p>The "purpose" section of the proposed regulation notes that the Department of Human Services (DHS) will use the inspection to offer technical assistance on how to meet regulatory requirements and provide quality child care services, including information on Keystone STARS. However, this language does not appear in the regulation. We recommend DHS consider adding such a provision to the actual regulations. While the regulations are the floor for operation, it is important for DHS to use opportunities with providers to promote increased program quality.</p>
<p>Certification of Family Child Care Homes</p> <p>3290.2, 3290.3(d), 3290.4 various definitions, 3290.11(c) and all changes of "registration" to "compliance" throughout Ch. 3290</p>	<p>While PennAEYC recognizes the proposed language is conforming to Act 92 of 2015, which required family child care homes to be certified, we note our support for this change. Prior to the law's passage family child care homes were not regularly inspected and requiring certification provides better protection for children.</p>
<p>Announced Pre-Certification Inspections</p> <p>3270.24(e)</p> <p>3280.23(e)</p> <p>3290.11(i) and (m)(1), 3290.21(e)</p>	<p>PennAEYC strongly supports the new federal requirement for pre-certification, announced inspections and the inclusion of this provision in the regulation. NAEYC recommended this requirement to ensure the health and safety of children as a facility opens (1997).</p> <p>The "purpose" section of the proposed regulation notes that DHS will ensure the applicant understands the responsibilities involved to meet regulation requirements, inform the applicant of any health or safety issues, alert the applicant to technical assistance and quality child care initiatives and alert the applicant of any information that they must report to DHS. However, this language does not appear in the regulation. We recommend DHS consider adding such a provision to the actual regulations. While the regulations are the floor for operation, it is important for DHS to use opportunities with providers to promote increased program quality.</p>

<p>One-Time Professional Development</p> <p>3270.11(c), 3270.31(f)</p> <p>3280.11(c), 3280.31(f)</p> <p>3290.11(e), 3290.31(g)</p>	<p>PennAEYC supports the federal requirement of one-time professional development and its inclusion in the regulation. The ten health and safety areas identified are critical as appropriate training will protect children from serious illness, injury or even death. We appreciate the inclusion of “pediatric CPR” specifically as this is an improvement on current regulatory requirements that do not specifically state training is needed for providing CPR to children.</p> <p>PennAEYC supports this provision’s application to new child care programs and current staff. The “purpose” section of the regulation notes professional development sessions that have been completed within two years prior to the date of publication of the final-form rulemaking will satisfy this requirement. However, this does not appear in the regulation itself. We recommend this language be added to the regulation. In addition, the one-time only implementation period of 180 days for current staff may not provide enough time for completion. DHS should consider a waiver for providers that need more time to comply. We recommend a waiver be allowed for a reasonable timeframe of one-year total if they are able to document reasoning for an extension and a plan to complete the training. We believe DHS’ intent to offer online options will assist with compliance in the 180-day timeframe.</p> <p>The importance of these trainings to the health and safety of the children in care outweighs the cost. However, we appreciate DHS noting programs will likely incur overtime costs or substitute staff costs in order to comply.</p>
<p>Emergency Plans</p> <p>3270.27(a)(5)(6) and (f)</p> <p>3280.26(a)(4)(5) and (f)</p> <p>3290.24(a)(5),(d) and (g)</p>	<p>PennAEYC supports the changes in this section which require drills annually and sharing a copy of the emergency plan with the local municipality. More importantly, PennAEYC supports the provision requiring specific accommodations for infants, toddler, children with disabilities and children with chronic medical conditions. It is important the most vulnerable children be considered in the emergency planning process as strategies for evacuation, staff to child ratio, etc. may need to change recognizing a child’s age and/or physical, developmental or mental health condition.</p> <p>PennAEYC also recommends requiring that an emergency plan include lock-down procedures. This requirement is needed to comply with the federal Child Care and Development Block Grant Act.</p>
<p>Increased Annual Professional Development</p> <p>3270.31(e)</p> <p>3280.31(e)</p> <p>3290.31(f)</p>	<p>PennAEYC strongly supports increasing the number of annual training hours from six to 12. We believe this requirement strengthens the minimum standards set for all child care staff, further promoting the importance of health and safety, as well as quality improvement. NAEYC’s position statement on professional development recommends 24 hours of training per year (1993), demonstrating the importance of continued education and the reasonableness of 12 hours.</p>

	<p>In the "purpose" section DHS notes the one-time only professional development can count towards the twelve hours for a new staff person in their first year of employment. However, this provision is not in the actual regulation. We recommend it be added.</p> <p>The importance of these trainings to the health and safety of the children in care outweighs the cost. However, we appreciate DHS noting programs will likely incur overtime costs or substitute staff costs in order to comply.</p> <p>Finally, in the "purpose" section DHS uses language regarding "providers that participate in the Keystone STARS quality initiative". Now that all regulated providers are part of Keystone STARS this should be reflected.</p>
<p>Updating Terminology – "Day Care" to "Child Care"</p> <p>Throughout 3270, 3280 and 3290, as well as 3041.13</p>	<p>Working closely with Trying Together who led on this initiative, PennAEYC advocated for this change to be made in law, which was accomplished through Act 40 of 2018. We appreciate DHS including the updated language in the regulation now to comply, rather than waiting and proposing it separately. This terminology more accurately reflects the work of early care and education programs and recognizes child care teachers as professionals who promote the emotional, cognitive, communicative, perceptual-motor, physical and social development of the child.</p>
<p>Updated Clearance and Mandated Reporting Requirements</p> <p>3270.19(b)</p> <p>3280.11 (e), 3280.18(b)</p> <p>3290.11(h), 3290.16(b)</p>	<p>PennAEYC supports clarifying provisions related to mandatory reporting to comply with the Child Protective Services Law, as well as inclusion of clearance provisions for household members age 18 and older who reside in group child care or family child care homes.</p> <p>PennAEYC also recommends including two provisions in the regulations, which are required to comply with the federal Child Care and Development Block Grant Act related to clearances:</p> <ol style="list-style-type: none"> 1) Require all child care employees and household members age 18 and older in a family child care or group child care home who have not lived in Pennsylvania for the previous five years to obtain a child abuse clearance and criminal history clearance from each state where they resided in those previous five years. 2) Require prospective child care employees to present at least the DHS FBI clearance or the Pennsylvania State Police clearance prior to beginning employment. <p>These requirements will further protect children in care.</p>
<p>Pediatric CPR</p> <p>3270.33(d)</p> <p>3280.33(c)</p> <p>3290.32(d)</p>	<p>The one-time professional development requirement, which applies to all current and new staff, includes pediatric CPR. Updating the existing regulation noting one or more facility persons competent in CPR shall be at the facility when children are in care, to include pediatric CPR provides consistency in the regulation and is supported by PennAEYC.</p>

<p>Identification of Staff</p> <p>3270.34(c)</p> <p>3280.34(a)</p> <p>3290.31(a)(3)</p>	<p>PennAEYC supports the requirement for the program director, primary staff person or operator to present a photo ID at inspection. We believe this recommendation is in response to a specific instance where staff falsified their identity. This is an easy and smart protection to prevent fraud.</p>
<p>Definition of "relative" in Family Child Care Homes</p> <p>3290.4 Definitions</p>	<p>PennAEYC recognizes DHS is proposing to align the regulatory definition with the Human Services Code (62 P.S. §1001) definition. However, we ask DHS to consider if it is legally able to require staff:child ratios and space requirements to apply to unrelated and related children, as there is no limit on the maximum number of related children in care.</p>
<p>Family Child Care Supervision of Children</p> <p>3290.113(f)</p>	<p>The proposed regulation is requiring family child care providers to use a monitoring device with a video camera or other video or sight technological device to supervise a child if the operator is not able to directly see, hear, direct and assess the activity of a child. While PennAEYC agrees this provision will allow for supervision of children at all times there will be cost to providers. DHS notes a potential cost of \$125 per family child care home. We strongly encourage DHS to work with PennAEYC and our partners on developing a shared service opportunity to purchase monitors, with the aim of lowering the cost by buying in bulk.</p>
<p>Work Hour Limits in Family Child Care</p> <p>3290.113(g)</p>	<p>PennAEYC strongly supports limiting working hours to no more than 16 in a 24-hour day. This will ensure staff have time to sleep, providing a safer environment for the children in care.</p>
<p>Human Milk</p> <p>3270.166(7)</p> <p>3280.166(7)</p> <p>3290.166(7)</p>	<p>PennAEYC supports banning the use of microwaves to warm human milk. In the purpose section of the regulation, DHS cites the American Academy of Pediatrics (AAP) and other standards and notes using warm running water to heat the bottle is proper. DHS should consider stating that bottles should be warmed with running water or a bottle warmer, considering this is best practice.</p> <p>In addition, PennAEYC recommends including additional requirements regarding human milk – at minimum including its handling, storage, preparation and feeding methods. DHS should also consider training so that child care staff working with infants and toddlers are knowledgeable and supportive of all infant and toddler feeding styles and support breastfeeding mothers of children in care and their own staff. PennAEYC recommends consultation with the AAP, other child health organizations and breastfeeding organizations for the proper provisions to include.</p>
<p>Adding Foster Mother/Father to Definition of Parent</p> <p>3270.4 Definitions</p>	<p>PennAEYC supports this change which provides consistency with Act 75 of 2015 and recognizes a foster mother/father may be making child care decisions for a child. All children in foster care should have the same opportunities to participate in age-appropriate every day activities, as all other children.</p>

<p>3280.4 Definitions</p> <p>3290.4 Definitions</p>	
<p>Health Information</p> <p>3270.131(a)</p> <p>3280.131(a)</p> <p>3290.131(a)</p>	<p>PennAEYC supports requiring parents to provide an initial health report no later than 30 days following the first day of attendance. The requirement is currently 60 days and we believe shortening the time period will further protect children from exposure to contagious disease. In addition, the requirement provides an incentive for some families to ensure their children have a well-child visit.</p> <p>However, we recognize there could be circumstances in which families do not have a current health assessment and may struggle to get a doctor's appointment in the 30-day window. We recommend providing for an exception for families in these circumstances, allowing an additional 30 days only if the family has scheduled an appointment.</p>
<p>Lead Recommendations Paint and Water</p> <p>3270.69 and 3270.77</p> <p>3280.69 and 3238.77</p> <p>3290.67 and 3290.75</p>	<p>While the proposed regulation does not address these sections, PennAEYC wanted to raise lead exposure as a health and safety concern DHS should be examining and addressing. We recommend the following be considered:</p> <p>Include the following language in section 3290.75, which is currently found in 3270.77(d) and (f) and 3280.77(d) and (f), to bring existing regulations regarding lead paint in family child care homes in line with child care center and group child care home regulations:</p> <ul style="list-style-type: none"> • "Removal, clean-up and disposal of leaded paint dust and debris shall be accomplished in a manner that avoids dispersal of dust and debris into the environment." • "Dust and debris generated by removal shall be disposed of in accordance with applicable Federal, State and local regulations." <p>PennAEYC recommends that DHS consider adding language to 3270.77, 3280.77 and 3290.75 requiring facilities built prior to 1978 operating as a child care center, group child care home or family child care home to obtain a certification from a certified lead inspector stating their property is lead free/safe based on Environmental Protection Agency and/or Department of Environmental Protection (DEP) standards. The requirement should be part of the certification process to open a facility and existing providers could be given a reasonable number of years to comply in line with the timing of their certification renewal.</p> <p>PennAEYC recommends that DHS consider adding language to 3270.69, 3280.69 and 3290.67 requiring facilities operating as child care center, group child care home or family child care home to test for lead in their water supply. If lead is discovered a requirement to use an alternative water source should be required. DHS should consult with the DEP to determine appropriate action related to remediation given it may not be under the provider's control to fix the problem. DHS should also</p>

	<p>consult with DEP on the appropriate testing frequency and level which requires an alternative water source to be used. If lead is discovered it should be reported to OCDEL certification staff and parents should be notified with an explanation of the alternative water source being used to provide clear communication regarding child safety. It is our understanding that the following states/city require child care facilities to test water for lead and could be used as a guide for developing Pennsylvania regulations: California, Connecticut, Illinois, New Jersey, Rhode Island and Washington, and New York City.</p>
<p>Effective Date</p>	<p>PennAEYC recommends extending the effective date of the regulations, which is currently upon publication of the final-form regulations in the Pennsylvania Bulletin with a few exceptions. It is essential all current child care providers are aware of the final changes before there is an expectation of compliance. More time will allow DHS to communicate with the field and ensure there is an understanding of the new requirements.</p>
<p>Regulatory Analysis Form, Section 19</p>	<p>The cost analysis in this section uses the "Pennsylvania Occupational Wages Statewide" from the Center for Workforce Information and Analysis website as the source for wage data of impacted employees. However, the categories listed are from the education sector. Specifically, the occupation title of "childcare workers" is not included in the analysis. The ages included from the education sector are applicable to some employees working in child care programs offering state-funded Pre-K Counts, but not the majority. Therefore, PennAEYC believe the cost analysis is likely inaccurate.</p> <p>PennAEYC would be pleased to work with the administration and the General Assembly to promulgate policies and associated funding that ensures the child care workforce impacted by these regulations receives wage parity with the education sector wages cited in this analysis.</p>