§ 98.34 Parental rights and responsibilities.

Nothing under this part shall be construed or applied in any manner to infringe on or usurp the moral and legal rights and responsibilities of parents or legal guardians.

Subpart E—Program Operations (Child Care Services)—Lead Agency and Provider Requirements

§ 98.40 Compliance with applicable State and local regulatory requirements.

(a) Lead Agencies shall:
(1) Certify that they have in effect licensing requirements applicable to child care services provided within the area served by the Lead Agency;
(2) Provide a detailed description of the requirements under paragraph (a)(1) of this section and of how they are effectively enforced.

(b)(1) This section does not prohibit a Lead Agency from imposing more stringent standards and licensing or regulatory requirements on child care providers of services for which assistance is provided under the CCDF than the standards or requirements imposed on other child care providers.

(2) Any such additional requirements shall be consistent with the safeguards for parental choice in §98.30(f).

§ 98.41 Health and safety requirements.

(a) Although the Act specifically states it does not require the establishment of any new or additional requirements if existing requirements comply with the requirements of the statute, each Lead Agency shall certify that there are in effect, within the State (or other area served by the Lead Agency), under State, local or tribal law, requirements designed to protect the health and safety of children that are applicable to child care providers of services for which assistance is provided under this part. Such requirements shall include:

(1) The prevention and control of infectious diseases (including immunizations). With respect to immunizations, the following provisions apply:
(i) As part of their health and safety provisions in this area, States and Territories shall assure that children receiving services under the CCDF are age-appropriately immunized. Those health and safety provisions shall incorporate (by reference or otherwise) the latest recommendation for childhood immunizations of the respective State or territorial public health agency.
(ii) Notwithstanding paragraph (a)(1)(i) of this section, Lead Agencies may exempt:
(A) Children who are cared for by relatives (defined as grandparents, great grandparents, siblings (if living in a separate residence), aunts, and uncles);
(B) Children who receive care in their own homes;
(C) Children whose parents object to immunization on religious grounds;
(D) Children whose medical condition contraindicates immunization;

(ii) Notwithstanding paragraph (a)(1)(i) of this section, Lead Agencies may exempt:
(A) Children who are cared for by relatives (defined as grandparents, great grandparents, siblings (if living in a separate residence), aunts, and uncles);
(B) Children who receive care in their own homes;
(C) Children whose parents object to immunization on religious grounds;
(D) Children whose medical condition contraindicates immunization;

(iii) Lead Agencies shall establish a grace period in which children can receive services while families are taking
the necessary actions to comply with
the immunization requirements;
(2) Building and physical premises
safety; and
(3) Minimum health and safety training
appropriate to the provider setting.
(b) Lead Agencies may not set health
and safety standards and requirements
under paragraph (a) of this section that
are inconsistent with the parental
choice safeguards in §98.30(f).
(c) The requirements in paragraph (a)
of this section shall apply to all pro-
viders of child care services for which
assistance is provided under this part,
within the area served by the Lead
Agency, except the relatives specified
in paragraph (e) of this section.
(d) Each Lead Agency shall certify
that procedures are in effect to ensure
that child care providers of services for
which assistance is provided under this
part, within the area served by the Lead
Agency, comply with all applica-
table State, local, or tribal health and
safety requirements described in para-
graph (a) of this section.
(e) For the purposes of this section,
the term “child care providers” does
not include grandparents, great grand-
parents, siblings (if such providers live
in a separate residence), aunts, or un-
cles, pursuant to §98.2.

§98.42 Sliding fee scales.

(a) Lead Agencies shall establish, and
periodically revise, by rule, a sliding
fee scale(s) that provides for cost shar-
ing by families that receive CCDF child
care services.
(b) A sliding fee scale(s) shall be
based on income and the size of the
family and may be based on other fac-
tors as appropriate.
(c) Lead Agencies may waive con-
tributions from families whose incomes
are at or below the poverty level for a
family of the same size.

§98.43 Equal access.

(a) The Lead Agency shall certify
that the payment rates for the provi-
sion of child care services under this
part are sufficient to ensure equal ac-
ceptance under any other Federal, State, or
tribal programs.
(b) The Lead Agency shall provide a
summary of the facts relied on to de-
termine that its payment rates ensure
equal access. At a minimum, the sum-
mary shall include facts showing:
(1) How a choice of the full range of
providers, e.g., center, group, family,
and in-home care, is made available;
(2) How payment rates are adequate
based on a local market rate survey
conducted no earlier than two years
prior to the effective date of the cur-
rently approved Plan;
(3) How copayments based on a slid-
ing fee scale are affordable, as stipu-
lated at §98.42.
(c) A Lead Agency may not establish
different payment rates based on a
family’s eligibility status or cir-
cumstances.
(d) Payment rates under paragraph
(a) of this section shall be consistent
with the parental choice requirements
in §98.30.
(e) Nothing in this section shall be
construed to create a private right of
action.

§98.44 Priority for child care services.

Lead Agencies shall give priority for
services provided under §98.50(a) to:
(a) Children of families with very low
family income (considering family
size); and
(b) Children with special needs.

§98.45 List of providers.

If a Lead Agency does not have a reg-
istration process for child care pro-
viders who are unlicensed or unregu-
lated under State, local, or tribal law,
it is required to maintain a list of the
names and addresses of unlicensed or
unregulated providers of child care
services for which assistance is pro-
vided under this part.

§98.46 Nondiscrimination in admis-
sions on the basis of religion.

(a) Child care providers (other than
family child care providers, as defined
in §98.2) that receive assistance
through grants and contracts under the
CCDF shall not discriminate in admis-
sions against any child on the basis of
religion.