



MISSISSIPPI STATE DEPARTMENT OF HEALTH
Child Care Advisory Council

Minutes

November 7, 2014

<u>Council Members Present</u>	<u>Council Members Absent</u>	<u>MSDH Staff Present</u>	<u>Public Present</u>
Dean Bobo	Laura Dickson	Mary Armstrong	Eileen Beazley
Dr. Whitney Herring	JoAnn Kelly	Vickey Berryman	Debbie Ellis
Christi Littlejohn		Ida Dixon	Heather Flowers
Larry A. Nobles		Countess Gaitor	Eurlonda Gary
Judy Prine		Gay Logan	Joyce Greer
Colleen Smith		Festus Simkins	Margie Nobles
Shea South			Jennie Sturgis
Deloris Suel			Gary West
Sallie West			
Sandra Ziegenhagen			

Welcome/Opening Statements

- Chairperson, Judy Prine called the meeting to order. A quorum was established.
- Ms. Prine announced a change in the agenda.
- Due to the absence of Ellen O’Neal, Legal Counsel, the review of Ethics was postponed. Ms. Prine introduced Bea Tolsdorf, SAAG, who is standing in for Ellen O’Neal.

Approval of Minutes

Ms. Prine requested a motion to approve the minutes from August 22, 2014. A motion was made by Sallie West and seconded by Larry Nobles. The vote for the approval of the minutes was unanimous.

Introduction of New Members

- As part of the introductions, Vickey Berryman gave a brief history of the Council and the duties of the Council as stated in Statute. She introduced the reappointed Council members, Dean Bobo and JoAnn Kelly. She then introduced the two new Council members, Laura Dickson, Director MDHS Division of Early Childhood Care and Development and Whitney Herring, M.D., representing the American Academy of Pediatrics.

New Business

- Vickey Berryman stated that due to the absence of Ellen O'Neal, her scheduled presentation on the Child Care Advisory Council and Ethics would be postponed until a later date.
- Ms. Berryman introduced Joyce Greer, Program Coordinator of the T.E.A.C.H. Early Childhood Mississippi program. Joyce Greer gave a presentation about T.E.A.C.H., its goals, and the various scholarships available through the program.

Judy Prine opened the floor for questions about the T.E.A.C.H. program. Colleen Smith asked about funding for the T.E.A.C.H. program? Ms. Greer informed the Council that currently the program is funded through the Kellogg Foundation.

Old Business

- Judy Prine requested Vickey Berryman to provide an overview of amendments to the child care regulations that were passed by the Board of Health on October 8, 2014.

Ms. Berryman recapped the amendments passed by Board of Health. She informed the Council that the amendments had filed with the Secretary of State and would become effective November 10, 2014.

Larry Nobles stated the he did not understand why the Department and the Board chose to omit the requirement for a "fully functioning kitchen" in licensed child care centers, as was approved by the Council at its August meeting. Mr. Nobles requested that this item be revisited at the next meeting of the Council.

Ms. Berryman noted his concern of assuring that the children were fed nutritious meals and gave the stats on the number of centers with and without kitchens. Larry Nobles suggested grandfathering in providers licensed prior to January 1, 2015, and have new facilities have a fully functioning kitchen. He requested the Council revisit this matter and have it placed on the agenda for next meeting.

Deloris Suel stated that the fire department is federally mandated to inspect kitchens in facilities. She stated that this federal mandate is recent.

Vickey Berryman said the issue could be revisited; however when submitted, the Council would need to provide justification, to include but not limited to, any scientific evidence for such, any pertinent national standards, and how many of the surrounding 6-8 states have this requirement.

Colleen Smith commented that there was a possibility of a federal mandate for fire departments to regulate kitchens in businesses and commercial dwellings. The Federal Government is already mandating the need for public restrooms in businesses and commercial dwellings. She also noted that at the last oral proceedings, there was

confusion about the current catering laws, licensure, and transporting of food between campuses. She thought this would be discussed in this meeting.

Ms. Berryman stated that it was noted at the time of the oral proceedings that there was confusion regarding when a catering permit or a regular food permit would be appropriate. Ms. Berryman stated that both, the catering permit and Food Permit, meet the Food Code of the Department of Health.

Festus Simkins stated that if an owner/operator has their own kitchen in their facility and caters to another facility that they did not own, the catering facility would need a catering permit.

Vickey Berryman stated the overall goal for the regulations is to assure that children are being provided nutritious meals.

Larry Nobles express concern that if a center had no kitchen, how was food being reheated?

Vickey Berryman assured the Council that, for those centers utilizing catering services, the licensing officials would conduct at least one inspection annually at the center during the time lunch is being served.

Mr. Simkins reiterated that the nutritional standards are being met, even if prepared outside of the facility, because the approved menus have to be followed. He stated that inspectors would also be checking on menu compliance during meal times.

Ms. Prine acknowledged Mr. Nobles' concern and requested that the matter be placed on the agenda for the next meeting.

- Judy Prine opened the floor to any other old business. No other old business was mentioned.

Public Comments

- Judy Prine opened the floor for public comment.
- Ms. Ellis opened her remarks with a statement of "agreeing to disagree with comments made by Colleen Smith." In addition, Ms. Ellis acknowledged Vickey Berryman's challenge to the board to encourage best practices and to promote the health and safety of the children of the state.

She stated that the Board and Council are governed by the United States Constitution and the Administrative Procedures Act (federal and state) and stated that nowhere in the Council bylaws did she see the words "business." Ms. Ellis further stated, "We are all supposed to be about children." She also advised the Child Care Advisory Council that whenever a regulation is amended, there should also be an economic impact statement.

Lastly, Ms. Ellis stated that she reserves the right to disagree with the Council and stated that she would be making contact with the Board of Health members.

Colleen Smith acknowledged Ms. Ellis' statements and presented a copy of an email from Ms. Ellis to the Council with questions addressing the square footage in childcare facilities. See attached.

- Date of the next Child Care Advisory Council meeting is February 27, 2015.
- Larry Nobles made a motion to adjourn

The meeting was adjourned at 2:38 p.m.


Council Chairperson


MSDH Representative


Date

Questions to Address Regarding Square Footage In Childcare Facilities

1. If it is necessary to provide 35 square feet of usable space per child (net) after deducting the square footage of disallowed areas and items, is it reasonable to conclude that the Total (gross) square footage requirement is more than 35 square feet per child? _____
2. According to 2002 guidance from the American Academy of Pediatrics, how many Total (gross) square feet per child is required in order to provide 35 square feet of usable space in a classroom with a normal load of furnishings? _____
3. What is Mississippi's total (gross) space per child requirement? _____
4. Has MDH ever used the usable space rule to reduce licensed maximum capacity for existing facilities initially pre-approved by MDH for a Total (gross) requirement of only 35 square feet per child? _____
5. When existing facilities have been "re-measured" and regulated to begin providing 35 square feet of *usable* space per child, did the action amount to an undisclosed increase in the Total (gross) square feet per child required? _____
6. How many EXISTING child care facilities have been "re-measured" under this rule? _____
7. You have developed an "in-house" policy that "re-measures" and enforces the usable space rule on every area of an EXISTING child care facility when a provider remodels, adds on or improves spaces (you do not just measure the remodeled area). How often have EXISTING child care facilities been assigned a new licensed maximum capacity – after improving or adding classrooms – that are *less* than the licensed maximum capacities assigned prior to any such improvements? _____
8. When drafting blue-prints and plans for required submission to MDH, where may citizens find the MDH guidance to prevent mistakes such as creating the interior space without consideration for the furniture and equipment that will go in each room? _____
9. Where is the MDH guidance to developers, architects and providers to maximize child/staff ratios for viable operations when considering a classroom's age group and "classroom maximum capacity"? _____
10. MDH has added a "maximum capacity of a classroom" penalty (2009) and a clarification (2013) without having a corresponding rule. How much money has been collected in fees due to this penalty since 2009? _____
11. Outside the purview of child care licensing, Festus Simkins served on the Review Team for Mississippi's Early Learning Guidelines with Dr. Cathy Grace, Dr. Mary Ann Green, and Dr. Louise Davis in 2006. What is the minimum Total (gross) square footage per child requirement for NEW STRUCTURES in the Mississippi Early Learning Guidelines? _____
12. The Mississippi Early Learning Guidelines Writing team was made up of recognized early learning professionals such as Dr. Norma Strickland, Dr. Joan Butler, Jane Boykin, Stacey Callender and others. What is the minimum Total (gross) square footage per child requirement for EXISTING STRUCTURES in the Mississippi Early Learning Guidelines? _____
13. Would you agree, due to the Mississippi Early Learning Guidelines, the State demonstrates it has no interest in imposing more than 35 Total (gross) sq. ft. per child on EXISTING child care structures? _____
14. Do you feel children in EXISTING child care facilities providing 35 Total (gross) square feet per child are in

more danger of harm than children receiving care in EXISTING STRUCTURES regulated by the Early Learning Guidelines? _____

15. Do you think children placed in EXISTING child care facilities that have been sold to another operator who continues to provide 35 Total (gross) sq. ft. per child are in more danger of harm than children receiving care in EXISTING STRUCTURES regulated by the Early Learning Guidelines? _____

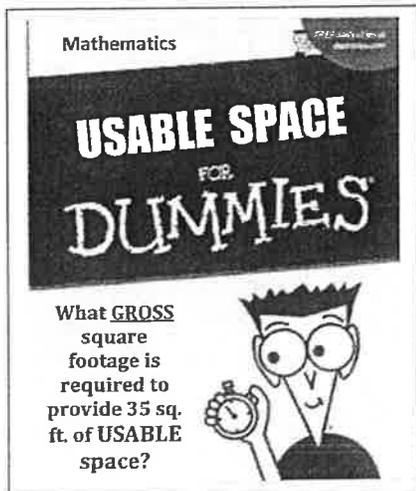
16. In a call for political action last legislative session, MDH Child Care Director Festus Simkins stated a goal of having all providers on a (square footage)level playing field so that "old centers will not have an advantage over new centers" which must adhere to the most current usable space rule. Are you guiding Retroactivity violation and unconstitutional deprivation in child care policies and regulations?

17. Would you agree that 35 sq. ft. exceeds the 30 Total sq. ft. rule for EXISTING STRUCTURES in the Early Learning Guidelines? _____

18. Would you agree that a Grandfather Clause effective to the date of each initial license for EXISTING facilities would provide no less than 35 Total (gross) sq. ft. per child?

19. Would you agree that MDH should align with the Mississippi Early Learning Guidelines to define the Total (gross) square feet required for all NEW CONSTRUCTION in order to take the guess-work out of quality classroom design, minimize the need for "re-measurements", and better guarantee the desired 35 sq. ft. of usable space per child? _____

Would MDH consider sponsoring (out of fees collected through penalties assessed) an Early Learning Facilities and Classroom Design Institute through Mississippi State Extension and the Early Years Network if it is willing to provide such guidance?



GROSS SQUARE FEET REQUIRED

The American Academy of Pediatrics reports ***50 total (gross) square feet** per child is required in order to NET and provide 35 square feet of USABLE SPACE in a classroom with a normal load of furnishings.

MDH's Vickey Berryman rationalizes that due to multiple factors that vary among facilities such as furnishings, 50 sq. ft. per child may not always be the rule. **So, what is the rule?** 48 sq. ft.? 43 sq. ft.? Greater than 35 sq. ft.?

*Mississippi Early Learning Guidelines require 50 sq. ft. per child for New Construction.

Maryland Department of Education

(See link below.)

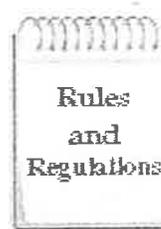
Measure Usable Space is what's left over after deductions from the (gross) total square footage!

Find the gross square footage of the room or area.

Make a list of the items/areas to be deducted. Find the square footage of each item/area.

Subtract What is the total (gross) square footage requirement for Mississippi providers?

Subtract the deduction total from the gross square footage.



Required MDH Pre-Approval of Blue-Prints and Plans Without Informed Guidance!

When MDH adopted 35 square feet of usable space per child, it redacted the actual language revealing the regulation's requirement of a total of 50 square feet per child (gross) from the rule. Total (gross) square feet per child requirements in Mississippi are not defined or published.

When blue-prints and plans are submitted to the licensing agency in advance of a build as required, the plans are generally returned to the developer simply date stamped without guidance regarding the gross square footage requirements needed to care for the number of children projected or needed to financially support the plan. Ongoing MDH failure to properly advise the Total (gross) square footage required per child before construction may interfere in distinct investment-backed expectations and/or place children in inadequate classroom designs.

How to Figure the Usable Space in a Child Care Facility For Dummies 101

eHow

(See link below.)

Determine Unusable Space

Laura Nations, an eHow Contributor, says you must determine the unusable space before you determine the usable space.

Determine what area in your daycare center cannot be used as activity space.

In Mississippi, unusable space includes food preparation areas, kitchens, bathrooms, toilets, areas for the care of ill children, offices, staff rooms, corridors, hallways, stairways, closets, lockers, laundries, furnace rooms, fixed or permanent cabinets, fixed or permanent storage shelving spaces, and the space occupied by inappropriate or adult size equipment shall be deducted from the children's usable space.

Measure

When you have determined where the usable activity space in your daycare center is, take your tape measure and measure the length and width of the area. Use a consistent unit of measurement, such as feet. Make sure that the areas you are measuring are square or rectangular in shape. You may have to divide up an area into multiple squares or rectangles if it is irregularly shaped.

The MDH Unanswered Question

If income from the care of no less than 35 children is needed in order to operate and repay loans, what square footage does a build require: 1,225 sq. ft. or 1,750 sq. ft.?

Answer: American Academy of Pediatrics

To serve 35 children in Mississippi today, a build will require **1,750** square feet @50 per child.