

April 26, 2017

Kelly McDowell
Office of Child Care Licensing
Division of Family Services
Department of Services for Children, Youth and their Families
3411 Silverside Road
Hagley Building
Wilmington, DE 19810

RE: DFS Proposed Family and Large Family Child Care Homes Regulation [20 DE Reg. 775 (April 1, 2017)]

Dear Ms. McDowell:

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed the Office of Child Care Licensing (OCCL) proposal to revise section 22 which addresses fire extinguishers in its standards covering family and large family child care homes. Council would like to share the following observations.

First, the revision explicitly disallows placement of the required fire extinguisher in a cabinet or closet. This is a well-intentioned change since an extinguisher that is hidden is of little value in an emergency. However, the literal ban on mounting an extinguisher "in a cabinet" would disallow use of even a recessed fire-rated cabinet on a wall. See descriptions of OVAL and Larsen brand systems. The advantage of such a recessed or low-protrusion cabinet is that it is compatible with Americans with Disabilities Act (ADA) standards disallowing objects from protruding more than 4" from walls between 27-80" above the floor. DFS should consider modifying its standards so mounting in such a cabinet would be permitted, if not encouraged.

Second, the other material change is to add more discrete standards for the height of mounting the extinguisher based on its weight. The current standard (being deleted) requires all fire extinguishers to be mounted no more than 40 inches above the floor. Under the proposed standard, heavier units could not be hung more than 42 inches from the floor while lighter units could be hung up to 60 inches from the floor. Council assumes the rationale is that the combination of a heavy unit and high mounting could make access difficult for individuals who are short in stature or lacking strength. While such differentiation has some facial validity, DFS

may wish to adopt a uniform standard, i.e., either retaining the current 40" standard or adopting a 42" standard for all fire extinguishers. Our rationale is as follows:

A. A uniform standard is easier to follow and enforce.

B. The 42" standard is very close to the current 40" standard so licensees should be comfortable with the minor change.

C. Expecting individuals to heft a 39 lb. fire extinguisher hung 60 inches from the ground in an emergency presents a safety concern. Council suspects that many licensees would be hard-pressed to safely remove a 39 lb. fire extinguisher from a 5 foot wall mount. An unsuccessful attempt could lead to the extinguisher falling on the worker or a nearby child.

D. Individuals with disabilities (e.g. wheelchair users) may not be able to reach extinguishers mounted at high levels. The standard thus has an adverse impact on safety (if the licensee uses a wheelchair) and employability (if an applicant who uses a wheelchair applies for a job in a child care home). Adopting a 42" height standard would seemingly be compatible with ADA guidelines while the proposed 60" standard would not be compatible with ADA guidelines.

Third, the proposed standard is ambiguous on the mounting height. Compare New Hampshire Fire Marshall interpretation of the National Fire Protection Association (NFPA) 10, i.e. mounting distance is to "top of the extinguisher". The DFS proposed standard could be interpreted as "hook" or "fastener" height.

Fourth, there is a grammatical error in the first line, i.e., "visibly" should be "visible".

Lastly, Council would like to suggest that the DFS consult the office of the Delaware State Fire Marshall and the Architectural Accessibility Board in order to ensure compliance prior to adopting a final regulation.

Thank you for your consideration of our comments. Please contact me or Wendy Strauss at the GACEC office if you have questions.

Sincerely,

Dafne A. Carnright
Chairperson

DAC:kpc

CC: Jennifer Lieber, Architectural Accessibility Board
Grover P. Ingle, Delaware State Fire Marshall