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Approved by:		

Interpretation

Question: Can a fence for children under 2 years of age be made up of a 48 inch-high top rail, a bottom rail 3½ inches off the ground, and vertical pickets spaced 3½ inches apart or would additional horizontal slats spaced 3½ inches apart be necessary to ensure that no openings are greater than 3½ inches?

Applicable To: Licensed Day Care Centers

Policy Citation: Section 407.390 Outdoor Play Area

- f) All play space shall be fenced or otherwise enclosed or protected from traffic and other hazards. Fences shall be at least 48 inches in height (for fences installed or replaced after January 1, 1998). Fences shall be constructed in such a way that children cannot exit without adult supervision. Corral-type fences and fences made of chicken wire shall not be used. Play areas for children under two years of age shall be enclosed so that the bottom edge is no more than 3½ inches above the ground and openings in the fence are no greater than 3½ inches.

(Source: Added at 22 Ill. Reg., effective January 1, 1998)

Discussion: The intent of Section 407.390 is twofold, to prevent entrapment and to keep children from exiting by climbing the fence. Vertical pickets spaced 3½ inches apart provide a space small enough to prevent entrapment and not readily climbed by children under two. While 3½ inch-spaced horizontal members placed squarely between the 3½ inch-spaced vertical pickets prevent entrapment, they provides a 5 inch diagonal space and a plane in which a child could easily get a toehold and climb the fence. Although Section 407.390 (f) prohibits fence openings greater than 3½ inches, the 44½ inch gap between the top and bottom rails inhibits climbing and poses no greater entrapment risk that the 3½ inch-square interweave design.

Response: A fence for children under 2 years of age may be constructed with a 48 inch-high top rail, a bottom rail 3½ inches off the ground, and vertical pickets spaced 3½ inches apart.