

# REQUEST FOR EXCEPTION TO PROVIDE FOSTER CARE GUIDANCE FOR CHILD CARE PROVIDERS



## Statutes and Regulations Regarding Exceptions

Kansas law (K.S.A. 65-504) authorizes the Kansas Department of Health and Environment (KDHE) to issue a license for child care to be provided in a person's home. Only **one** license may be issued for a specific location. Kansas day care regulation K.A.R. 28-4-119b and family foster home regulation K.A.R. 28-4-804(e) state that an exception may be granted if the applicant or licensee requests an exception to a regulation, the exception is in the best interest of a child or children, and the exception does not violate Kansas statutes.

Foster home regulation K.A.R. 28-4-804(a)(4) and day care regulation K.A.R. 28-4-114(d) state that licenses shall not be issued concurrently for more than one type of child care or child and adult care on the same premises. In addition, any written notice of an exception must be one file at the licensed facility and posted next to the license in plain sight.

## What is needed to submit an exception?

A child care provider must have a Temporary Permit or license issued for their residence by the Department in order to request an exception. Providers may request an exception form from their child care surveyor or download the form from the website. The provider must work with a Foster Care Child Placing Agency (CPA) who will sponsor their home in order to thoroughly complete the exception form. Once the exception form and required assessments and recommendations have been completed, all the documentation should be forwarded to the local child care surveyor for review and recommendations. The exception request will be reviewed by both the child care and the foster care KDHE Regional Administrators for consideration and final decision.

## How does KDHE decide who will receive approval to have an exception to provide both day care and foster care in their home?

A number of criteria will need to be met, including:

- Recommendation to grant from the local child care surveyor to KDHE based on his/her knowledge of the operation of the day care home. Note: The KDHE regional administrators make the final decision on the exception approval after a review of the recommendations from the child care surveyor and the CPA sponsoring the family foster home.
- Successful completion of PS-MAPP training including a thorough family assessment that includes consideration of the challenges of providing two types of care.
- Positive recommendation from the sponsoring CPA foster care licensing worker.
- Compliant operation of the day care home for at least one year. Note: An exception may not be approved if there is outstanding noncompliance documented or if the facility has a history of significant noncompliance.
- There is a specific need for the exception. For example:
  - A child related to the provider, or known to the family is in need of a foster home placement.
  - The provider has been identified as the potential adoptive resource for a child/ren.
  - A child/ren enrolled in the day care home needs to be placed in a foster home.
  - There is a documented need for both foster care and day care services in the community; for example, a child care provider may be the only day care and foster home resource in the community.

Exceptions are generally granted for a maximum of two children in foster care at a time because you are also providing day care in your home. The children in foster care placed in your home will count in your day care licensing capacity.

**PLEASE REMEMBER:** Family foster homes are not required to submit background checks on children in foster care that are placed in their home, *but* because your home would also be operated as a day care, any child in foster care placed in your home who is 10 years of age or older, must be submitted on a KBI background check prior to being placed in the foster home. Pursuant to K.S.A. 65-516, if the child has **any** prohibiting offenses, the child may not reside in the foster home that is also licensed as a day care home. The exception may not be approved.

## **What should I consider before making the decision to provide foster care and day care?**

The ability to successfully meet the needs of your own family, the children in day care, and children in foster care requires commitment and hard work. A request to be approved to provide both types of care should be submitted only in exceptional circumstances, not considered on a routine basis. The expectation is intended for situations where all other feasible alternatives have been explored or when a specific placement is in the best interest of the child/ren.

Some children in foster care exhibit behaviors that may cause a potential risk for harm to the day care children. Children in foster care who have or are currently exhibiting the following behaviors should not be considered for care under the exception to foster to a daycare license: sexual acting out, destructiveness, fire setting, and assaultive behaviors are several examples. If there are questions regarding the behaviors of the child, this should be discussed with the sponsoring CPA staff as well as KDHE Administrators.

Children in foster care placed in your home will require additional time and energy resources. The children in foster care placed in your home will have numerous appointments and visits with birth family members, professionals, and case workers, to name a few, which will require your constant time, attention, and participation as a foster parent. There must be an approved care giver with the day care and foster children at all times, so it is important that the foster parents/day care provider/s have additional resources to assist in caring for the children.

## **How will I know that the exception has been approved?**

A printed exception indicating the number and ages of the children in foster care to be cared for will be sent. The exception will indicate any conditions or restrictions as well as the effective and expiration dates of the exception. Regulation requires that the exception be posted next to the day care license, in plain sight, at all times. A copy of the granted exception will also be sent to the sponsoring foster care sponsoring CPA as well as the child care surveyor and KDHE foster care surveyor.

## **When is a new exception request required?**

A new exception request must be submitted upon a change in CPA sponsorship or when the terms of the current exception change. The exception may have limitations or restrictions as recommended by the sponsoring CPA, Child Care Surveyor or KDHE or requested by the foster parent/day care provider/s.

Noncompliance with either day care or foster care regulations may result in the expiration of the exception to provide foster care with a day care license.

## **What do I do when I need to renew next year?**

Two renewal packets are required annually, one for the day care license and one for the foster care exception. The foster care packet will be completed with the assistance of your sponsoring CPA licensing worker and then submitted to KDHE by the sponsoring CPA. The day care renewal packet will be your responsibility to complete and submit to KDHE. The annual exception request will be completed at the same time that you are completing the foster care renewal packet with the sponsoring CPA. The exception request and renewal packet should be forwarded to the local child care surveyor for review and a recommendation before it is forwarded to KDHE for the final approval. You will have an inspection of your foster home by your sponsoring CPA licensing worker at renewal time. An annual inspection for the day care home will be conducted by the local child care surveyor. Please remember that you must be in compliance with **both** day care and foster care regulations in order to maintain the exception to foster to the day care license.

There is no fee to operate a foster home or to have a foster care exception, *but* there is a fee to apply for and renew your day care license. Contact your local child care surveyor if you do not know the amount of your annual renewal fee.

KDHE's goal is to assist in assuring that children placed in child care settings have access to healthy, safe, and nurturing environments. Research has shown that limiting the number of children in care improves the quality of care the children receive. Regulations are developed to maintain quality child care and set foundational standards.