



Department of Health and Mental Hygiene

Board of Health

**Notice of Public Hearing and Opportunity to Comment
on Proposed Amendments to Article 47 of the New York City Health Code**

What are we proposing? The Department of Health and Mental Hygiene is proposing that the Board of Health amend Article 47 (Child Care Services) of the New York City Health Code in order to improve supervision of children in these child care services.

When and where is the hearing? The Department will hold a public hearing on the proposed Health Code amendments from 10AM to 12PM on January 22, 2015 in the
Room 8-25
New York City Department of Health and Mental Hygiene
Gotham Center – 42-09 28th Street, 8th floor
Long Island City, NY 11101-4132

How do I comment on the proposed amendments to the Health Code? Anyone can comment on the proposed amendments by:

- **Website.** You can submit comments to the Department through the NYC rules Web site at <http://rules.cityofnewyork.us>
- **Email.** You can email written comments to resolutioncomments@health.nyc.gov
- **Mail.** You can mail written comments to
New York City Department of Health and Mental Hygiene
Gotham Center, 42-09 28th Street, CN 31
Long Island City, NY 11101-4132
- **Fax.** You can fax written comments to New York City Department of Health and Mental Hygiene at 347-396-6087
- **Speaking at the hearing.** Anyone who wants to comment on the proposed amendments at the public hearing must sign up to speak. You can sign up before the hearing by calling Svetlana Burdeynik at 347-396-6078. You can also sign up in the hearing room before or during the hearing on January 22, 2015. You can speak for up to five minutes.

Is there a deadline to submit written comments? Written comments must be received on or before 5:00 p.m. on January 22, 2015.

Do you need assistance to participate in the hearing? You must tell us if you need a reasonable accommodation of a disability at the Hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us by telephone at 347-396-6078. You must tell us by January 8, 2015.

Can I review the comments made on the proposed amendments? You can review the comments made online at <http://rules.cityofnewyork.us/> on the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. All written comments and a summary of the oral comments received by DOHMH will be made available to the public within a reasonable period of time by the DOHMH Office of the General Counsel.

What authorizes the Board of Health to make these amendments? Section 558 of the City Charter authorizes the Board of Health to adopt and amend the Health Code and to include in the Health Code all matters to which the authority of the Department extends. This proposed amendment was not included in the Department's regulatory agenda for this Fiscal Year because it was not contemplated when the Department published the agenda.

Where can I find the Health Code and the Department's rules? The Health Code and the rules of the Department of Health and Mental Hygiene are in title 24 of the Rules of the City of New York.

What rules govern the rulemaking process? The Board of Health must meet the requirements of §1043 of the City Charter when creating or changing the Health Code. This notice is made according to the requirements of City Charter §1043.

Statement of Basis and Purpose

Statutory Authority

These amendments to the New York City Health Code (the Health Code) are promulgated pursuant to §§558 and 1043 of the New York City Charter (the Charter). Sections 558(b) and (c) of the Charter empower the Board of Health (the Board) to amend the Health Code and to include in the Health Code all matters to which the authority of the New York City Department of Health and Mental Hygiene (the Department) extends. Section 1043 grants the Department rule-making authority.

Background

The Charter provides the Department with jurisdiction over all matters concerning health in the City of New York. The Department's Division of Environmental Health includes the Bureau of Child Care, which issues permits to non-residential based child care services in accordance with Article 47 of the Health Code, and which regulates school based programs for children aged 3-5 in accordance with Article 43 of the Health Code. Child care providers who provide child care services in homes or apartments are regulated by the State Office of Children and Family Services, and are not subject to either Article 43 or Article 47.

The Department is proposing that the Board amend multiple provisions of Article 47 of the Health Code in order to improve supervision of children in child care services regulated by Article 47.

Promoting accountability for children's whereabouts

The Department is proposing that the Board amend the Health Code to enhance child safety within child care services. The proposed amendments strengthen the requirements to account for a child's whereabouts at all times while in care, when children are transported to and from the

child care services or during off-site trips, and when children arrive and depart from the child care service. The Department has, on occasion, been notified by child care service permittees, the police, and parents that children have gone missing for a period of time during the child care day. These incidents may have occurred because a child exited the service unobserved by staff, was left on transportation vehicles, or was left in a playground or at another off-site trip location. Additionally, at least one child was discharged to an adult who did not have authority to take the child from the child care service. Though no child was harmed, these incidents are troubling and reflect a need for stronger procedures to monitor the whereabouts of children.

The Department has issued guidelines and provided training to assist child care services account for all of the children under their care at all times. When the Department learns that a child care service has been unable to account for a child for any period of time, the Department orders the service to cease operation. Only after the child care service demonstrates that it has determined why the incident happened and that it has instituted concrete measures to prevent it from happening again does the Department authorize it to reopen.

To help child care services implement systems designed to prevent these incidents, the Department is proposing to amend Article 47 of the Health Code. The amendments reflect best practices already in place at many child care services. They would be required at all establishments if approved.

- **Written safety plan:** Amend §47.11 to add procedural requirements that promote child safety in child care services, establish accountability so that child care services permittees know and can document where any child is at any given time, particularly when children arrive and leave the child care service, whether they are taken on trips offsite, on foot or by other means, or are leaving the service at the end of the day.
- **Criminal justice and child abuse screening:** Amend §47.19 to add screening with the State Registry for Child Abuse and Maltreatment (SCR) and for criminal history for personnel of child transportation services under contract to a child care service. The current provision requires screening for school bus drivers and all other staff employed by the permitted child care service, but not for personnel employed by transportation services operating under contract with a permittee. This provision would explicitly exclude from screening persons providing transportation arranged by parents.
- **Health; daily requirements; communicable diseases:** Amend §47.27(a), (c) and (d) to require that permittees maintain child attendance records and obtain earlier parental notifications of absences to promote greater accountability for children. This provision currently requires parents to contact permittees after their children are absent for three days in order to capture information about children who may have contracted certain communicable diseases. The Department is proposing that this be changed to require the parent to notify the child care service the same day when a child will not attend on a scheduled day to promote better accountability for children and more rapid investigation of children who fail to show up at the child care service and who may have been lost.
- **Indoor physical facilities:** Amend §47.41 to add new subdivisions (k) and (l) to require monitoring of entrances and exits and establishing other security measures. The Department has found that the majority of incidents demonstrating poor child accountability reported between 2008 to 2013 occurred when children wandered out of the child care service entrance door, alone or with another child and that child's parent, or

were left at an off-site location. In some cases, children left the child care service unaccompanied because they were able to open the front door by themselves, even though that door was closed. Locking a means of egress, however, is not permitted under the New York City Fire Code. In order to secure the door in a manner that prevents a child from exiting while also maintaining emergency access, the Department is proposing that the child care service be required to install a panic bar on all doors that lead to the outside. Panic bars allow adults to easily open a door but are too high or require too much force for young children. To allow time to comply this provision will become effective May 1, 2016.

- **Safety; general requirements:** Amend §47.57 to establish requirements for adults escorting children out of the child care service and for enhanced off-site trip supervision, since such trips present a substantive risk of children being left behind. From 2008 to 2013, incidents of inadequate child supervision occurred when children left child care services with adults who were not authorized by parents to take them out of the child care service or when children were left at playgrounds, parks or on other offsite trips. The Department proposes that the Board amend subdivision (h) of this section to require that permittees maintain information on all adults authorized by parents to take children out of a child care service and add a new subdivision (j) to require that the permittee appoint a staff member as a trip coordinator who will be responsible for assessing supervision needs, developing guidelines and procedures for when additional staff or volunteers should accompany children on off-site trips, and incorporate those procedures in the written safety plan. Trip coordinators would also be required to accompany children on offsite trips to improve accountability and lower the risk of leaving children unsupervised.
- **Transportation:** Amend §47.65 to clarify parental consent requirements and add new procedures for verifying children's attendance and identity during transportation. Several incidents of poor accountability have involved children who were left on a vehicle, dropped off at the wrong child care service or at a closed child care service, or simply left outside the child care service unsupervised.

Imminent or public health hazards

The Department is requesting that the Board amend the list of imminent or public health hazards in the definition in §47.01(k) to modify paragraph (10) to specify that use of a pillow by a child younger than two years of age is a public health hazard; and to delete paragraph (13), which addresses holding potentially hazardous foods out of temperature. Children can safely use pillows after age two. The amendment to §47.01(k)(10) is intended to update the current definition of a public health hazard to incorporate the prohibition of pillows in infants' sleep environments as required by the safe sleep practices of the National Resource Center for Health and Safety in Child Care and Early Education Guidelines for Early Care and Education Programs.¹ Additionally, the Department is proposing that the Board amend §47.55(b)(4) and (7) to allow pillows to be used by children two years of age or older and to require that when pillows are used they be stored with each child's other bedding. In addition, the Department is requesting that the Board delete paragraph (13) of §47.01(k), because requirements for holding food are addressed in more detail in Article 81, which is also applicable to child care services.

Medical records

Health Code §47.25(d) requires that permittees maintain a cumulative, comprehensive medical record for each child. Section 47.33 requires that permittees also maintain staff physical examination certificates and vaccination records. The Department is requesting that the Board amend these provisions to clarify that comprehensive medical records of children and staff must be kept on the premises and made available to the Department upon request. Frequently, Department Early Childhood Educational Consultants who are conducting inspections are told that these records are not immediately available for review.

Fire safety

Currently, Health Code §47.59(a) only requires that exit signs at child care services be clear and legible “when required by Department of Buildings.” New York City Building Code §BC-1011 requires that all facilities housing child care services (occupancy use group E) have exit signs that are illuminated internally or externally. Accordingly, the Department is requesting that the Board amend this section to reflect current Building Code requirements.

Nutrition and physical activity updates

The Department proposes that the Board of Health amend §47.61(b) of the Health Code to update requirements limiting children’s juice consumption and §47.71(a) and (d) to further restrict sedentary time and television viewing.

Dietary and lifestyle habits and preferences developed at a very early age can often persist and may have a profound impact on an individual’s health later in life. Among preschoolers enrolled in the Women, Infants and Children program in NYC in 2011, 14.5% of 3 year olds and 16.9% of 4 year olds were obese.² Obese children are more likely than normal-weight children to have risk factors for heart disease,³ type 2 diabetes,⁴ and many other disorders and conditions.⁵ Obese children are more likely to become obese adults,^{6,7} and obesity in adulthood is associated with serious diseases and conditions, and with higher rates of death.⁸ Consequently, it is important to optimize the nutritional quality of the food and beverage offerings in early childhood settings and employ practices that serve to cultivate healthy lifestyle habits. The amendment is intended to update the current requirements for juice, sedentary time and screen time based on current expert recommendations and the best available evidence.

- **Juice**

Currently Health Code §47.61(b) authorizes child care services to provide children over the age of eight months up to six fluid ounces of 100% juice per day. The proposed amendment will increase the age that 100% juice is permitted to 2 years of age, and reduce the amount of 100% juice that may be served to four ounces per day.

This amendment would make the Health Code provision consistent with current standards of the federal Child and Adult Care Food Program (CACFP), allowing four ounces of 100% juice per day for children ages 2 – 5 years old.⁹ Numerous health organizations including the United States Department of Agriculture (USDA)¹⁰, the Institute of Medicine (IOM)¹¹, the American Heart Association (AHA)¹² and the American Academy of Pediatrics (AAP)¹³ recommend limiting children’s intake of 100% juice. When consumed in moderation, 100% juice can be a healthy beverage; however, the USDA recommends that the majority of a child’s recommended fruit servings should come from whole fruit.¹⁴ Despite this recommendation, current data suggest that 100% juice overconsumption by young children is commonplace. Daily per capita caloric intake from 100% fruit juice is increasing among children, including toddlers, and children who

consume juice typically consume quantities that far exceed the cited recommendations.^{15,16} A 2002 study of the sources of energy among over 3,000 infants and toddlers demonstrated that 100% fruit juice was the second largest source of energy among toddlers ages 12-24 months and the fourth largest source of energy among infants 4 to 5 months old.¹⁷ Despite being offered 100% juice in small quantities, it is likely that children consume juice in multiple settings and at multiple occasions throughout the day, causing overall daily consumption to be above recommended levels. Water and low-fat milk are the healthiest beverages for children over 2 years of age.¹⁸

- **Television viewing**

Currently Health Code §47.71(d) prohibits screen time for children under 2 years of age and requires that screen time for children 2 years of age and older be restricted to 60 minutes per day of programming that is educational or actively engages children in movement. The proposed amendment would further limit the amount of screen time for children 2 years and older to no more than 30 minutes per week.

Research suggests that more than 80% of children ages 6 months to 6 years are exposed to some type of screen-based media on a typical day,¹⁹ and caregivers report that preschool age children spend 2 to 3 hours per day on screen time,^{20,21,22} which exceeds recommended levels of screen time exposure.²³ Surveys reveal that child care centers vary widely in the average amount of screen time provided, from small amounts or none at all^{24,25,26} to 1 or more hours per day.^{27,28} Studies have found that increased screen time exposure in early childhood is related to risk of obesity later in childhood^{29,30,31,32,33} and even into adulthood.^{34,35,36} In recognition that children are exposed to screen time in various settings throughout the day, the AAP, American Public Health Association (APHA), and National Resource Center for Health and Safety in Child Care and Early Education Guidelines for Early Care and Education Programs, the First Lady's Let's Move initiative, and the USDA Provider Handbook for the Child and Adult Care Food Program recommend that early care settings limit screen time to 30 minutes per week.^{37,38,39}

- **Sedentary time**

Currently Health Code §47.71(a) requires that children not be allowed to remain sedentary or to sit passively for more than 60 minutes continuously, except during scheduled rest or naptime. The proposed amendment would reduce the amount of sedentary time to no more than 30 minutes continuously except during scheduled rest or naptime.

In an effort to combat early childhood obesity, the IOM recommends that child care providers and early childhood educators implement activities for toddlers and preschoolers that limit passively sitting or standing to no more than 30 minutes at a time.⁴⁰ Limiting time spent on sedentary activities is important, as sedentary activities may take the place of time spent being physically active or otherwise actively engaged. Studies show that children spend a significant amount of time being sedentary in preschool and child care settings^{41,42,43} and that sedentary activities, such as television viewing, may be linked to increased BMI and adiposity in children.^{44,45}

The resolution is as follows.

Shall and must denote mandatory requirements and may be used interchangeably.

New text is underlined; deleted material is in [brackets].

RESOLVED, that paragraph (10) of subdivision (k) of §47.01 of Article 47 of the New York City Health Code, set forth in title 24 of the Rules of the City of New York, be amended, that paragraph (13) be deleted, and that paragraphs (14) through (18) be renumbered, to be printed with explanatory notes to read as follows:

§47.01 **Definitions.**

* * *

(10) Allowing pillows to be used for children younger than two years of age who are not disabled or when not recommended by a health care provider.

* * *

[(13) Holding potentially hazardous foods for periods longer than necessary for preparation or service at temperatures greater than 41°F or less than 140°F;]

[(14)] (13) Failing to exclude from work at the child care service a person with a communicable disease who is required to be excluded pursuant to Article 11 of this Code;

[(15)] (14) Failure to implement the child care service’s written safety plan resulting in a child not being protected from any unreasonable risk to his or her safety;

[(16)] (15) Conducting construction, demolition, painting, scraping, or any repairs other than emergency repairs while children are present in the child care service; failing to remove children from areas and rooms while such activities are in progress;

[(17)] (16) Failure to screen any person who has, or will have the potential for, unsupervised contact with children in accordance with §47.19 of this Article; or

[(18)] (17) Any other condition(s), violations, or combination of conditions or violations, deemed to be an imminent health hazard by the Commissioner or his or her designee.

Notes: Subdivision (k) was amended by Board of Health resolution adopted XXX amending paragraph (10) to apply only to children under two years of age; deleting paragraph (10) that defined out of temperature, potentially hazardous foods as a public health hazard; and renumbering the remaining paragraphs.

RESOLVED, that paragraph (6) of subdivision (b) of §47.11 of Article 47 of the New York City Health Code, set forth in title 24 of the Rules of the City of New York, is repealed and restated, to be printed with explanatory notes to read as follows:

§47.11 **Written safety plan.**

(6) General and activity specific safety and security: procedures for establishing and maintaining accountability for children and child supervision during all on and off-site activities; maintaining records of staff schedules and assignments, addressing at a minimum:

(A) Observing and recording children's daily attendance and the times children enter and leave the child care service, in accordance with §47.65 of the Code;

(B) Recreational and trip supervision and staffing for specific outdoor and off-site activities in accordance with §47.57 of the Code;

(C) Sleep and rest period supervision;

(D) Bathroom use supervision;

(E) Transportation supervision in accordance with §47.65 of the Code;

(F) Procedures for and staff assigned to (i) securing the facility from unauthorized entry and preventing children from leaving the facility unless they are escorted by authorized adults; (ii) observing and monitoring all entrances and exits at all times children are on premises; and (iii) periodic observation and monitoring of stairs, hallways, bathrooms and unoccupied spaces during child care service operation.

Notes: Paragraph (6) of subdivision (b) of §47.11 was repealed and restated by resolution adopted XXXX to incorporate additional requirements to the written safety plan. The restatement enhances facility security and improves child supervision by preventing unauthorized entry by strangers into child care services and unescorted children from exiting child care services.

RESOLVED, that the section title and subdivision (a) of §47.19 of Article 47 of the New York City Health Code, set forth in title 24 of the Rules of the City of New York, are amended, to be printed with explanatory notes to read as follows:

§47.19 Criminal justice and child abuse screening of current and prospective personnel; reports to the Department.

(a) *Applicability.* These requirements for child abuse and criminal justice screening shall apply to any person who has, will have, or has the potential for unsupervised contact with children in a child care service, and shall include, but not be limited to: individual owners, permittees, partners, members and shareholders of [small or membership] corporations, limited liability companies or other entities who are the owners or operators of the service; educational, administrative and maintenance employees; employees who are school bus drivers[;] or who are assigned to accompany children during transportation to and from the child care service; volunteers, including parent volunteers and student teachers, trainees or observers; and consultants and other

persons employed by persons, corporations, partnerships, associations or other entities providing services to the child care service. Employees of independent contractors providing maintenance, construction, transportation, food or other services to a child care service shall be screened in accordance with this section, or shall be prohibited from working in any area, vehicle or facility owned, occupied or used by the child care service unless such person is working under the direct supervision and within the line of sight of a screened employee of the child care service. These requirements shall not apply to persons authorized by parents to escort or transport children to and from child care services where the parents have privately arranged for such escort or transportation.

Notes: Subdivision (a) was amended by Board of Health resolution adopted XXX to clarify and broaden the applicability of screening requirements to any persons providing children's transportation services.

RESOLVED, that subdivision (d) of §47.25 of Article 47 of the New York City Health Code, set forth in title 24 of the Rules of the City of New York, is amended, to be printed with explanatory notes to read as follows:

§47.25 Health; children's examinations and immunizations.

(d) *Medical records to be maintained.* A permittee shall maintain an individual paper or electronic medical record file for each child[.]on the premises of the child care service and make the file available for review by the Department upon request. This file shall include:

Notes: Subdivision (d) of §47.25 was amended by Board of Health resolution adopted XXX to clarify that paper or electronic medical record files for each child must be maintained on the premises of the child care service and be made available to Department inspectors on request.

RESOLVED, that subdivision (a), paragraph (4) of subdivision (c) and subdivision (d) of §47.27 of Article 47 of the New York City Health Code, set forth in title 24 of the Rules of the City of New York, are amended, to be printed with explanatory notes to read as follows:

§47.27 Health; daily requirements; reports of absences; communicable diseases.

(a) *Daily attendance record.* A daily attendance record shall be kept in a form provided or approved by the Department. Daily entries must include at a minimum each child's name, arrival and departure time, and the printed name and signature of the person who escorts the child to or from the service.

* * *

(c) *Management of ill children and reporting.*

* * *

(4) When any child is unexpectedly absent from the child care service [for three consecutive days], the permittee shall [telephone] contact the child's parent within one hour of the child's scheduled time of arrival to determine the cause of the absence and shall maintain a record of the telephone call or other contact and the information obtained in the log required by §47.29 (d) of this Code.

(d) *Parent reports of absences.* [At the beginning of each school year, the permittee shall notify parents that they are required to report absences in accordance with this subdivision. Parents shall report to the permittee within 24 hours any absence for: chicken pox, conjunctivitis, diarrhea, diphtheria, food poisoning, hepatitis, haemophilus influenza type b infection, impetigo, measles, meningitis (all types), meningococcal disease, Methicillin resistant staphylococcus [aureau] aureus (MRSA), mumps, pertussis (whooping cough), poliomyelitis, rubella (German measles), salmonella, scarlet fever, tuberculosis, or any other disease or condition which may be a danger to the health of other children. Such disease or condition shall not include acquired immune deficiency syndrome (AIDS) or human immunodeficiency virus (HIV) infection.]

Permittees must notify parents when children are initially enrolled in the child care service that parents must report children's absences to the child care service as follows:

(1) Daily. Parents must notify the child care service prior to their child's scheduled arrival time, but no later than one hour after the scheduled arrival time, that a child will not be attending the child care service that day.

(2) Communicable diseases. Parents must report to the permittee within 24 hours of such absence of any absence for: chicken pox, conjunctivitis, diarrhea, diphtheria, food poisoning, hepatitis, haemophilus influenza type b infection, impetigo, measles, meningitis (all types), meningococcal disease, Methicillin resistant staphylococcus aureus (MRSA), mumps, pertussis (whooping cough), poliomyelitis, rubella (German measles), salmonella, scarlet fever, tuberculosis, or any other disease or condition which may be a danger to the health of other children. Such disease or condition shall not include acquired immune deficiency syndrome (AIDS) or human immunodeficiency virus (HIV) infection.

Notes: Paragraph (4) of subdivision (c) and subdivision (d) were amended by Board of Health resolution adopted XXX to require permittees to contact parents to verify unscheduled absences on the day they occur to enable child care services to improve their accountability for children

enrolled in a child care service and for parents to notify child care services of children's absences within 24 hours of such absences.

RESOLVED, that subdivision (b) of §47.33 of Article 47 of the New York City Health Code, set forth in title 24 of the Rules of the City of New York, is amended, to be printed with explanatory notes to read as follows:

§47.33 Health; staff.

(b) *Physical examination certificates.* No educational director, teacher, substitute, volunteer worker, office worker, kitchen worker, maintenance worker or other staff member who regularly associates with children shall be permitted to work in a service unless such person is healthy and capable of carrying out the responsibilities of the job. Prior to commencing work, all such staff and volunteers shall present a certificate from a licensed health care provider certifying that, on the basis of medical history and physical examination, such staff member or volunteer is physically and mentally able to perform assigned duties. Such certificate shall be submitted every two (2) years thereafter as a condition of employment. Certificates of required physical examinations and other medical or personal health information about staff shall be kept on file [at the place of employment,] on paper or electronically, on the premises of the child care service, and shall be kept confidential[,] and [shall be kept] separate from all other personnel or employment records and made available for review by the Department upon request.

Notes: Subdivision (b) of §47.33 was amended by Board of Health resolution adopted XXX to clarify that physical examination certificates and other staff medical information be kept on the premises of the child care service and be made available to Department inspectors for review on request.

RESOLVED, that §47.41 of Article 47 of the New York City Health Code, set forth in title 24 of the Rules of the City of New York, is amended by adding a new subdivision (k), to be printed with explanatory notes to read as follows:

§47.41 Indoor physical facilities.

(k) *Securing entrances and exits.*

(1) *Monitoring.* All interior entrances and exits of the child care service facility must be monitored and kept secure by individual staff, contractors, and/or electronic or other surveillance providing unobstructed views of entrances and exits at all times during operation of the child care service. Panic bars must be installed on all exterior doors of the child care service facility on or

before May 1, 2016. When used in this paragraph a “panic bar” means a door latching assembly incorporating a device that releases the latch upon the application of a force in the direction of egress travel.

(2) Entry access. All entrances providing access to the child care service must be secured with pass key identification or other means that effectively limit access to staff, parents and other authorized persons.

Notes: Subdivision (k) was added to § 47.41 by resolution adopted by the Board of Health at its XXX meeting to emphasize the permittee’s obligation to secure entry and exit from the child care service to prevent unauthorized entry to the service and prevent children from leaving the service without appropriate escorts.

RESOLVED, that subdivision (b) of §47.55 of Article 47 of the New York City Health Code, set forth in title 24 of the Rules of the City of New York, is amended to be printed with explanatory notes to read as follows:

§47.55 Equipment and furnishings.

(b) *Naps*

* * *

(4) Pillows shall not be used for children under two years of age except when recommended by a child's health care provider.

* * *

(7) Sheets, pillows and blankets shall be stored separately for each child to avoid cross-contamination, and sheets, pillow cases and blankets shall be washed at least weekly.

Notes: Subdivision (b) of §47.55 was amended by resolution of the Board of Health adopted at its XXX meeting to allow use of pillows by children over two years of age.

RESOLVED, that subdivision (h) of §47.55 of Article 47 of the New York City Health Code, set forth in title 24 of the Rules of the City of New York, be amended, and a new subdivision (j) be added to §47.55, to be printed with explanatory notes to read as follows:

§47.57 Safety; general requirements.

(h) *Adults restricted.* Adults allowed on the premises occupied by a child care service shall be limited to staff, parents and/or guardians and other authorized relatives and volunteers, student

teacher trainees or observers, credentialed Department and other public inspectors, and persons providing services to the center.

(1) Authorized escorts. The permittee must obtain and maintain for every child a list of the name, relationship to child, address and contact information of every person the parent has authorized to escort a child from the child care service. The permittee shall not release any child to any individual who has not been identified by the parent as a person who is authorized to escort a child out of the service.

(2) Notification to parents. The permittee must notify parents that the Health Code requires that no child is permitted to leave the child care service at any time with any person whose name is not on file at the child care service as an authorized escort. If any other person appears to escort a child out of the child care service, the permittee must immediately verify with the parent that the parent has authorized the escort before allowing the child to leave the child care service.

* * *

(j) Off-site field trips, visits and activities. In scheduling off-site trips or activities, in addition to the supervisory staff-to-child ratios required by §47.23 of this Article, the permittee must designate a staff person to serve as a trip coordinator. The trip coordinator is responsible for overall child supervision and must accompany children on visits to off-site locations. Only one trip coordinator is required per site when several groups of children visit the same off-site location.

(1) Staffing. The trip coordinator shall determine whether and how many additional staff and/or adult volunteers are required to maintain constant line of sight supervision of each child during the time children are offsite in addition to maintaining the staff to child ratios required by §47.23 of this Article. The duties of the trip coordinator and instructions for determining the number of additional staff must be included in the child care service's written safety plan.

(2) Child accountability. A system for maintaining accountability for children must be detailed in the written safety plan and include, at a minimum, provisions for:

(A) Name-to-face headcounts. During each trip offsite, staff must conduct name-to-face headcounts before leaving the child care service, upon arrival at the offsite location, at periodic intervals while at the location, before departing from the location and upon arrival back at the child care service.

(B) Identification of children. The permittee must provide each child with a piece of clothing and/or other item that identifies and provides contact information for the child care service, but shall not include any child's given or family name.

Notes: §47.57 was amended by Board resolution adopted XXX, adding procedures to subdivision (h) to require identification of escorts for children entering and leaving a child care service and adding a new subdivision (j) establishing provisions to promote greater accountability and safety for children on offsite trips.

RESOLVED, that subdivision (a) of §47.59 of Article 47 of the New York City Health Code, set forth in title 24 of the Rules of the City of New York, is amended, to be printed with explanatory notes to read as follows:

§47.59 Fire [Safety] safety.

(a) All exits shall have clear and legible illuminated exit signs [when required by Department of Buildings].

Notes: Subdivision (a) of §47.59 was amended by resolution adopted by the Board of Health at its XXX meeting to require that exit signs be illuminated, and to delete the phrase “when required by the Department of Buildings” because Building Code §BC-1011 requires internally or externally illuminated exit signs for child care and other educational occupancy facilities.

RESOLVED, that paragraph (2) of subdivision (b) of §47.61 of Article 47 of the New York City Health Code, set forth in title 24 of the Rules of the City of New York, is amended, to be printed with explanatory notes to read as follows:

§47.61 Food and food safety.

* * *

(2) Juice shall only be provided to children over [eight (8) months] two (2) years of age, and only 100% juice shall be permitted. Children shall receive no more than [six (6)] four (4) ounces of 100% juice per day.

Notes: Paragraph (2) of subdivision (b) was amended by Board of Health resolution adopted XXX reducing serving size of juice from six to four ounces of juice and limiting service of juice to children over two years of age, instead of the former eight months.

RESOLVED, that subdivision (f) of §47.65 of Article 47 of the New York City Health Code, set forth in title 24 of the Rules of the City of New York, is amended, and a new subdivision (g) added, to be printed with explanatory notes to read as follows:

§47.65 Transportation.

(f) Parental consent.

(1) The [operator] permittee shall obtain and maintain on file written consent from the parent or guardian for any transportation of children [in care at the service] that is provided or arranged for by the permittee[.] , including, but not limited to, trips to an offsite park, playground or library. The consent form shall include the child's name and age, the destination, mode of transportation, whether by motor vehicle, mass transit, walking, carriage, buggy, or on foot, and [the duration of travel time] the maximum length of travel time and the types of activities children will engage in at the offsite location.

(g) Documentation of transfers. The permittee must supervise and document all transfers of children between the child care service and drivers of school buses and other vehicles provided by the child care service or by a transportation service under contract to the child care service and must incorporate its policies and procedures for transfers and transportation in the child care service written safety plan. A permittee must be able to immediately verify that no child has at any time been left on a school bus, other vehicle or other means of transportation without appropriate adult supervision. At a minimum, the written safety plan must describe how the permittee will maintain the following minimum accountability procedures:

(1) Transfer supervision, including name-to-face visual identification and confirmation for each child received from or delivered to a driver.

(2) Providing drivers with updated lists daily of the names and addresses of children who are scheduled to receive transportation services on each route, and completing and maintaining a daily log of children placed aboard vehicles for transport home.

(3) Drivers employed by the permittee or a transportation contractor must maintain a daily trip log with the names of the driver and other staff of the child care or transportation service assigned to the vehicle to maintain supervision; the name, address, and contact information of the contractor transport service, if applicable; the name of each child and the times of entry and departure from the transport vehicle. A paper or electronic copy of the log must be given to the child care service permittee when children arrive at the child care service.

(4) Permittees must maintain all required records for at least six months and make such records available for inspection by the Department upon request.

Notes: Subdivision (f) was amended and a new subdivision (g) was added by resolution adopted XXX to clarify the duty of child care services permittees to maintain necessary supervision of and accountability for children at all times including during transportation to and from their homes to the child care service and during offsite trips to prevent “lost children” incidents.

RESOLVED, that subdivisions (a) and (d) of §47.71 of Article 47 of the New York City Health Code, set forth in title 24 of the Rules of the City of New York, are amended, to be printed with explanatory notes to read as follows:

§47.71 Physical activity and limits on television viewing.

(a) *Physical activity.*

* * *

(4) Children shall not be allowed to remain sedentary or to sit passively for more than [60] (30) minutes continuously, except during scheduled rest or naptime.

* * *

(d) *Television viewing.*

* * *

(2) For children ages two (2) and older, viewing of television, videos, and other visual recordings shall be limited to no more than [60] 30 minutes per [day] week of educational programs or programs that actively engage child movement.

Notes: Paragraph (4) of subdivision (a) was amended by resolution adopted XXX to reduce the time children may be allowed to remain sedentary or passive from 60 to 30 minutes at a time. Paragraph (2) of subdivision (d) was amended by resolution adopted XXX to reduce time spent in television viewing from 60 minutes per day to 30 minutes per week.

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**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: Amendment of Rules Governing Child Care Services

REFERENCE NUMBER: DOHMH-48

RULEMAKING AGENCY: DOHMH

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Francisco X. Navarro
Mayor's Office of Operations

November 25, 2014
Date

**NEW YORK CITY LAW DEPARTMENT
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100 CHURCH STREET
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212-356-4028**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Amendment of Rules Governing Child Care Services

REFERENCE NUMBER: 2014 RG 095

RULEMAKING AGENCY: Department of Health and Mental Hygiene

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Acting Corporation Counsel

Date: November 25, 2014