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| <b>ORP</b><br><b>Office</b><br><b>of Rules and</b><br><b>Procedures</b> | <b>Department of Children and Family Services</b>   |  |
|   | <b>Index No: 98-23</b>  | <b>Issuance Date: September 15, 1998</b> |
|   | <b>Origin of Request: Central Office of Licensing</b>   |  |
|   | <b>Distribution: Licensing Staff, Administrative Staff (A,L,P)</b>  |  |
|   | <b>Key Words: 89 IAC 407, Licensing Standards for Day Care Centers, New Ownership of an Existing Facility</b> |  |
|   | <b>Approved by:</b>   |  |

### Interpretation

**Applicable To:**        **Licensing Standards for Day Care Centers**

**Policy Citation:**    407.45: Definitions

"Permit", as used in this Part, means a one-time only document issued by the Department of Children and Family Services for a six-month period to allow the individual(s), agency, or organization to operate a day care center and to become eligible for a full license.

407.50(d)(3): A new application shall be filed:

- 3)        When there is a change of name, ownership or corporate status of the center.

407.50(b): The license shall not be transferred or transmitted to another person or other legal entity.

407.65(a)(11): A written plan which indicates how requirements for a license shall be met within the permit period has been submitted to the licensing authority.

407.390(b): The requirements for outdoor play areas shall be met immediately, except for equipment and protective surfaces installed by the center before the effective date of this Part, and shall fully comply with this Part no later than 36 months after the effective date. Fences around play areas which are newly installed or replaced after the effective date of this Part must comply with the requirements of this Section.

407.390(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

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(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 32 inches above the ground and openings in the fence are no greater than 32 inches.

407.390(I): Protective surfaces (wood mulch, bark mulch, wood chips, sand, gravel, rubber mats, etc.) shall be provided in areas where climbing, sliding, swinging or other equipment from which a child might fall is located.

- 1) The protective surface shall extend at least six feet beyond the perimeter of the equipment, except for swings.
  - A) For single-axis (traditional) swings, the protective surface shall extend both forward and backward a distance of at least two times the height measured from the supporting bar.
  - B) For tire swings which rotate, the protective surface shall extend six feet beyond the farthest reach of the tire in all directions.
- 2) The protective surface shall have a Critical Height value of at least the height of the highest accessible part of the equipment, unless rubber mats are used which have been manufactured specifically for this purpose and which comply with the requirements established by the Consumer Products Safety Commission or the American Society for Testing Materials. See Appendix H for Critical Height values.
- 3) The surface material shall be properly drained to prevent the growth of molds and bacteria.
- 4) When resilient materials become packed, they shall be raked and/or turned to restore resilience.

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**Question:** An existing preschool is being purchased by the current director of the facility. The fencing and ground covering do not comply with day care licensing standards. Can the day care center, under new ownership, receive a six month permit and be allowed to replace the fencing and ground covering within that six month time frame?

**Discussion:** Based on subsection 407.50(d)(3) of Licensing Standards for Day Care Centers, a new application shall be filed for change of ownership. Subsection 407.50(b) does not allow a current day care center owner to transfer the day care center license to another person or legal entity. Therefore, the new owner is considered a new applicant.

The new licensing applicant can submit a plan to the licensing authority indicating how the center will meet the licensing requirements for fencing and ground covering within the six month period of the permit. (see subsection 407.65(a)(11)). Provided that all other subsections of Section 407.65 are met, a permit can be issued.

**Response:** When the ownership of a day care center changes, a new application must be submitted by the new owner. The day care center is then eligible for a six month permit provided that all requirements are met in Section 407.65. The center can utilize that six month time frame to update the fencing and ground cover in order to be in full compliance with Rule 407, Licensing Standards for Day Care Centers.