



# Assessing the Potential of Local Governments to Impose Standards of Nutrition and Physical Activity for Child-Care Settings

March 20, 2014

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The legal information and assistance provided in this training does not constitute legal advice or legal representation.

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# The Public Health Law Center



# We do:

- Legal research
- Policy development
- Publications
- Trainings



# We don't:

- Direct representation
- Lobby

# Acknowledgements

A special thanks to: Kyle Buss, MPH, and Sarah Mann, JD

Also thanks to Lyndsey Guthrey, Hanna Kite and Spencer Peck







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# **Healthy Eating Research**

Building Evidence to Prevent Childhood Obesity



This project was funded by Healthy Eating Research grant #69299 from the Robert Wood Johnson Foundation.

# http://www.publichealthlawcenter.org/resources/healthy-child-care-highlighting-protocol

# Highlighting Protocol

Yellow — Definitions of Child Care	Orange – Licensing
<ul> <li>Child Care in General</li> </ul>	<ul> <li>Licensing and Inspection Authority</li> </ul>
<ul> <li>Types of Child Care</li> </ul>	<ul> <li>License Requirements/Standards</li> </ul>
Red-Exemptions	Purple – Local Authority
<ul> <li>Exemptions from Licensing in</li> </ul>	<ul> <li>Definitions of Local Authorities</li> </ul>
General	<ul> <li>Local Limitations/Minimum Standards</li> </ul>
	<ul> <li>Local Inspections/Reports/Notifications</li> </ul>
	<ul> <li>Local Zoning, Fire-Related, or Building</li> </ul>
	Code Provisions
Green-Nutrition Standards	Blue—Physical Activity Standards
<ul> <li>Food Content, Quality, and Quantity</li> </ul>	<ul> <li>Space and Equipment Requirements</li> </ul>
<ul> <li>Food Service, Operations, Programs</li> </ul>	<ul> <li>Activity standards and requirement</li> </ul>
and Training & Qualifications	<ul><li>"active play," "large muscle activity," etc.</li></ul>
Burgundy-Smoking/Tobacco	Pink- Breastfeeding
Use Restrictions	<ul> <li>Accommodating breastfeeding mothers</li> </ul>
Gray – Screen Time Parameters	Fuchsia — Overlapping Information
<ul> <li>Time, Age, Content Restrictions</li> </ul>	<ul> <li>Information that can be placed in multiple</li> </ul>
<ul> <li>Exceptions to Restrictions</li> </ul>	categories











# Healthy Child Care Highlighting Protocol

About the Healthy Child Care Project: The Public Health Law Center conducted a 50-state review of state laws relating to nutrition, physical activity, screen time, and other standards relating to promoting healthier child care settings, and to preliminarily assess the extent to which each state appears to allow local governments to regulate child care settings. This project was funded by Healthy Eating Research grant #69299 from the Robert Wood Johnson Foundation.

How we conducted the review: The review focused on state licensing statutes and regulations. The statutes were identified using Westlaw's 50 State Statutory Surveys relating to child care licensing requirements for facilities and providers. The statutes were downloaded from Westlaw between September 1, 2011 and October 14, 2011. Corresponding state regulations were downloaded from the National Resource Center for Health and Safety in Child Care and Early Education website (<a href="http://nrckids.org/STATES/states.htm">http://nrckids.org/STATES/states.htm</a>) during the same time period. It should be noted that several states have undated their statutes and regulations since that time.

We then developed a detailed coding process. Other child care researchers and advocates told us that a state-by-state compilation of healthy food and beverage policies, screen time limits, physical activity requirements, and similar requirements would be useful to support their work. Therefore, our coding process was designed to capture several key public health concepts.

### Highlighting Protocol

Yellow - Definitions of Child Care Child Care in General Types of Child Care	Licensing     Licensing and Inspection Authority     License Requirements/Standards
Exemptions from Licensing in General	Purple - Local Authority  Definitions of Local Authorities  Local Limitations/Minimum Standards  Local Inspections/Reports/Notifications  Local Zoning, Fire-Related, or Building Code Provisions
Green- Nutrition Standards  Food Content, Quality, and Quantity Food Service, Operations, Programs and Training & Qualifications	Blue Physical Activity Standards  Space and Equipment Requirements Activity standards and requirement  "active play," "farge muscle activity,"etc.
Burgundy Smoking Tobacco  Use Restrictions	Pink- Breastfeeding  • Accommodating breastfeeding mothers
Gray - Screen Time Parameters Time, Age, Content Restrictions Exceptions to Restrictions	Information that can be placed in multiple categories

### Light Blue-Activity

- ✓ Outdoor Time
- ✓ Physical Activity Standards and Requirements
  - Includes provisions referencing "active play," "vigorous play," "gross motor activity," "large muscle activities," and activities for "physical development," "physical well being," "large muscle development," and "promoting physical growth."
- ✓ Physical activity as it relates to infants
  - (ex. time spent in crib, going outdoors)
- ✓ Activity Plans Related to Physical Activity
- ✓ Training Requirements Related to Physical Activity
- ✓ Discipline Policy Related to Physical Activity
  - (ex. A child cannot be forced to do physical activity as a form of discipline.)
- ✓ Physical Activity: Other
- ✓ Voluntary Program Standards

### Gray-Screen Time

- ✓ Screen Time Restrictions
- ✓ Screen Time Age Restrictions
- ✓ Screen Time Content Restrictions
- ✓ Screen Time Exceptions to Restrictions
- ✓ Voluntary Program Standards

### Pink-Breastfeeding

- ✓ Accommodating breastfeeding mothers
- ✓ Handling breast milk
- ✓ Other information concerning breastfeeding
- ✓ Voluntary Program Standards

### Burgundy-Smoking/Tobacco Use

- ✓ Smoking/Tobacco Use Restrictions
- ✓ Voluntary Program Standards

### Pale Yellow—Playground Safety

- ✓ Outdoor Injury Prevention on Playgrounds
  - > Fences, Slides, Swings, Fall Zones, Fall Zone Material, etc...
- ✓ Playgrounds Inspections
- ✓ Do NOT include pools
- ✓ Do NOT include field trips
- ✓ Voluntary Program Standards

# http://www.publichealthlawcenter.org/resources/healthy-child-care



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### **Healthy Child Care**

Children who are obese are more likely to be obese as adults, and are at risk for developing serious, life-shortening chronic diseases, including cardiovascular disease, type-2 diabetes, and several types of cancer. The earlier children can learn healthy eating and physical activity habits, the better for their long-term health. Because most infants and young children regularly spend much of their time in non-parental child care, child care settings provide a unique and important opportunity to address the childhood obesity epidemic. Child care providers are well positioned to intervene and help decrease the risk of childhood obesity by cultivating environments that promote healthy eating and positive exercise habits at young ages.

Improving health through the power of law

Every state regulates the child care setting in some manner, although the depth and breadth of the regulations vary by state and by the type of care. Most states require a license for child care centers and family child care homes, but afterschool programs and informal care providers (such as family, friends and neighbors) are often exempted from these regulations. State regulations also establish baseline protections for the health and safety of children receiving non-parental care, and are important in establishing norms.

The Public Health Law Center has developed a 50-state analysis of child care licensing laws, including state statutes and licensing regulations. We have <u>highlighted</u> the laws in each state for easy review by advocates and policy makers. Please note: Many states have updated their statutes and regulations since our 2011 dataset collection. This project was funded by Healthy Eating Research grant #89299 from the Robert Wood Johnson Foundation. For more information on local authority to regulate the child care setting, click here.

### Click on your state below to find out more.

Alaska Child Care Laws
Alabama Child Care Laws
Arizona Child Care Laws
Arkansas Child Care Laws
California Child Care Laws
Colorado Child Care Laws
Connecticut Child Care Laws
Delaware Child Care Laws



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# Improving health through the power of law

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### South Carolina Child Care Laws

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We then developed a detailed coding process. Other child care researchers and advocates told us that a state-by-state compilation of healthy food and beverage policies, screen time limits, physical activity requirements, and similar requirements would be useful to support their work. Therefore, our coding process was designed to capture several key public health concepts. The highlighted content is limited to day care centers and family day care homes for children 0-5 years. For more information, please click here.

What we found for South Carolina: Attached are the highlighted regulations for child care centers and small family homes in South Carolina.

Family Day Care Homes

Child Care Centers

Group Child Care Homes

Registration of Centers Operated by Religious Entities

South Carolina Statutes and Regulations Chart

Local Authority in South Carolina: Could not be determined

For the highlighted statutes or more information on the project, please contact Natasha Frost at Natasha.frost@wmitchell.edu.

Please confirm that the regulations are the most recent version.

The Public Health Law Center provides information and technical assistance on issues related to public health. The Public Health Law Center does not provide legal representation or advice. This document should not be considered legal advice. For specific

# South Carolina: Family Day Care Home

DSS Regulation No. 114-528. A.(5) Parent. Biological or legal guardian of the child or individual or agency with physical or legal custody.

DSS Regulation No. 114-528. A.(6) Staff. Full-time and part-time administrative, program, service and volunteer personnel, including emergency persons.

DSS Regulation No. 114-528. A.(7) Supervision. Care provided to an individual child or group of children. Adequate supervision requires awareness of and responsibility for the ongoing activity of each child, knowledge of activity requirements and children's needs and accountability for their care. Adequate supervision also requires the operator and/or staff being near and having ready access to children in order to intervene when needed.

DSS Regulation No. 114-528. A.(8) Training. Participation during the calendar year in workshops, conferences, support groups, educational or provider associations, formal schooling, in-service training or planned learning opportunities provided by child day care operator, director, other staff, or consultants. Training must be in subject areas related to child care, child development, and/or early childhood education and nutrition. Training for operators may also be in areas related to day care program administration and must include alternatives to corporal punishment.

DSS Regulation No. 114-528. A.(9) Volunteer. An individual whose services are involved in the operation of the family day care home without compensation on a daily, weekly or monthly basis, including parents, students, student teachers and other persons all of whom are subject to compliance with the same applicable regulations as paid family day care home staff.

DSS Regulation No. 114-528. B. Procedures for Pre-Application Consultation and Original Registration.

DSS Regulation No. 114-528. B.(1) A potential operator of a family day care home may secure information about the registration or licensure process by contacting the State or local county Department of Social Services.

DSS Regulation No. 114-528. B.(2) The family day care home applicant shall have a working, listed telephone in the facility

# South Carolina: Child Care Center

- (e) Toilets and sinks shall be at heights accessible to the children using them or shall be equipped with safe and sturdy platforms or steps.
  - (f) Privacy shall be provided for toilets used by preschool and school age children.
- (g) Floor and wall surfaces in the toilet area shall have smooth, washable surfaces. Carpeting is not permitted in the toilet area.
- (h) Toilets, toilet seat a dapters, sinks and restrooms shall be cleaned at least daily and shall be in good repair.
  - Liquid or granular soap and disposable towels shall be provided at each sink.
  - Children shall not be left unattended in a bathtub or shower.
- (k) Easily cleanable receptacles shall be provided for waste material. Toilet rooms used by women shall be provided with at least one covered waste receptacle.
  - Bathroom facilities shall be completely enclosed.

### B. Outdoor space

- (1) The director shall provide at least seventy-five (75) square feet of outdoor play space; per child. Where outdoor space is insufficient at the center, the director and/or staff may take thirdner outdoors in shifts or utilize parks or other outdoor play areas, which meet safety requirements and which are excite accessible.
  - (2) The outdoor space shall be free from hazards and litter.
  - (3) Outdoor walkways shall be free from debris, leaves, ice, snow, and obstruction.
- (4) Children shall be restricted from unsafe areas and conditions such as traffic, parking areas, ditches, and steep slopes by a fence or natural barrier that is at least four feet high.
- C. Furniture, toys, and recreational equipment shall:
- Be clean and free from hazards such as broken or loose parts, rust or peeling paint, pinch or crush points, unstable bases, sharp edges, exposed bolts, and openings that could cause head or limb entrapment;
- (2) Meet the standards of the US Consumer Products Safety Commission (CPSC), if applicable. Recalled products listed by the CPSC shall not be accessible to children;
- (3) Be developmentally and size appropriate, accommodating the maximum number of children involved in an activity at any one time;
- (4) The sides of playpens shall remain latched as long as a child is using the playpen. If playpens are used they shall have waterproof, washable, comfortable pads;
  - All arts and crafts and play materials shall be nontoxic;
- (6) Outdoor recreational equipment shall be made of durable, non-rusting, non-poisonous materials, and shall be sturdy;
- (7) Stationary outdoor equipment shall be firmly anchored and shall not be placed on a concrete or asphalt surface. Cushioning material such as mats, wood chips or sand shall be used under climbers, slides, swings, and large pieces of equipment;
  - (8) Swings shall be located to minimize accidents and shall have soft and flexible seats;
  - (9) Cushioning material shall extend at least six (6) feet beyond the equipment and swings;
- (10) Slides shall have secure guards along both sides of the ladder and placed in a shaded ore:
- (11) Outdoor metal equipment shall be located in shaded areas or otherwise protected from the sun;
  - (12) Outdoor equipment shall be arranged so that children can be seen at all times;

# South Carolina: Group Home

- (3) Portable heat sources will be used according to the manufacturers' instructions and kept in good working order and out of the reach of children.
- I. Transportation

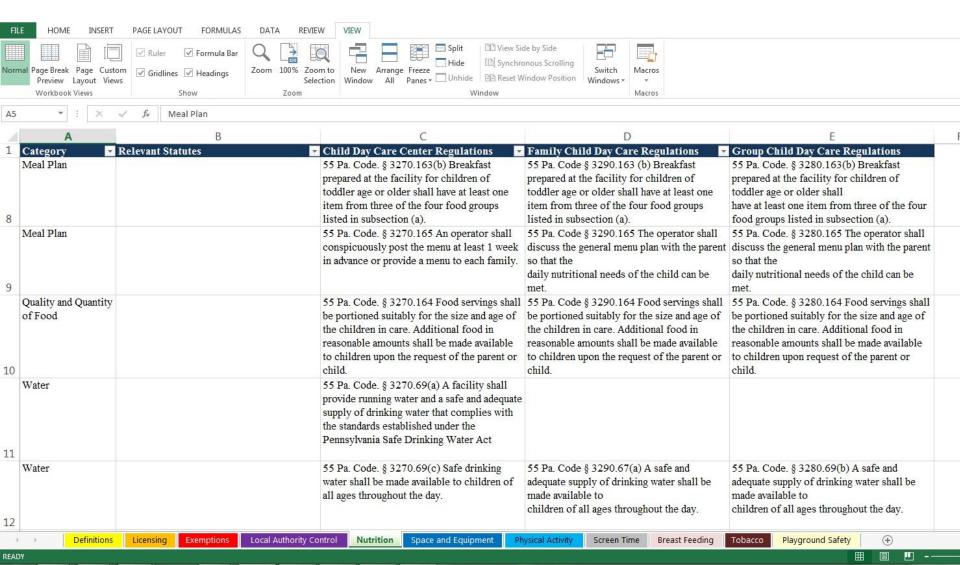
 If the operator provides or arranges for transportation, the following transportation requirement applies.

- (a) The staffing ratios specified in 114-514A(2) apply. The driver of the vehicle shall not be counted in the ratios:
  - (b) Transportation and placement of children shall be in accordance with state and federal laws;
  - (c) A child shall not be left unattended in a vehicle,
- (d) The driver shall have a valid regular or commercial driver's license and shall be in compliance with Section 20-7-2725 A(4) of the Code of Laws of 1976;
  - (e) Use of tobacco products is prohibited in the vehicle and
  - (f) Written consent from the parent is required prior to transportation.
  - (2) The following requirements apply for safe pick-up and drop-off:
- (a) The group child care home shall have safe crossways and designated pick-up and drop-off locations and communicate these locations to the parents; and
  - (b) Children shall be supervised during boarding and exiting vehicles.

### 114-516, PROGRAM.

- A. Program of activities
- (1) There shall be planned, daily program of activities for all children.
- (2) Activities shall be developmentally appropriate.
- (3) Staff shall plan and provide daily age-appropriate activities such as stories, music, art, cooking, living skills, puzzles, blocks, etc. in accordance with the child's developmental level.
  - (4) Children shall be provided daily indoor opportunities for freedom of movement.
- (5) Quiet areas with supervision shall be made available to children desiring to be alone or to work on homework.
- (6) Staff persons shall provide the opportunity for the children to ask questions and engage in conversations with others. Staff shall have frequent positive verbal communications with the children.
- (7) Age appropriate radio and television, VCR tapes, DVDs and other media shall be previewed by the operator and staff and used only as a supplement and enhancement to the daily program. No child shall be required to view these media programs.
- (8) All children, including infants and toddlen shall be given the opportunity for outdoor play, weather permitting.
- (9) Napping expectations and time periods shall be developmentally appropriate and meet the needs of the individual child.
- B. Discipline and behavior management
- (1) The group child care home's discipline policy shall outline methods of guidance appropriate to the ages of the children. Positive, non-violent, non-abusive methods for managing behavior shall be implemented.
- (2) All teacher/caregivers shall sign an agreement to implement the discipline and behavior management policy, with a statement that specifies no corporal punishment shall be used except when authorized in writing by the parent(s)/guardian(s); corporal punishment shall not exceed guidelines established in Section 20-7-490/2(a) of the Code of Laws of South Carolina, 1976 amended.
- (3) Emotional abuse is also prohibited, including but not limited to: profine, harsh, demeaning or humiliating language in the presence of children. Threatening, humiliating, ignoring, corrupting, terrorizing, or rejecting a child is prohibited.
  - (4) Withholding forcing or firestening to withhold or force food, sleen or to leting is prohibited

# South Carolina Statutes and Regulations Chart



Healthy Child Care and Local Control

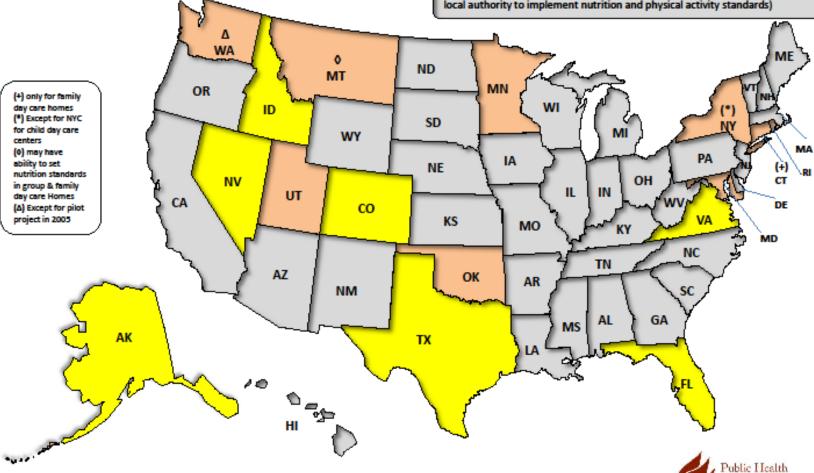
Potential local authority (local jurisdictions can implement nutrition and physical activity standards in some circumstances)

No local authority (state licensing laws expressly limit local authority to implement nutrition and physical activity standards)

Could not be determined (state licensing laws are silent or ambiguous as to local authority to implement nutrition and physical activity standards)

Law Center

ACMITTED AN IDENTIFICATION OF LINE



Financial support for this project was provided by Healthy Eating Research Grant #69299 from the Robert Wood Johnson Foundation. Last updated 2/24/14

# Local jurisdiction resources



# Using Local Authority to Create Healthier Child Care Settings:

## Chicago

Over the past 30 years, the obesity rate among children ages 2-19 years old has more than tripled in the United States.1 Contributing causes include advertising that promotes unhealthy foods, lack of easy access to healthy foods, increased portion sizes, and lack of opportunities to be physically active.2 Other factors, including sex, race, ethnicity, and socioeconomic status, place some groups of children at greater risk for obesity. For example, a national report noted that according to 2010 data, 14.4% of low-income children between the ages of two and five are obese, which is almost 20% higher than the national average of 12.1% for all children of similar age.3 Children in certain racial or ethnic groups have even higher rates of obesity compared to the national average-21.1% for American Indian and Alaskan Native children, and 17.6% for Latino children.4

Unhealthy weights come with significant health consequences. Children who are obese are more likely to be obese as adults, and are at risk for developing serious, life-shortening chronic diseases, including cardiovascular disease, type-2 diabetes, and several types of cancer. The earlier children can learn healthy eating and physical activity habits, the better for their long-term health.



The Public Health Law Center and the Child Care Law Center have created this series of fact sheets to highlight ways that local governments are enhancing and supporting child care providers' efforts to provide healthy environments for children to learn and grow. This fact sheet focuses on a resolution passed by the Chicago Board of Health which establishes standards for physical activity, mutrition, and screen time in child care centers designed to promote good health in young children. Chicago's approach offers a helpful model to inform similar efforts in other jurisdictions.



# Using Local Authority to Create Healthier Child Care Settings:

## New York City

Over the past 30 years, the obesity rate among children ages 2-19 years old has more than tripled in the United States.1 Contributing causes include advertising that promotes unhealthy foods, lack of easy access to healthy foods, increased portion sizes, and lack of opportunities to be physically active. Other factors, including sex, race, ethnicity, and socioeconomic status, place some groups of children at greater risk for obesity. For example, a national report noted that according to 2010 data, 14.4% of low-income children between the ages of two and five are obese, which is almost 20% higher than the national average of 12.1% for all children of similar age.3 Children in certain racial or ethnic groups have even higher rates of obesity compared to the national average-21.1% for American Indian and Alaskan Native children, and 17.6% for Latino children.4

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# Coming soon . . .





HEALTHY CHILD CARE

## Working With Child Care Providers

### To Promote Healthier Child Care Settings

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# Highlighting voluntary approaches

### Boston Healthy ChildCare Initiative

Learn how to make your childcare program healthier for children based on Michelle Obama's Let's Move Childcare guidelines!

The Boston Healthy Childcare Initiative helps childcare programs make policy and practice changes to reduce childhood overweight and obesity.

Providers will share strategies and resources that meet core competencies of the QRIS standards for Curriculum and Learning, and Safe, Healthy Indoor and Outdoor Environments.

Join us for a FREE two-part workshop to increase your knowledge and skills for transform-

a healthier environment for the children and families you

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nd light breakfast



Corps

The Child Care Health website offers health promotion and disease prevention information to child care facilities throughout Seattle and King County including health policies, immount iffor, child development and child behavioral issues.

### **Current interest**

- Recipes for Childcare Centers (PDF)
- The Importance of Physical Activity for School Age Children (training held on Sept. 21, 2013)
   Download the presentation from Patty Kimbrell, Physical Activity Consultant
- Learn how to obtain a food worker card and get trained on bloodborne pathogens and HIV/AIDS

### Main menu

- Healthy eating and physical activity
- Child care health education materials
   Training resources, newsletters, tip sheets and more.
- Model policies and forms for child care programs Policies, guidelines, posters, consent forms, etc.
- Communicable disease letters for families
   Template letters to notify families about a possible exposure to an infectious disease available in multiple languages. They advise staff and families on how to limit the spread of the child may attend child care if affected.

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This workshop is being offered <u>free</u> of charge to licensed child care programs in the City of Boston.

### Registration is required

Please contact Elisa Rodrigues at 617-419-3412 or ERodrigues&bphc.org

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Thomas M. Menino, Mayor

# Lessons learned

- Local authority research
- Sociological method for legal research
- Using existing databases
- Complexities of studying the law
- Making it relevant and useful
- Need for state-specific resources

# Coming in the future...



# Questions?

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