



October 1, 2023

Dear Child Care Provider,

As a result of legislation passed in 2023, changes in the laws about child care licensing will begin October 1, 2023. These changes are a result of House Bills (HB) 336, 422, 556, and 715, which are now part of Montana Code Annotated (MCA).

The Department of Public Health and Human Services (DPHHS) is working to update the Administrative Rules of Montana (ARM) for child care licensing to incorporate these new laws.

For background, DPHHS attempted to issue a comprehensive rules package for child care licensing last fall. The rules submission streamlined licensing rules, eliminated redundancies, and implemented statutory changes passed during the 2021 Legislative Session. That rules package was ultimately objected to by the interim Children, Families, Health and Human Services Committee and could not be implemented prior to the 2023 Legislative Session. As a result, the pending rules package to implement the new laws recently passed will also contain the overall child care licensing rules modernization and legislative reforms from the 2021 session.

Until such time as that rule package has been successfully adopted, there will be a discrepancy between MCA and ARM, with the new changes to MCA taking priority over current ARM. If you have questions, please reach out to your licensor. Their contact information is included at the bottom of this communication.

Overview of 2023 Legislative Session Laws

- **HB 336 provides DPHHS recognition for child care providers that are licensed by a branch of the United States Armed Forces.** A child care program can submit its Department of Defense, US Military branch issued license to the state of Montana and be recognized as licensed or registered with the state of Montana.
- **HB 556 increases the number of children a person may provide care for without a registration certificate.** A person who provides child care in a private residence for six or fewer children is not required to obtain a family day-care registration. However, a person providing care without a license or registration cannot participate in the Best Beginnings Child Care Scholarship or the Child and Adult Care Food Program.
- **HB 422 updates ratios for child care centers.**
 - **Ages 0 through 11 months:** 4 children for every 1 approved caregiver with a maximum group size of 12 children.



- **Ages 12 months through 23 months:** 6 children for every 1 approved caregiver with a maximum group size of 12 children.
- **Ages two years:** 8 children for every 1 approved caregiver with a maximum group size of 16 children.
- **Ages three years through five years:** 10 children for every 1 approved caregiver with a maximum group size of 20.
- **Ages six years and over:** 20 children for 1 approved caregiver with a maximum group size of 40.
- **Nap time ratios:** At nap time, the child-to-staff ratio may be doubled for children two years and over when the following conditions are met:
 - at least half the children are sleeping;
 - another staff member is onsite in the center and is immediately available;
 - the maximum group size and room capacity are not exceeded; and
 - the staff member responsible for direct supervision of the napping children is not a trainee.

Center Ratios Table:

Ages	Ratio	Max Group Size	Nap Time Ratio
0 through 11 months	4:1	12	N/A
12 through 23 months	6:1	12	N/A
2 years	8:1	16	16:1
3 years through 5 years	10:1	20	20:1
Six years and over	20:1	40	N/A

Ratio Reminders:

- When children of different ages are mixed, the ratio and group size for the youngest child in the group must be maintained.
- Only the director, early childhood lead teachers, assistant teachers, trainees, and substitute teachers may be counted as staff when determining the staff ratio. These staff must all be approved caregivers.
- Group sizes must be maintained except for mealtimes, outdoor play, rest periods, or during large group activities, such as educational assemblies.



- **HB 715 immunization exemption on religious grounds.** HB 715, in part, removes the requirement that an HES 113 form (Affidavit of Exemption on Religious Grounds for Montana schools) affidavit be notarized.

Immunization Requirement Reminders:

- The [Notice of Enforcement Discretion](#) issued by DPHHS on October 31, 2022, is still in effect. This notice allows a provider to accept children into their programs who have a religious exemption from immunization.
 - Children must have one of three documents related to immunization on file with their child care provider:
 - Up-to-date immunization schedule record,
 - A Medical Exemption Statement (form HES 101A), or
 - An Affidavit of Exemption on Religious Grounds (form HES 113).
- Should providers choose to accept such exemptions, they should notify all parents of children attending their child care program and notify the department.

For questions, please contact your local Child Care Resource and Referral Agency, or contact Jody Lehman, Child Care Bureau Chief at joseph.lehman@mt.gov.

For more information please visit the Child Care Bureau website: <https://dphhs.mt.gov/ecfsd/childcare>