



United States Department of the Interior

NATIONAL PARK SERVICE

1849 C Street, NW
Washington, DC 20240

Policy Memorandum 26-01

To: National Park Service Senior Leadership
Superintendents

From: Comptroller, Exercising the Delegated Authority of the Director

Subject: Childcare Centers

1. Purpose and Duration

This Policy Memorandum (Memorandum) provides guidance about how the National Park Service (NPS) will oversee childcare centers operating in units of the National Park System (System). This Memorandum supersedes and replaces the guidance in Special Directive 85-1, Day Care Facilities (SD 85-1).

This Memorandum will remain in effect until amended, superseded, or rescinded by the Director.

2. Background

The Acting Director of the NPS issued SD 85-1 on April 8, 1985. SD 85-1 addresses facilities that are used by employees and others living in park areas and allows for the operation of non-profit day care facilities, including childcare centers, in park areas pursuant to a special use permit (SUP). SD 85-1 requires day care facilities to operate in compliance with all applicable Federal, State, and local laws and regulations.

On March 27, 2024, the U.S. Department of the Interior, Office of the Inspector General (OIG) issued a management advisory ([Report No. 22-0609](#)) recommending the NPS clarify its oversight responsibilities for childcare centers operating in park areas. The OIG recommended the NPS resolve questions about State and Federal licensing authority for childcare centers and implement policies and procedures necessary to ensure consistent oversight of childcare centers, including inspection protocols. The NPS implemented part of those recommendations through a memorandum, issued by the Acting Associate Director, Visitor and Resource Protection on June 3, 2024, that:

- requires all childcare centers operating within park areas to be licensed by the applicable State or local authority; and
- clarifies the role of public health officials within the NPS Office of Health and Safety (OHS) in conducting inspections.

The NPS shared the memorandum with the OIG and stated it would rescind SD 85-1 and replace it with new policy that will clarify the process for authorizing childcare centers and establish standards for their operation.

Currently, private businesses use Federal facilities to operate ten childcare centers in eight System units. These centers provide valuable and, in some cases, essential services to NPS employees, partners, cooperators, volunteers, and the public, including those who do not live or work in the System units. The NPS uses SUPs, leases, and agreements to authorize the operation of these childcare centers.

3. Related Regulations and Guidance

NPS regulations at [36 CFR 5.3](#) prohibit engaging in any business, which includes operation of childcare centers, in park areas without a permit, contract, or other written agreement.

NPS regulations at [36 CFR 1.6](#) allow a superintendent to issue permits when authorized by other regulations when the permitted activity is consistent with applicable legislation, Federal regulation and administrative policies, and upon a determination that visitor experience, park operations, and natural and cultural resources, among other things, will not be adversely impacted. NPS policy guidance on special park uses is found in section 8.6 of [NPS Management Policies \(2006\)](#). That guidance is supplemented by guidance in [Director's Order #53: Special Park Uses](#), which sets forth the policies and procedures for administering special park uses on National Park System lands, including through the issuance of SUPs.

NPS regulations at [36 CFR part 18](#) implement the statutory authorities in [54 USC 102102](#) and [54 USC 306121](#) that allow the Director (or delegated officials) to lease certain federally owned or administered property located within the boundaries of park areas. NPS policy guidance on leasing is found in section 8.12 of *Management Policies* and in [Directors Order #38: Real Property Leasing](#).

Statutory authorities in [31 USC 6305](#) and [54 USC 101702](#) allow the NPS to enter into cooperative agreements that involve the transfer of funds and other things of value to a State, Tribal, or local, government or other public entity, an educational institution, or a private non-profit organization to carry out a public purpose of an NPS program. [Director's Order #20: Agreements](#) establishes policies and procedures for administering agreements, identifies and describes the types of agreements the NPS may enter into with Federal and non-Federal entities, and identifies and describes the responsibilities and functions of NPS officials in administering agreements.

Ethics regulations require Federal employees to act impartially and refrain from preferential treatment of any private organization or individual. Ethics regulations also prohibit Federal employees from using their Government position, title, or any authority associated with public office in a manner that could reasonably be construed to imply the NPS or the Government sanctions or endorses the activities of any organization, or endorses any product, service, or enterprise except in very limited circumstances. See [5 CFR 2635.702](#).

4. Policy

4.1 Requirements

To protect the health and safety of the children served by the centers, the NPS will only authorize childcare centers that meet accepted standards for operation. How this occurs depends upon the type of jurisdiction held by the NPS in the park area.

In locations where the NPS has proprietary or concurrent jurisdiction, and therefore State and local governments retain regulatory and administrative authority, childcare centers must be licensed by the applicable State or local authority. U.S. Public Health Service officers assigned to the OHS will conduct limited inspections of food facilities for disease prevention. State or local authorities are responsible for all other evaluations and inspections, including for purposes of obtaining or maintaining licensure or certification. The NPS will not authorize the operation of a childcare center in these areas unless and until the center's operator has demonstrated compliance with all applicable State and local laws, and received all required approvals, licensures, and certifications from State and local authorities.

In proprietary or concurrent jurisdiction areas, if the State and local governments determine that a childcare center is not subject to their laws or regulations about childcare, or otherwise do not take action to determine compliance with such laws or regulations, then the NPS should consult with the relevant program office and consider coordination with the Office of the Solicitor before authorizing the operation of the childcare center.

In locations where the NPS has exclusive jurisdiction, and therefore State and local governments have no regulatory or administrative authority, the NPS may authorize the operation of childcare centers in one of two ways:

1. The NPS may authorize the operation of a childcare center after the operator demonstrates compliance with the substantive requirements of State and local laws that would apply to the operation of the childcare center if the State or local government had regulatory and administrative authority.
2. The NPS may authorize the operation of childcare centers after the operator demonstrates compliance with the national health and safety standards and guidelines for early care and education programs established by [Caring for Our Children](#) (CFOC). CFOC is a collaborative project of the American Academy of Pediatrics, American Public Health Association, and the National Resource Center for Health and Safety in Child Care and Early Education based at the University of Colorado, College of Nursing. The U.S. Department of Health and Human Services funded the initial publication of the CFOC standards in 1992. The CFOC standards are available online and in print and are updated on a regular basis (most recently in July 2025). The CFOC standards are comprehensive, addressing topics such as staffing, program activities for healthy development, health promotion and protection, nutrition and food service, facilities, supplies equipment and environmental health, play areas and transportation, infectious diseases, program management, licensing, and monitoring.

In areas where the NPS has exclusive jurisdiction, it must evaluate and inspect childcare centers to determine whether they comply with the substantive requirements of State and local laws or

meet the CFOC standards. The NPS can conduct its own evaluations and inspections or use other entities to conduct them on its behalf. U.S. Public Health Service officers assigned to the OHS may conduct standardized inspections for CFOC code items where they have training and expertise, such as for water, wastewater, restroom facilities, food safety, sanitation, environmental health, and infectious disease. Subject matter experts, within or outside of the NPS, must conduct evaluations and inspections in other areas, such as structural fire, building safety, staffing ratios, and employee background checks. The NPS may use licensures and certifications issued by State and local governments as evidence of compliance with the substantive requirements of State and local law.

In proprietary and concurrent jurisdiction areas, the NPS may terminate, suspend, or otherwise modify the terms of the authorizing legal instrument, or take any other adverse action allowed by the legal instrument, if the State or local authority determines the center does not comply with applicable State or local law.

In all other situations, the NPS must consult with the Office of the Solicitor and the relevant NPS program office before taking any such actions. In particular, this includes situations where the NPS determines that a childcare center in an exclusive jurisdiction area does not comply with the substantive requirements of State or local laws, or CFOC standards. The terms and conditions of legal instruments for childcare centers should require the NPS to follow due process procedures (for example, advance notice of alleged violations, cure periods, and appeal rights) before taking adverse action unless – for childcare centers operating in proprietary and concurrent jurisdiction areas – the adverse action results from a State or local government determining the center does not comply with State or local laws.

4.2 Selecting the Appropriate Legal Instrument

Pursuant to NPS regulations in 36 CFR 5.3, written authorization is required before a private entity can operate a childcare center in a park area. Cooperative agreements and leases allow private entities to use Federal facilities for a variety of purposes that could include the operation of childcare centers. Cooperative agreements are the preferred type of legal instrument to use for authorizing the operation of childcare centers. General agreements are less appropriate because they cannot commit the NPS to provide financial assistance in any form, nor transfer NPS goods or services to Federal or non-Federal entities. Allowing an entity to use a Federal facility to operate a childcare center is a form of financial assistance and thus requires the use of a cooperative agreement.

Cooperative agreements are preferred because they have built-in accountability measures, such as reporting requirements that promote transparency and accountability. They involve regulatory oversight that includes internal controls, recipient risk assessments, and ongoing monitoring of facility access and usage, as required under [2 CFR part 200 – Uniform Administrative Requirements](#). Performance reporting, and SAM.gov and Grants Solutions registration are required for application, monitoring, and reporting under cooperative agreements. In most cases, cooperative agreements must be awarded through full and open competition. Recipients must have internal controls in place to ensure adequate documentation for expenditures and compliance with cost principles, as well as progress reporting that outlines project milestones and achievements. Under [2 CFR 200.307](#), there are specific reporting requirements for program

income associated with Federal financial assistance and property use, which include a property use valuation and program income estimate. Performance and financial reports should be required on a quarterly basis. These controls help prevent misuse of funds, support accountability, and ensure compliance with Federal requirements and award expectations.

Leases are another option for authorizing the operation of childcare centers and may be appropriate in some circumstances. For example, cooperative agreements and leases can authorize non-profit entities to operate childcare centers, but only leases can authorize for-profit entities. The NPS oversees activities conducted under a lease primarily through enforcement of its terms and conditions. Lessees are required to comply with all applicable laws in its use and occupancy of the leased premises. The NPS may cancel or suspend a lease for a violation of any of such laws, which are enforced by the Federal, State, or local government with the applicable authority.

Exhibit A to this Memorandum compares the characteristics of leases and cooperative agreements and what may make them more or less suitable in each situation.

SUPs are not meant to grant private entities long-term, exclusive use of Federal facilities and therefore are disfavored. They may be used to authorize the operation of childcare centers for a period that expires five years from the date of this Memorandum, after which they may not be used for this purpose.

No matter which instrument is used, it must require that:

- childcare center operations comply with all applicable laws, regulations, and standards; and
- the operator provides documentation supporting compliance.

For more information about the use of these legal instruments, see Director's Order #20: Agreements, Director's Order #38: Real Property Leasing, and Director's Order #53: Special Park Uses, and their respective reference manuals.

5. Third-Party Enforceability

This Memorandum is intended only to improve the internal management of the NPS and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its departments, agencies, instrumentalities or entities, its officers or employees, or any other person.

-----*End of Policy Memorandum*-----

Exhibit A to Policy Memorandum 26-01

Lease	Cooperative Agreement
<p>Advantages:</p> <ul style="list-style-type: none"> • Buildings can be non-competitively leased to non-profit organizations if the use of the property will contribute to the purposes and programs of the park area. <i>Providing childcare services in certain park areas may meet these criteria, which would allow for easier and faster issuance of leases.</i> • Lease terms can be negotiated. <i>Provides flexibility to meet the unique circumstances of each lease. Allows the NPS to require compliance with applicable standards for the operation of childcare centers.</i> • Property can be leased for up to 60 years. <i>Provides long-term certainty for operators and customers and results in less time and cost for lease issuance and renewal.</i> • The park receives rent equal to the fair market value for use of the property, which is available until expended for infrastructure needs at the park. <i>Provides a useful fund source for maintaining and improving park infrastructure.</i> • The park can offset certain costs expended by the lessee for facility repair, maintenance, and improvements against rent. <i>Promotes good care of the leased facility through efficient reimbursement for necessary expenditures.</i> 	<p>Advantages:</p> <ul style="list-style-type: none"> • Cooperative agreements for property use specifically can be issued for up to 10 years, with an option to renew for an additional five years. <i>Although less than the maximum term of leases, the potential for 15-year terms provides reasonable certainty for operators and customers and results in less time and cost for agreement issuance and renewal.</i> • Cooperative agreement terms can be negotiated. <i>Provides flexibility to meet the unique circumstances of each agreement. Allows the NPS to require compliance with applicable standards for the operation of childcare centers.</i> • Cooperative agreements can be used to transfer money, property, services, or anything else of value from the NPS to the partner. <i>Allows the operator to use Federal property to operate the childcare center as a form of financial assistance. Allows the NPS to provide other forms of financial assistance that support the operation of the center, such as funding for training and resources for staff, or for safety inspections or facility upgrades that help the center comply with applicable operating standards.</i> • Cooperative agreements can be awarded non-competitively if the NPS demonstrates that the proposed operator of the center is the only appropriate option and therefore the opportunity is unique and single source. <i>Providing childcare services in certain park areas could meet these criteria, reducing administrative costs for issuing agreements.</i> • Financial assistance must be provided for a public purpose rather than for government benefit. Supporting employee wellbeing and retention in areas with limited resources can qualify as a public purpose. <i>Providing childcare services in certain park</i>

Lease	Cooperative Agreement
	<p><i>areas could meet these criteria, even in situations where the center only serves the children of NPS employees.</i></p> <ul style="list-style-type: none"> • Cooperative agreements allow the NPS to be substantially involved in the authorized activity. <p><i>Allows the NPS to have more control over the operating conditions of the center, helping to ensure that the services provided meet NPS policy goals.</i></p> <ul style="list-style-type: none"> • NPS can use cooperative agreements to partner with various non-Federal entities, including non-profit organizations, and State or local governments). <p><i>Provides flexibility, allowing the NPS to support a wide range of non-Federal service providers on Federal property for the operation of childcare centers.</i></p>
<p>Disadvantages:</p> <ul style="list-style-type: none"> • Lessees must pay rent equal to the fair market value for the use of the property. <p><i>May be cost-prohibitive for some operators.</i></p> <ul style="list-style-type: none"> • Fair market valuation can take several months to a year. <p><i>Increases administrative costs and uncertainty for operators and customers before the lease is issued.</i></p> <ul style="list-style-type: none"> • Conveying a property interest in the facility gives lessees greater control over rates and who they provide services to. <p><i>Could lead to operating conditions such as excessive rates or membership requirements that exclude NPS employees and park residents from using the services, frustrating NPS policy goals.</i></p> <ul style="list-style-type: none"> • NPS cannot provide financial assistance under a lease in the same way it can under a cooperative agreement. <p><i>Less flexibility to provide financial support for the operation of childcare centers unless a separate agreement is signed with the lessee.</i></p>	<p>Disadvantages:</p> <ul style="list-style-type: none"> • In most cases, cooperative agreements require a competitive award process. <p><i>Increases administrative costs and uncertainty for operators and customers before the cooperative agreement is issued.</i></p> <ul style="list-style-type: none"> • Funding for financial assistance may not be consistently available. <p><i>Creates uncertainty for business owners and affects the NPS's long-term commitment of assigned space.</i></p>