

# **FAQs for Daycare Centers 3 Hour Rule**

## **What is the 3-hour rule?**

Adopted amendments to Rule 407, Licensing Standards for Day Care Centers, effective October 30, 2023.

## **What does the 3-hour rule allow?**

The use of an early Childhood Assistant, 18 years of age or older, without an Early Childhood Teacher present shall not exceed three hours per classroom except during the following:

- When all of the children are two years of age or older, an Early Childhood Assistant, 18 years of age or older, may provide direct supervision without the presence of an Early Childhood Teacher for a maximum of one hour per day while the children are all on cots (407.190 e)2).

## **For Example:**

- An Early Childhood Assistant providing direct supervision to a classroom of eight two-year-olds, from 9am to 12 noon, can return to the classroom and provide direct supervision during nap time for 1 hour provided all children are on their cots (407.190 e)2).
- An Early Childhood Assistant providing direct supervision of an infant/toddler classroom, within ratio, can only provide the supervision for 3 hours (407.90 e)4).

## **What if one child is awake and/or gets up off of their cot?**

When one of the children are awake and/or move off their cot, then this classroom must come back into compliance of the rule with an Early Childhood Teacher qualified staff leading the classroom (407.350 a)3 & 407.350 k).

## **Can these hours run consecutively with the nap time?**

Yes. As long as the children are two years of age and older and all children are resting/napping on the cots per 407.190 e)2).

## **What about children under 2 years of age?**

No. An Early Childhood Assistant's direct supervision cannot/shall not exceed 3 hours consecutively for children under 2 years of age.

## **What are the D.H.S Child Development, Health & Safety Basic Training requirements 98.41?**

### **98.41(a)(1): Health & Safety Requirements for Providers (11 Health and Safety Topics)**

Such requirements must be applicable to child care providers of services for which assistance is provided under this part and shall include health and safety topics consisting of, at a minimum:

1. The prevention and control of infectious diseases (including immunizations);
2. Prevention of sudden infant death syndrome and use of safe sleeping practices;
3. Administration of medication, consistent with standards for parental consent;
4. Prevention and response to emergencies due to food and allergic reactions;
5. Appropriate precautions in transporting children, if applicable;
6. Building and physical premises safety, including identification of and protection from hazards, bodies of water, and vehicular traffic;
7. Prevention of shaken baby syndrome, abusive head trauma, and child maltreatment;
8. Emergency preparedness and response planning for emergencies resulting from a natural disaster, or a man-caused event (such as violence at a child care facility), within the meaning of those terms under section 602(a)(1) of the Robert T. Stafford Disaster Relief And Emergency Assistance Act (42 U.S.C. 5195a(a)(1)) that shall include procedures for evacuation, relocation, shelter-in-place and lock down, staff and volunteer emergency preparedness training and practice drills, communication and reunification with families, continuity of operations,

- and accommodation of infants and toddlers, children with disabilities, and children with chronic medical conditions;
9. Handling and storage of hazardous materials and the appropriate disposal of bio contaminants.
  10. Pediatric first aid and cardiopulmonary resuscitation; and
  11. Recognition and reporting of child abuse and neglect, in accordance with the requirement at 98.41(e).

**What is the experience requirement for an Early Childhood Assistant caring for children under two years?**

The Early Childhood Assistant must:

1. Be 18 years of age or older.
2. Have one year experience (1,560 clock hours) of providing childcare:
  - o In a licensed day care setting 406 Day Care Home, 407 Day Care Center or 408 Group Day Care Home, or 377 Facilities and Programs deemed Exempt from licensure (407.90 e)4).

**How is the one year of experience documented?**

You may show proof of experience by obtaining a printout of the staff's clock hours worked in the setting noted (406, 407, 408 & 377). The documentation should be reviewed for accuracy and placed in the Early Childhood Assistant's staff file.

**What is the qualification requirement for Early Childhood Assistants providing direct supervision, to a classroom of children UNDER the age of two, without the presence of an Early Childhood Teacher for three hours per classroom?**

The Early Childhood Assistant must:

1. Be at least 18 years of age or older.
2. Have one year of experience (1,560 clock hours) of providing childcare in a day care setting licensed pursuant to 89 Ill. Adm. Code 406, 407 or 408, or a license-exempt childcare setting as defined in 89 Ill. Adm. Code 377,
3. Successfully complete 98.41(a)(1): Health & Safety Requirements for Providers (11 Health and Safety Topics).

**Can an Early Childhood Assistant providing supervision to children under two, supervise this group for 1 hour during nap time?**

Not under the auspices of an officially scheduled nap time for infant & toddlers. However, children under the age of two particularly infants and toddler shall be allowed to rest or sleep according to each child's individual pattern (407.350 a)2). So, during the 3 hours of supervision with children under the age of two as long as it is not "scheduled nap time" then the ECA can provide coverage during non-scheduled nap time.

Yes. When rest or sleep is done according to each child's individual sleeping pattern during the 3 hours, the Early Childhood Assistant is providing supervision of the classroom and the classroom ratio is maintained (407.190 a), (407.350 a)2).

**Can the 3-hour rule be used if my program only operates from 8 am to 12 noon?**

Provided that the Early Childhood Assistant works less than the majority of the time the classroom is open.

No, the use of an early childhood assistant without an early childhood teacher present shall not exceed three consecutive hours or make up a majority of the hours an individual classroom is open in a single day. In the above example the facility only operated for 4 hours. The 3-hour usage will constitute the majority of the day.

However, you may utilize this option for less than the 3 hours for example you may utilize the ECA for up to 1.5hours based on the operating hours of 8 am to 12 noon. (407.90 e)3)A).

**What if my infant room is only operational for part of the day?**

The Early Childhood assistant can provide direct supervision as long as they work less than the majority of the time the classroom is open (407.90 e)3)A).

**Do Day Care Centers have to post a staffing plan showing that the Early Childhood Assistant is providing care without the presence of an Early Childhood Teacher qualified staff?**

No. There is nothing in the rule that states that you must post; however, **Section 407.90 Staffing Structure requires:**

- a) The day care center shall provide staff to ensure the care and safety of the children at all times.
  - 1. A written staffing plan shall organize the staff and enable them to give the children continuity of care and supervision.

**Can I utilize the 3-hour rule when opening a new day care center?**

There is nothing written in Rule 407 stating the 3-hour rule cannot be utilized with an initial day care facility. The facility must ensure the staff and staffing plan meet 407.90, 407.100, 407.150 and 407.190.

**Can I use an Early Childhood Assistant for the first 3 hours of a classroom and then the last 3 hour of that same classroom?**

No. The use of an Early Childhood Assistant without an Early Childhood Teacher present shall not exceed three hours of the licensed program day, except for as allowed in Section 407.190 (e)(2).

**How should the classroom be staffed after the use of the Early Childhood Assistant for the allotted 3-hours?**

After the 3-hour usage of the teacher assistant the classroom is required to be in compliance with the child staff ratio under the supervision of a teacher qualified staff according to Section 407.90 d) and 407.140.

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