19 CSR 30-60.050 Staffing Requirements. The department is adding new sections (5), (6), (7), (8), and (9).

PURPOSE: This amendment adds background screening language requirements to comply with 210.1080 RSMo.

EMERGENCY STATEMENT: The Child Care and Development Block Grant (CCDBG) Act of 2014 Section 658H, which passed November 19, 2014, requires states to conduct comprehensive criminal background checks. Individuals who are employed by a child care provider or whose activities involve the care or supervision of children for a child care provider or who have unsupervised access to children who are cared for or supervised by a child care provider must have a comprehensive background check. Congress, in its passage of the CCDBG Reauthorization, considered background checks as a part of ensuring minimum health and safety standards. The Administration for Children and Families (ACF), Office of Child Care (OCC) promulgated rules, effective September 30, 2016. The OCC rationale is that all parents regardless of whether they receive assistance from the Child Care Development Fund (CCDF) deserve the basic protection of knowing that the individuals caring for their children do not have prior behavior that could pose a risk to endangering the health and safety of their children. This provision applies to licensed and license-exempt child care facilities regulated by the Department of Health and Senior Services (DHSS), Section for Child Care Regulation (SCCR). States were required to meet the criminal background check requirement by September 30, 2017. Missouri was approved for a one year waiver, which expired September 30, 2018. After the one year waiver ends noncompliant states are subject to losing 5% of their total CCDF monies. Missouri may be at risk of losing $5.4 million in federal funding. As a result, the Missouri legislature enacted Section 210.1080 RSMo, as a part of HB 1350, 99th General Assembly, First Regular Session (2018), which authorizes the DHSS to promulgate emergency rules to implement criminal background checks for licensed and license-exempt child care providers as required by the CCDBG Reauthorization. This law requires criminal background checks for all child care staff members. National surveys have demonstrated that most parents logically assume their child care providers have had a background check, had training in child health and safety, and are regularly monitored (National Association of Child Care Resource and Referral Agencies, National Parent Polling Results, 2011). Prior to this law, the DHSS did not have authority to require criminal fingerprint checks for regulated child care programs. There are approximately 477 license-exempt child care programs in Missouri. Approximately 34% of license-exempt child care programs serve CCDF families. As a result, this emergency amendment is necessary to protect the safety and health of children in child care settings, and to implement criminal background checks as
required by the CCDBG Reauthorization. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Department of Health and Senior Services believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed February 15, 2019 becomes effective February 25, 2019, and expires August 23, 2019.

(1) Supervision and basic care shall be provided at all license-exempt facilities.

(A) Caregivers shall provide care conducive to the health and safety of children and shall be capable of handling emergencies;

(B) Caregivers and other personnel, including volunteers, shall not be under the influence of alcohol or illegal drugs while on the premises and shall not be impaired by the use of medications;

(C) Prior to starting work, all caregivers shall read the rules of this chapter and sign a statement that they have read the rules. The statements shall be maintained on file at the facility;

(D) No person shall be present during child care hours who is a threat to the health or safety of children; and

(E) A caregiver shall be in charge at all times child care is provided.

(2) Nursery schools not operated by religious organizations shall meet the following requirements for staff/child ratios:

(A) Staff/child ratios in subsections (2)(B)-(H) of this rule shall be maintained at all times;

(B) Groups composed of mixed ages birth through two (2) years shall have no less than one (1) adult caregiver to four (4) children;

(C) Groups composed solely of two (2)-year-old children shall have no less than one (1) adult caregiver to eight (8) children;

(D) Groups composed solely of three (3)- and four (4)-year-old children shall have no less than one (1) adult caregiver to ten (10) children;

(E) Groups composed solely of five (5)-year-old children and older shall have no less than one (1) adult caregiver to sixteen (16) children;

(F) Groups composed of mixed ages of children two (2) years of age and older shall have no less than one (1) adult caregiver to ten (10) children with a maximum of four (4) two- (2) year-olds. Groups composed of more than four (4)
two (2) year-old children in a mixed group shall have no less than one (1) adult caregiver to eight (8) children;

(G) If a facility has an attendance of more than fifty (50) children, the caregiver in charge shall not be included in staff/child ratios except during naptime; and

(H) Caregivers shall be eighteen (18) years of age or older in order to be counted in meeting staff/child ratios. Persons sixteen (16) and seventeen (17) years of age who assist with children may be counted in staff/child ratios only if they are physically supervised by an adult who is present with the children.

(3) Nursery schools not operated by religious organizations shall meet the following requirements for facility directors:

(A) The facility director shall be responsible for planning, monitoring and managing the daily program;

(B) Directors shall have a high school diploma or General Education Development (GED) certificate, and directors shall have at least thirty (30) college semester hours with six (6) college semester hours in child-related courses; or twelve months’ (12) experience with six (6) college semester hours in child-related courses; or a child development associate (CDA) credential; and

(C) All experience counted toward director qualifications shall be responsible, supervised, full-time (a minimum of thirty-five (35) hours per week) paid experience working with children in a child care setting. Part-time experience may be prorated to a full-time equivalent. Each month of full-time experience may be substituted for two (2) college semester hours in unspecified courses, but not for the required child-related courses.

(4) Nursery schools not operated by religious organizations shall meet the following requirements for child care-related training:

(A) The director and other caregivers counted in staff/child ratios shall obtain at least twelve (12) clock hours of child care-related training during each year of employment in training approved by the department in health, safety, nutrition, guidance and discipline, appropriate activities and learning experiences for children, positive communication and interaction with parents, planning and setting up an appropriate environment for children, professional and administrative practices, or other child-related areas; and

(B) All training shall be documented with the dates, the number of hours of training completed, the subject and the name of the person(s) who conducted the training. This information shall be on file at the facility and available for review.
(5) Nursery schools shall have on file qualifying background screening results for child care staff members in accordance with 19 CSR 30-63.020 General Requirements.

(6) Facilities operated by a religious organization and that receive federal funds for providing care for children shall have on file qualifying background screening results for child care staff members in accordance with 19 CSR 30-63.020 General Requirements.

(7) Child care staff members of nursery schools or facilities operated by a religious organization and that receive federal funds for providing care for children, with disqualifying background screening results are prohibited from being on the premises during child care hours in accordance with 19 CSR 30-63.020 General Requirements.

(8) Criminal background checks shall be completed every five (5) years for child care staff members of nursery schools and facilities operated by a religious organization and that receive federal funds for providing care for children in accordance with 19 CSR 30-63.020 General Requirements.

(9) Background screening information received by the provider shall be retained in the individual's file in a confidential manner and made available for review when requested by the department.
