

# Settings Rule Requirements and Licensing

**At times, licensing requirements & the Settings Rule regulations may not match. In these situations, licensing requirements & the Settings Rule requirements must be met.**

Topic	Licensing Requirements	Settings Rule Requirements
Cameras	Only a resident or the resident’s legal representative may operate or install a monitoring device in the resident’s room per Utah Administrative Code 26-21-303.	<ul style="list-style-type: none"> <li>• The use of cameras must be assessed against the HCBS Settings Rule to ensure that the presence and intended use of cameras is in compliance with the Rule.</li> <li>• Surveillance cameras in a setting may change the perception of the site as institutional in nature versus Home and Community Based.</li> <li>• Surveillance equipment in the following circumstances generally do not raise privacy concerns and can be used as similar non-HCBS settings would use them:               <ul style="list-style-type: none"> <li>○ In areas dedicated to provider staff (desks/offices)</li> <li>○ Monitoring entrances and exits</li> <li>○ Monitoring exterior areas of the building (parking lots)</li> <li>○ In commercial/integrated areas of the setting (such as stores, cafes, etc.)</li> </ul> </li> <li>• Surveillance equipment may also be used if it achieves one of the following:               <ul style="list-style-type: none"> <li>○ Increased independence for individual(s) receiving HCBS services</li> <li>○ Addresses a complex medical condition or other extreme circumstance</li> <li>○ Reduces or minimizes critical incidents</li> <li>○ Improves the quality of supports</li> </ul> </li> <li>• Surveillance equipment must meet the following requirements:               <ul style="list-style-type: none"> <li>○ Addresses health and safety concerns, potential risks and safety planning</li> <li>○ Visual (concealed cameras and fake cameras are not allowed)</li> <li>○ Be the least restrictive option</li> <li>○ Be accessed (both equipment and any recording) only by appropriate staff</li> <li>○ Method of secure disposal or destruction of any recordings after a reasonable period</li> </ul> </li> </ul> <p>Resource: <a href="#">Policy &amp; the Use of Cameras in the New Choice Waiver Residential HCBS Setting</a></p>

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Food Service	<ul style="list-style-type: none"> <li>Facilities must have the capability to provide three meals a day, seven days a week, to all residents, plus snack</li> <li>All menus must be approved and signed by a certified dietician</li> </ul>	<ul style="list-style-type: none"> <li>Individuals must have access to food at any time.               <ul style="list-style-type: none"> <li>Individuals should have the ability to access snacks independently at any time</li> <li>If there are set meal times, individuals must have the ability to request a meal at a different time</li> </ul> </li> <li>While menus must be approved and signed by a certified dietician, individuals must be given an opportunity to request an alternative meal and participate in the meal planning process.               <ul style="list-style-type: none"> <li>Individuals should have the opportunity to request and make recommendations on menu items</li> <li>Individuals can request an alternative meal if they chose not to eat what is on the menu</li> </ul> </li> </ul> <p>Other Food Related Settings Rule Requirements:</p> <ul style="list-style-type: none"> <li>No individual's private information is posted in the setting in a general open area (e.g. food restrictions).</li> <li>Individuals should have access to typical home facilities such as the ability to make their own meal if they desire.               <ul style="list-style-type: none"> <li>Access to a refrigerator to store food and a microwave to cook food. Examples can include:                   <ul style="list-style-type: none"> <li>Kitchenettes in private apartments/rooms</li> <li>Allowance for residents to have a refrigerator and microwave in their private apartments/rooms</li> <li>Access to a refrigerator and microwave for resident use in common area(s)</li> <li>A separate kitchen for resident use</li> </ul> </li> </ul> </li> <li>The person-centered planning process should be used to document any restrictions/limitations dietary restrictions, access to typical home facilities, or access to food. If an individual has a restriction, the provider will need to show documentation of the rights restriction.</li> </ul>

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<p>Locks on Doors</p>	<ul style="list-style-type: none"> <li>• The International Fire Code enforced by other agencies or jurisdictions apply to assisted living facilities</li> <li>• Rooms which contain bathtubs, showers, or water closets for resident use shall be equipped with doors and hardware which permit emergency access.</li> <li>• Doors, except those to spaces such as small closets not subject to occupancy, shall not swing into corridors in a manner which will obstruct traffic or reduce corridor width. Large walk-in type closets are occupiable spaces.</li> <li>• Each resident living unit entry door shall:               <ul style="list-style-type: none"> <li>○ Be lockable, but operable from the inside by single-action lever</li> <li>○ Be individually keyed with the key under resident control</li> <li>○ A master key shall be available for staff</li> <li>○ Door handles for all doors used by residents shall be of the lever type and shall meet ADA/ABA-AG requirements</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• The setting ensures the individual has privacy in their sleeping or living unit including lockable doors, choice of roommates, and freedom to furnish or decorate the unit.</li> <li>• Having a lock on both the individual’s private bathroom and bedroom door is the default.               <ul style="list-style-type: none"> <li>○ It is the choice of individuals when or how they use the lock.</li> <li>○ If an individual has a restriction limiting their ability to lock their doors, the provider will need to show documentation of the rights restriction.</li> </ul> </li> </ul> <p>Available Resource: <a href="#">Locks and the HCBS Settings Rule Flyer</a></p> <ul style="list-style-type: none"> <li>• The master key for resident living units should only be available to staff who require access</li> <li>• Staff only use the master key to enter a living area or privacy space under limited circumstances agreed upon with the residents</li> <li>• Staff always knock and receive permission prior to entering a private living space</li> </ul>

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Hazardous Chemicals	<ul style="list-style-type: none"> <li>All cleaning agents, bleaches, insecticides, or poisonous, dangerous, or flammable materials shall be stored in a locked area to prevent unauthorized access.</li> <li>Each facility shall provide a minimum of one washing machine, one clothes dryer, and ironing equipment in good working order for resident use (R432-6-210-5).</li> </ul>	<ul style="list-style-type: none"> <li>If locking of hazardous chemicals result in limiting access to typical home facilities such as laundry rooms, then residents may not have complete autonomy in performing daily activities, which they are afforded under the Settings Rule. Examples can include:               <ul style="list-style-type: none"> <li>Hazardous chemicals for facility use can be secured within a locked cabinet within the laundry room to allow access to the laundry room.</li> <li>Residents have their own laundry room for use.</li> </ul> </li> <li>If an individual has a rights restriction that affects their right to independently complete daily activities (such as laundry) and allow them complete autonomy, the provider will need to show documentation of the rights restriction.               <ul style="list-style-type: none"> <li>If there is a lock on the laundry room due to a resident's restriction, there must be a way for other resident's to independently circumvent that restrictions.</li> <li>For example, there can be a coded lock for residents to use who can do their laundry independently.</li> </ul> </li> </ul> <p>Note: Laundry rooms must meet all licensing requirements. Utility sinks located in laundry rooms that are accessible by residents' water temperature cannot exceed 120 degrees.</p>
Visitors	<ul style="list-style-type: none"> <li>To have daily visiting hours established</li> </ul>	<ul style="list-style-type: none"> <li>Individuals are able to have visitors of their choosing at any time.</li> <li>If an individual has a restriction limiting their ability to have visitors at any time, the provider will need to show documentation of the rights restriction.</li> </ul>

Submit any questions to [HCBSSettings@utah.gov](mailto:HCBSSettings@utah.gov)

