

**CHILD CARE SERVICES ON VETERANS HEALTH ADMINISTRATION'S (VHA)
PROPERTY**

- 1. REASON FOR ISSUE.** This Veterans Health Administration (VHA) Handbook provides procedures for the establishment and operations of child care centers on Department of Veterans Affairs (VA) property.
- 2. SUMMARY OF CONTENTS/MAJOR CHANGES.** This is a new Handbook containing procedures for the establishment and operations of child care services on VHA property for VA personnel. It is applicable to all child care centers operating, and proposed to operate, on VHA property.
- 3. RELATED ISSUES.** VHA Directive 1025 (to be published).
- 4. RESPONSIBLE OFFICE.** VHA's Office of Workforce Management and Consulting (WMC), Office of Child Care (10A2) is responsible for the contents of this VHA Handbook. Questions may be referred to (925) 372-2129.
- 5. RESCISSIONS.** None.
- 6. RECERTIFICATION.** The VHA Handbook is scheduled for recertification on or before the last working day of March 2015.

Robert A. Petzel, M.D.
Under Secretary for Health

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CHILD CARE SERVICES ON VHA PROPERTY

1. PURPOSE

This Veterans Health Administration (VHA) Handbook contains procedures for the establishment and operations of child care services on VHA property for Department of Veterans Affairs (VA) personnel. It is applicable to all child care centers operating, and proposed to operate, on VHA property.

2. BACKGROUND

a. While a VA statute specifically authorizes the Secretary of Veterans Affairs to furnish child care through the Veterans Canteen Services (VCS), VA has never provided child care through VCS (see Title 38 United States Code (U.S.C.) 7809). In July 1991, this authority was re-delegated to the Associate Chief Medical Director for Operations (Re-delegation Memorandum dated July 19, 1991, and signed by the Secretary of Veterans Affairs) and is currently aligned with VHA Central Office, Workforce Management and Consulting (WMC) Office (10A2).

b. **Legal Authority.** In accordance with 40 U.S.C. 590, "Trible Amendment," VA may:

(1) Provide space, equipment, furnishings, and other services necessary to support the operations of child care facilities on VA property, provided that at least 50 percent of the children at the child care facility have one parent or guardian employed by the Federal Government. The term "services" includes the providing of lighting, heating, cooling, electricity, office furniture, office machines and equipment, telephone services (including installation of lines and other expenses associated with telephone services), and security systems (including installation and other expenses associated with security systems, including replacement equipment, as needed). Services do not include medical services provided by VA. However, on a humanitarian basis, VA may provide hospital care or medical services in case of emergencies (see 38 U.S.C. §1784). VA must be reimbursed for such emergency care (see Title 38 Code of Federal Regulations (CFR) 17.43(b)(1), 17.95, and 17.102(b)).

(2) Pay travel and per diem for representatives of existing, or proposed, child care facilities to attend child care training, conferences and meetings. This authority does not extend to paying conference or training fees.

(3) Enter into a consortium with one or more private entities whereby the private entities assist in defraying costs associated with the salaries and benefits for personnel providing child care services at the facility.

3. DEFINITIONS

a. **Trible Amendment.** The Trible Amendment found at 40 U.S.C. § 590 (formerly 490), gives Federal agencies the authority to provide space, equipment and services to support the establishment and operation of child care centers for Federal families. At least 50 percent of the

children enrolled in a child care center must have one parent or guardian who is a Federal employee. Remaining available slots may be opened to the general public.

b. **Services.** Services are defined by the Tribble Amendment as: lighting, heating, cooling, electricity, office furniture, office machines and equipment, telephone services, and security systems, including installation of lines, equipment, and other associated recurring expenses.

c. **Outlease.** Outlease is the leasing of VA real property to public or private interests outside of VA for up to 3 years. In such cases, VA is the lessor.

d. **Enhanced-Use Lease.** The enhanced-use leasing authority allows VA to obtain facilities, space, services, and money in return for granting long-term leases (up to 75 years) of unused and available VA property.

e. **Enhanced Health Care Resource Sharing Agreement.** The Enhanced Health Care Resource Sharing Authority authorizes contracts or agreements for the mutual use, or exchange of use, of health care resources between VA health care facilities and any health care provider, other entity, or individual for up to 5 years.

f. **Permit.** A permit is a license granted to another Federal agency.

g. **Revocable License Agreement.** A revocable license agreement is permission to enter upon and conduct a specific act or series of acts upon the land of the licensor without possession or acquiring any estate. It legalizes an act, which in the absence of the license, would constitute a trespass.

h. **Vulnerability Assessment.** Vulnerability assessment is an individual building security assessment designed to determine the specific security measures needed to eliminate or reduce threats directly associated with each individual building.

4. SCOPE

The VHA Child Care Program is aligned within the WMC Office (10A2). The VHA Office of Child Care is responsible for all matters, nationwide, related to the provisions of child care services for VA employees including policy guidance, program management, and technical assistance. Any VHA facility interested in establishing child care services on VA property must contact WMC Office of Child Care for information, start-up guide, and technical guidance.

a. **Primary Mission.** The primary mission of the VHA Child Care Program is to assist VA employees in meeting their child care needs and to ensure that VA and Federal families receive quality child care services.

b. **Child Care Subsidy Program.** In accordance with Public Law (Pub. L) 107-67 § 630, "Affordable Child Care for Lower Income Federal Employee," VA must pay a percentage of child care costs directly to the provider of choice that is licensed and regulated by the state or local regulating authorities for qualifying employees. ***NOTE: Information regarding VA's Child Care Subsidy Program may be obtained from VA Central Office Human Resource Service***

(05B), toll-free at 1-(877) 541-4556, or by visiting the Web site: <http://vaww.va.gov/vachildcare/> (this is an internal web site and is not available to the public) or www.va.gov/vachildcare. Information and applications are available in Human Resource Service at local field facilities.

5. CHILD CARE LEASING PROGRAM

a. **Compliance.** All child care out-lease agreements must be in compliance with VHA leasing policies and VHA Office of Child Care requirements regardless of the type of authority used to establish on-site child care services. All requirements must be delineated in the lease agreement or included in the proposed lease package when submitted to VHA Office of Child Care for review, concurrence, and approval (see App A). Providing evidence of compliance is a prerequisite to obtaining a child care lease agreement.

b. **Requirements Prior to Obtaining a Lease Agreement.** The following child care lease requirements must be met prior to obtaining a lease agreement to operate on VA property:

(1) Obtain a license to operate a child care center. The license must remain current during the terms of the lease agreement. This requirement is waived for centers operating in states that do not issue a state license on Federal property. However, these centers must be in compliance with state licensure regulations.

(2) Maintain a minimum of \$1,000,000 in liability insurance.

(3) Maintain adequate fire insurance to cover the space occupied by the child care center (unless waived by the sponsoring medical center Director). A letter signed by the medical center Director, or designee, certifying that the amount of fire insurance is adequate is required.

(4) Ensure that criminal history background checks are conducted for all employees in accordance with the Crime Control Act of 1990, as amended, 42 U.S.C. 13041. Providing evidence that these criminal history background checks have been conducted is a prerequisite for obtaining a lease.

(5) Achieve accreditation by the National Association for the Education of Young Children. Centers must have an initial site visit after 1 year of operation and every 3 years thereafter. The child care provider must maintain accreditation through the renewal process of the National Academy of Early Childhood Programs during the child care provider's tenure on VA property. This requirement does not apply to child care services established under the Revocable License authority. Programs established under this authority generally are not full-service child care programs, such as summer camp or before and after school programs. These intermittent programs are not subject to accreditation, as the accreditation body does not accredit intermittent programs.

(6) Comply with all Federal, state, and local regulations governing the operations of child care centers including policy and guidelines established by VHA Office of Child Care.

(7) Be subject to site visits by VHA Office of Child Care to ensure conformance with Federal, state, and local regulations. Centers are eligible for an initial site visit after 1 year of operation and every 3 years thereafter.

6. CHILD CARE LEASING AUTHORITIES

The following authorities are used to establish child care services on VA property:

a. **Outlease Authority (38 U.S.C. § 8122)**. Outlease is the leasing of VA-owned real property to public or private interests outside of VA for up to 3 years. In such cases, the local facility is the lessor. Proposed outlease agreements for new, or existing, child care programs must be submitted to the Office of Child Care at least 60 calendar days prior to the operations of a new center, or the expiration of an existing outlease agreement. All proposed outlease agreements for child care programs must be submitted to the VHA Office of Child Care for review and concurrence to ensure all applicable child care requirements are included in the outlease agreement.

b. **Enhanced-Use Leasing Authority (38 U.S.C. §§ 8161-8169)**. Enhanced-use leasing authority allows VA to obtain facilities, space, services or money in return for granting long-term leases (up to 75 years) of unused and available VA property. Information regarding the establishment of child care services under this authority should be directed to the VA Office of Asset Enterprise Management (044). All enhanced-use lease (EUL) agreements for child care programs must be submitted to the VHA Office of Child Care for review and concurrence to ensure all applicable child care requirements are included in the enhanced-use agreement. EUL concept papers must be routed through the Capital Asset and Planning Services (10NE), which is VHA's EUL Coordinator Office.

c. **Enhanced Health Care Resource Sharing Authority (38 U.S.C. § 8153)**. The Enhanced Health Care Resource Sharing Authority authorizes contracts or agreements for the mutual use, or exchange of use, of health care resources between VA health care facilities and any health care provider, or other entity or individual for up to 5 years. Information regarding the establishment of child care services under this authority must be directed to the VA Office of Medical Sharing and Purchase Office (175). All proposed sharing agreements for child care programs must be submitted to the VHA Office of Child Care for review and concurrence to ensure all applicable child care requirements are included in the sharing agreement.

d. **Permit**. A permit authorizes VA to enter into an agreement with another Federal Executive Agency for child care services.

e. **Revocable License Agreement**. A revocable license is permission to enter upon and conduct a specific act or series of acts upon the land of the licensor without possession or acquiring any estate. A revocable license agreement legalizes an act, which in the absence of the license would constitute a trespass. A license is personal and non-assignable (unless by agreement), and is revocable at any time. A revocable license is not recommended for a full service child care program. It is utilized only for intermittent programs, such as summer camp programs. All proposed revocable license agreements must be submitted to the VHA Office of

Child Care for review and concurrence to ensure all applicable child care requirements are included in the revocable license agreement.

7. RESPONSIBILITIES OF THE VHA OFFICE OF CHILD CARE

The VHA Office of Child Care has oversight responsibilities for all child care programs on VA property nationwide. The VHA Office of Child Care develops minimum standards for child care programs located on VHA property based on relevant authorities and child care legislation. The VHA Office of Child Care may also monitor and assess child care facilities to verify conformance with minimum nutritional, health and safety standards, as well as Federal, state, and local statutory and regulatory requirements. Site visits are conducted for this purpose. A child care center must have an initial site visit within 1 year of becoming operational and every 3 years thereafter. The VHA Office of Child Care has concurrence authority for all child care outleases, agreements, permits, and licenses granted under the authorities listed in paragraph 5. Consultation services to field facilities establishing and operating child care programs on VA property is also provided by the VHA Office of Child Care.

8. RESPONSIBILITIES OF VA CENTRAL OFFICE HUMAN RESOURCES MANAGEMENT

The Office of Human Resources Management is responsible for administering the child care subsidy program and providing consultation services regarding the child care subsidy program. The Office of Human Resources Management also maintains and updates the national list of child care centers operating on VA property. *NOTE: The national list of child care centers is available at: <http://vaww4.va.gov/vachildcare/Centers.htm> (this is an internal Web site and not available to the public).*

9. RESPONSIBILITIES OF THE VETERANS INTEGRATED SERVICE NETWORK (VISN) DIRECTOR

Each VISN Director is responsible for reviewing and approving proposals to establish child care programs within their respective VISN, as appropriate.

10. RESPONSIBILITIES OF THE OFFICE OF REGIONAL COUNSEL

The Office of Regional Counsel is responsible for reviewing and concurring, prior to execution, all outleases, revocable licenses for less than 5 years, and permits affecting or involving real property in which VA has an interest, or over which VA has control. The Office of Regional Counsel is responsible for providing legal advice on child care issues at local facilities within its jurisdiction.

11. RESPONSIBILITIES OF THE OFFICE OF ASSET ENTERPRISE MANAGEMENT AND THE MEDICAL SHARING AND PURCHASE OFFICE

The Office of Asset Enterprise Management and the Medical Sharing and Purchase Office are responsible for evaluating the potential for child care projects, determining the suitability, and negotiating leases under 38 U.S.C. § 8161 *et seq.* and under 38 U.S.C. § 8153 respectively.

12. RESPONSIBILITIES OF THE FACILITY DIRECTOR

The facility Director, or designee, is responsible for ensuring that child care reflects favorably upon VA and the facility, and for:

- a. Establishing and providing oversight of a child care committee responsible for assessing needs, completing market surveys, and determining feasibility of various management models for provisions of child care services.
- b. Selecting preferred child care management model.
- c. Designating available space or land.
- d. Submitting necessary documentation to prepare lease and other legal or contractual agreements with child care provider.
- e. Developing the construction project, outlease proposal, or enhanced-use proposal and submitting the project through appropriate offices for review and approval.
- f. Designating an individual to serve as the management liaison with the child care provider and the VHA Office of Child Care.
- g. Providing services as authorized by the Tribble Amendment to the extent the facility management determines they are able to do so.
- h. Ensuring that all state and local child care licensure regulations are met and that proper licensing is obtained.
- i. Notifying VA stakeholders and appropriate Congressional offices of the establishment of child care centers.
- j. Providing information about existing on-site child care services, as well as, the VA child care subsidy program when recruiting new employees and during new employee orientation sessions.
- k. Ensuring that all local labor obligations are met.
- l. Ensuring the facility OI&T offices require:
 - (1) That all child care providers operating on VHA property are in compliance with all privacy and information security requirements.
 - (2) The VHA Office of Child Care is notified when a child care center director's access is denied due to breaches in information security.

m. Notifying VA stakeholders and the VHA Office of Child Care of all anticipated closures of child care centers. Written notice to the VHA Office of Child Care must be submitted at least 60 days prior to closing. The notice must include the date and reason for closure.

13. RESPONSIBILITIES OF THE CHILD CARE COMMITTEE

A child care committee is a voluntary group comprised of individuals from a local facility with broad-based representatives from all departments and employees unions. A chairperson for the committee must be designated by the group or local facility management. An active Child Care Committee is an important first step to assessing and planning for a child care center. The general responsibility of the child care committee is to:

- a. Analyze facility resources and mission;
- b. Survey employees for interest and support of a child care center;
- c. Conduct a market survey, evaluate information, set goals and target dates for establishing child care services at field facilities. *NOTE: The Child Care Committee is disbanded when the center is established and a board of directors is incorporated.*

14. RESPONSIBILITIES OF THE CHILD CARE CENTER BOARD OF DIRECTORS

The child care center's Board of Directors is a voluntary group usually composed of a variety of individuals from the local facility and the community (optional). *NOTE: The model with a Board of Directors is optional because some facilities hire a provider directly without a Board of Directors. For those with incorporated Boards but do not open enrollment to the community, their Board of Directors membership may not include community representation. Others may not include community representation even when they open enrollment to the community if there are no community individuals interested in serving on the Board.*

a. **Functioning Characteristics.** The Board of Directors is responsible for oversight and management of the child care provider. The best functioning boards have three key characteristics, which must:

- (1) Be of a manageable size, between five and eleven members;
- (2) Have broad and diverse representation with expertise in several key areas, such as administration, finance, child development, fundraising; and,
- (3) Ensure membership has a long-term commitment. While a Board of Directors is not required by all management models, an incorporated board is highly recommended to ensure and oversee the long-term viability of the center. Specific responsibilities assigned to the board of directors depend upon the management model selected.

b. **Board of Director's Insurance.** Pub. L. 105-19, the Volunteer Protection Act of 1997, provides certain protections to volunteers, nonprofit organizations, and governmental entities in

lawsuits based on the activities of volunteers. Since the board is not directly responsible for hiring and firing decisions, the need for board insurance must be evaluated. *NOTE: Hiring and firing is the provider's responsibility.* The nonprofit Board of Directors has the responsibility for purchasing general liability insurance or directors and officers' liability insurance, which directly focuses on claims involving management and governance errors. *NOTE: Most boards are named as coinsured parties on the provider's liability insurance policy.*

c. **Conflict of Interest for Federal Employees.** Board members who are Federal employees must be mindful of certain criminal conflict of interest laws, which generally prohibit personal and substantial participation in VA matters affecting the interests of entities whom an employee serves as a Director. Further, these laws generally prohibit employees from representing non-Federal persons or entities before any Federal agency or court (see 18 U.S.C. §§ 203, 205, 208). However, an employee may represent any cooperative, voluntary, professional, recreational, or similar non-profit organization or group if a majority of its members are current employees of the United States or District of Columbia, or their spouses or dependent children unless the representation is in connection with:

- (1) Claims against the Government.
- (2) Formal judicial or administrative proceedings where the organization or group is a party.
- (3) A grant, contract or other agreement (including a request for a grant, contract or other agreement) providing for the disbursement of federal funds to the organization or group.

d. **Board Representation.** A VA employee serving as a member of the child care provider's board may represent the child care provider to VA or another agency provided that a majority of the children cared for by the provider have at least one Federal parent or guardian; and the representation is not in connection with a matter described in preceding subpar. 14c(1)-(3). Any questions as to whether an employee board member's representation of their respective provider would violate criminal conflict of interest law should be referred, in VA Central Office, to the Designated Agency Ethics Official (DAEO) Assistant General Counsel (023), (202) 461-7694, or, in the field, to the local Regional Counsel. VA employees may not serve on a child care provider board in their official capacity or during hours as service on these boards does not constitute VA activity. VA employees who wish to serve on the board and who, in their VA capacity have responsibilities involving the on-site child care center need to consult with the Office of the DAEO or Regional Counsel, as appropriate, to safeguard against conflicts of interest.

NOTE: VA management liaisons (designated per par. 12(f)) with the child care center may, in their official capacity, also liaise with the provider's board to provide VA's views to the provider.

15. RESPONSIBILITIES OF THE PARENT ADVISORY GROUP

After a child care center is established, a group may be formed comprised entirely of parents of children currently enrolled in child care center. This parent advisory group is responsible for observing the daily activities within the child care center, and making recommendations to the

Board of Directors about the operations of the center. This parent advisory group only serves in an information-sharing capacity, and does not define policy, or become directly involved in the actual operations of the child care center.

16. PERMISSIBLE MANAGEMENT MODELS

a. **VA Lease with Public or Non-Profit Provider.** In this case, VA leases existing renovated space to a non-profit provider for the operations of a child care program. VA may provide space, equipment, playground area, playground equipment, furnishings, utilities, telephone services, security, grounds and building maintenance, and sanitation services.

(1) The non-profit provider is responsible for all aspects of operation of the center and furnishes all operational supplies.

(2) An annual lease fee may be required of the provider and the fee may be a nominal amount of \$1 per year provided that at least 50 percent of enrollees are dependents of Federal employees, or VA may lease the space without monetary consideration, so long as the provider agrees to maintain, protect, or restore the property.

(3) VA may provide grounds and building maintenance and sanitation services in VA space regardless of the percentage of enrollees who are dependents of Federal employees.

b. **VA Lease with Public or For-Profit Provider.** In this case, VA leases existing renovated space to a public or for-profit provider for the operation of a child care program. VA may provide space, equipment, playground area, playground equipment, furnishings, utilities, telephone services, security, grounds and building maintenance, and sanitation services.

(1) The public or for-profit provider is responsible for all aspects of operation of the center and furnishes all operational supplies.

(2) Rent, up to the market value of the space leased, may be required of the provider, or VA may lease the space without monetary consideration so long as the provider agrees to maintain, protect, or restore the property.

(3) VA may provide grounds and building maintenance and sanitation services in VA-owned space regardless of the percentage of enrollees who are dependents of Federal employees.

c. **VA Lease with Non-Profit Child Care Board of Directors.** In this case, VA leases existing renovated space to a non-profit child care Board of Directors for the operation of a child care program. VA may provide space, equipment, playground area, playground equipment, furnishings, utilities, telephone services, security, grounds and building maintenance, and sanitation services.

(1) The Board of Directors may directly operate or contract with a non-profit or for-profit provider.

(2) An annual fee may be required of the Board of Directors or a child care provider up to the market value of the space leased, or VA may reduce the fee to a nominal amount provided that at least 50 percent of the enrollees are children of Federal employees and the lease is to a public or nonprofit organization.

(3) All leases made to other than a public or nonprofit organization are subject to the requirement that rent must be established at fair market value and a lease may only be entered into after competitive advertisement in accordance with 41 CFR and 5 CFR.

(4) VA may provide grounds and building maintenance and sanitation services in VA space regardless of the percentage of enrollees who are dependents of Federal employees.

d. **Public-Private Ventures.** In this case, under the provision of the enhanced-use leasing authority of 38 U.S.C. § 8161 *et seq.*, VA may lease its land or space, over a long-term, to a child care provider who will provide child care services to VA employees. These joint ventures are individually developed and are unique to each geographic location. VA may also enter into a consortium with other agencies to provide child care services to VA employees. All EULs must be conducted in accordance with the established procedures for such leases.

17. FUNDING

a. **Local Facility Funding.** If the child care center is located at a health care facility, funds for children's furnishings may be drawn from medical care appropriations capital account. If it is not at a health care facility, funds for such items may be drawn from the general operating expenses account.

b. **Tribal Amendment.** Authority granted by the Tribal Amendment significantly reduces operating costs. If at least 50 percent of the enrollees at the child care center are dependents of Federal employees, the Tribal Amendment authorizes:

(1) VA space to be used by child care providers without charge for rent or services.

(2) "Services," defined as providing; lighting, heating, cooling, electricity, office furniture, office machines and equipment, telephone services, and security systems (including installation of lines and equipment and other associated recurring expenses).

(3) Purchase and installation of playground equipment.

c. **Acquisition or Construction of Facilities.** Authority granted by 38 U.S.C. § 8103(a), provides that the Secretary of Veterans Affairs may acquire, by purchase, lease, condemnation, donation, exchange, or otherwise, any facility (including site of such facility) that (the Secretary) considers necessary for use as a medical facility. Title 38 U.S.C. § 8101(3) defines a "medical facility" as any facility or part thereof which is, or must be, under the jurisdiction of the (Secretary of Veterans Affairs) for the provision of health care services including any necessary building and auxiliary structures.

(1) The provisions of child care services enhance recruitment and retention of health care personnel and thereby furthers VA's health care mission. Therefore, child care centers established for the benefit of employees at a VA health care facility, nursing home, domiciliary care facility, inpatient or outpatient clinic would be considered a medical facility for the purposes of 38 U.S.C. § 8103(3). Consequently, the Secretary of Veterans Affairs may construct, purchase, alter, or lease structures under 38 U.S.C. § 8103(3) in order to establish child care services at any of the preceding health care facilities.

(2) Construction projects for child care facilities on VA property must be funded as follows:

(a) From the medical care appropriations capital account, at the discretion of the medical center Director, if the minor improvement project cost is under \$500,000.

(b) From the minor construction account, if the minor improvement project cost is between \$500,000 and \$10,000,000.

(c) From the major construction account, if the project costs is over \$10,000,000.

d. **Excess Federal Property Program.** VA facilities are authorized and encouraged to screen available unused property for possible reassignment to child care centers operating at local facilities (see 41 CFR 102-36).

18. FUNDRAISING

a. **Combined Federal Campaign.** While regulations governing use of Federal space generally prohibit fundraising except for Combined Federal Campaign (CFC), there is an exception for "solicitations conducted by organizations composed of civilian employees or members of the uniformed services among their own members for organizational support or for the benefit of welfare funds for their members," (see 5 CFR 950.102(d), 5 CFR 950, and 38 CFR 1.218(a)(8)). The Office of Personnel Management (OPM), which has primary responsibility for the CFC, has "determined that child care centers located at Federal installations fall within this exception (for employee organizations) and may, therefore, conduct special solicitation on their behalf under the policies and procedures approved by the head of the department or the agency that sponsors the child care center."

b. **Provider-Sponsored Fundraising.** Child care centers have the authority to conduct fundraising activities within the confines of the space that is designated in the lease agreement. However, it is possible for the parties to agree in the contract between the Board of Directors and the provider that fundraising is not to be conducted within the child care center's space (see OPM Memorandum for Directors of Personnel, Special Solicitations for Child Care Centers Located on Federal Installations, (OPM Child Care Fundraising Memorandum)).

(1) OPM informally advised that they interpret "location of Federal installations" to include those child care centers located nearby that serve Federal facilities. Therefore, employees could raise funds in the workplace for a child care center serving their VA facility. All fundraising activities are subject to the approval of the medical center Director.

(2) OPM requires that child care fundraising not take place during CFC. If a child care center wishes to hold a fundraiser in a Federal building, the sponsor must have a tax-exempt designation from the Internal Revenue Service, or have applied for non-profit status.

c. **Recycling Program.** Pub. L. 107-67, § 607, authorizes all Federal agencies to use the proceeds from the sale of recycled materials to support “employee programs.” Designating funds to a Board of Directors' tuition assistance program is an authorized use of these funds. The Board of Directors may contact the sponsoring agency regarding the possibility of receiving recycling funds.

d. **Other Potential Sources.** Employee Associations and local bargaining units can be instrumental in planning and conducting fundraising activities.

19. CHILD CARE STANDARDS

VA must not allow a child care center to operate in its space unless the center meets the following standards:

- a. Caring For Our Children, National Health and Safety Performance Standards: Guidelines for Out-Of-Home Child Care Programs.
- b. NAEYC Accreditation Criteria, National Academy for Early Childhood Programs.
- c. General Services Administration (GSA) Standards, GSA Child Care Center Design Guide.
- d. Consumer Product Safety Commission (CPSC) Guidelines and Standards for Playgrounds and Safety Requirements.
- e. American with Disabilities Act of 1990 (ADA), 42 U.S.C. 12101-12213.
- f. State Licensing Standards, and any local licensing standards.

20. SECURITY REQUIREMENTS

a. **Liability Requirements.** VA must not allow a child care center to operate in its space unless the center meets the following liability requirements:

- (1) Ensure criminal history background checks are conducted for all its employees.
- (2) Maintain a minimum of \$1,000,000 in liability insurance.
- (3) Maintain fire insurance in an amount that is adequate to cover the space occupied by the center (unless waived by the sponsoring agency director).

b. **Information Security Requirement.** VA must not allow a child care center to operate in its space, unless all employees of the center who must have access to VA information or information systems meet the following privacy and information security requirements:

(1) Complete the VA security and privacy awareness training initially and annually thereafter.

(2) Sign the Contractor Rules of Behavior Agreement on an annual basis.

(3) Read and maintain copies of VA Directive and Handbook 6500, Information Security Program; VA Directive 6502, VA Enterprise Privacy Program; VA Handbook 6500.6, Contract Security; and other applicable information security policies of VA or the facility.

(4) Notify Office of Information and Technology (OI&T) when employment at the child care center is terminated. Child care center directors must also be aware of the process required to terminate access when discontinuing employment with the child care center.

c. **Physical Security Requirements.** VA must not allow a child care center to operate in its space unless the center meets the following physical security requirements:

(1) Prior to opening, vulnerability assessments of child care facilities need to be conducted by local police departments to determine the physical security of the facilities. Vulnerability assessments need to be repeated if child care facilities relocate to new buildings or undergo major renovations of the existing buildings.

(2) Entrances to the child care facility are to be monitored in some way so that unauthorized persons cannot enter and have access to the children. *NOTE: Appropriate security systems are recommended.*

(3) Physical design and use of the facility must permit visual monitoring of the care being provided to the children. Visual monitoring windows or half-doors are required.

(4) Child care centers are required to have a workable, effective procedure that records the arrivals and departures of enrolled children.

(5) Fencing around the playground area needs to be at least 7 feet high for new construction or replacement fencing. Existing playground area fencing needs to be at least 6 feet high. The gates need to be equipped with self-closing and self-latching closure mechanisms. The latch or securing device needs to be high enough, or of such type, that small children cannot open it.

(6) Child care centers are required to develop and implement disaster evacuation plans that address both on-site and off-site relocation plans.

(7) The child care center needs to be included in the local sponsoring agency's emergency call list.

(8) Child care centers are required to develop and implement a Code Adam policy in compliance with Pub. L. 108-21, the Code Adam Act of 2003.

(9) Child care centers are required to comply with the VA physical security requirements as described in VA Handbook 6500, Information Security Program, and Appendix B, Physical Security Requirements and options, of VA Handbook 0730, Security and Law Enforcement.

21. REFERENCES

- a. Title 40 U.S.C. § 590 (b).
- b. Title 38 U.S.C. §§ 5721-5728.
- c. Title 38 U.S.C. § 7809.
- d. Title 38 U.S.C. § 8122.
- e. Title 38 U.S.C. §§ 8161-8169.
- f. Title 38 U.S.C. § 8153.
- g. Title 38 U.S.C. § 8103(a).
- h. Title 18 U.S.C. §§ 203, 205, 208
- i. Title 42 U.S.C. § 13041.
- j. Title 42 U.S.C. §§ 12101-12213.
- k. Title 41 CFR.
- l. Title 5 CFR Part 2635.705.
- m. Title 5 CFR Part 950.102.
- n. Title 41 CFR Part 102-36.
- o. Pub.L. 107-67 § 630.
- p. Pub.L. 105-19.
- q. Pub.L. 103-329 § 608.
- s. OPM Letter, Special Solicitations for Child Care Centers Located At Federal Installations, dated Oct. 29, 1999.
- t. Presidential Memorandum, Steps to Improve Federally Sponsored Child Care, dated March 10, 1998.
- u. VHA Office of Child Care Out-lease Requirements.

- v. VHA Office of Child Care Evaluation Checklist.
- w. Caring For Our Children, National Health and Safety Performance Standards: Guidelines for Out-of-Home Child Care Programs.
- x. NAEYC Accreditation Criteria, National Academy for Early Childhood Programs.
- y. GSA Child Care Design Guide.
- z. Consumer Product Safety Commission Guidelines.

**INSTRUCTIONS FOR OUTLEASE OF DEPARTMENT OF VETERANS AFFAIRS (VA)
SPACE OR LAND TO CHILD CARE PROVIDER
(NEW OR RENEWAL OUTLEASES)**

1. Request for Approval. Request for approval of lease under Title 38 United States Code (U.S.C.) § 8122(a)(1).

a. **New Leases.** All leases for new child care centers must be approved prior to the center operating. Submit the following information at least 60 calendar days prior to the center opening.

b. **Renewal Leases.** Submit the following information at least 60 calendar days prior to the expiration of the current lease.

c. **Submission.** Submit the proposed lease agreement with supporting documentation to:

Office of Child Care
VA Northern California Health Care System
Executive Suite (00cc/MTZ)
150 Muir Road
Martinez, CA 94553

d. **Inclusion.** The required supporting documentation includes:

- (1) A copy of the Public Notice of Intent to Lease that was published in the local newspaper.
- (2) A copy of the proposed lessee's license to operate a childcare center issued by the appropriate state regulatory agency.
- (3) A copy of the proposed lessee's "charter" or, Internal Revenue Service (IRS) Form 990, evidencing their profit or non-profit status.
- (4) Evidence of the proposed lessee's insurance coverage in amounts necessary to protect the government from any and all claims, including, but not limited to third-party property damage and bodily injury claims arising out of the use of the property by the lessee.
 - (a) Insurance coverage must be:
 1. In accordance with State and local laws and regulations,
 2. Kept current, and
 3. In the amount of \$1,000,000.00 for liability.

(b) Fire Insurance Coverage. The facility Director, or designee, and the facility Contracting Officer must certify that the amount of fire insurance purchased is adequate to cover the space occupied by the child care center.

(5) The facility's recommendation of the term of the lease (not to exceed three years), the amount of the rental consideration (whether monetary or in the form of restoration or maintenance of the leased property), and any other special terms and conditions to be incorporated in the lease.

(6) An inspection report by the local safety fire protection engineer that the space meets or will meet code requirements for intended use.

(7) Location of space (i.e., building number and floor).

(8) Evidence of review and approval by Office of Regional Counsel.

2. Background Checks. VA requires all child care providers to ensure criminal history background checks are conducted for all its employees as a condition of the lease. Providing evidence that these criminal history background checks have been conducted is a prerequisite for obtaining a lease. A provision requiring the provider to ensure that these checks be conducted must be incorporated in the lease agreement.

3. Accreditation. VA requires all child care centers operating on its property to be accredited by the National Association for the Education of Young Children (NAEYC) and to maintain accreditation through the renewal process of the National Academy of Early Childhood Programs during operations. A provision requiring accreditation will be incorporated in the lease agreement.

4. Provision for a New Lease. Child Care Centers are eligible for accreditation when they have completed 1 full year of operation. The accreditation process must begin 1 year after operation and achieve accreditation within 1 year of beginning the process.

5. Provision for a Renewal Lease for Centers Already Accredited. The child care provider must maintain accreditation through the renewal process of the National Academy of Early Childhood Programs. A provision stating that the provider must maintain accreditation through the renewal process of the National Academy of Early Childhood Programs will be incorporated in the lease agreement.

6. For a Renewal Lease. For a Renewal Lease, a statement of the provider's interest in renewing the lease must also be submitted.

7. Provision for Closing Centers. The President of the Board of Directors or Child Care Provider is responsible for notifying VA stakeholders and the VHA Office of Child Care of any anticipated closures of child care centers. Written notice to the VHA Office of Child Care must be submitted at least 60 days prior to closing. The notice must include the date and reason for

closure. A provision stating the Board or Provider must submit written notice as indicated above must be incorporated in the lease agreement.

8. Process. Upon receipt of the preceding information, the Child Care Program Manager reviews all documentation. If the lease package meets all requirements, the lease is approved.