KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

KANSAS LAWS AND REGULATIONS FOR LICENSING PRESCHOOLS AND CHILD CARE CENTERS

July 2015

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KANSAS CHILD CARE LICENSING LAWS

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KANSAS CHILD CARE LICENSING LAWS

Chapter 65. PUBLIC HEALTH
Article 5. MATERNITY CENTERS AND CHILD CARE FACILITIES

K.S.A. 65-501. License or temporary permit required; exemptions.
It shall be unlawful for any person, firm, corporation or association to conduct or maintain a maternity center or a child care facility for children under 16 years of age without having a license or temporary permit therefor from the secretary of health and environment. Nothing in this act shall apply to:

(a) A residential facility or hospital that is operated and maintained by a state agency as defined in K.S.A. 75-3701 and amendments thereto; or

(b) a summer instructional camp that:

(1) Is operated by a Kansas educational institution as defined in K.S.A. 74-32,120, and amendments thereto, or a postsecondary educational institution as defined in K.S.A. 74-3201b, and amendments thereto;

(2) is operated for not more than five weeks;

(3) provides instruction to children, all of whom are 10 years of age and older; and

(4) is accredited by an agency or organization acceptable to the secretary of health and environment.

History: L. 1919, ch. 210, § 1; R.S. 1923, 65-501; L. 1974, ch. 352, § 85; L. 1978, ch. 236, § 1; L. 1985, ch. 209, § 1; L. 1994, ch. 279, § 4; L. 2001, ch. 101, § 1; April 26.

K.S.A. 65-503. Definitions. As used in this act:

(a) "Child placement agency" means a business or service conducted, maintained or operated by a person engaged in finding homes for children by placing or arranging for the placement of such children for adoption or foster care.

(b) "Child care resource and referral agency" means a business or service conducted, maintained or operated by a person engaged in providing resource and referral services, including information of specific services provided by child care facilities, to assist parents to find child care.

(c) "Child care facility" means:

(1) A facility maintained by a person who has control or custody of one or more children under 16 years of age, unattended by parent or guardian, for the purpose of providing the children with food or lodging, or both, except children in the custody of the secretary for children and families who are placed with a prospective adoptive family pursuant to the provisions of an adoptive placement agreement or who are related to the person by blood, marriage or legal adoption;

(2) a children's home, orphanage, maternity home, day care facility or other facility of a type determined by the secretary to require regulation under the provisions of this act;

(3) a child placement agency or child care resource and referral agency, or a facility maintained by such an agency for the purpose of caring for children under 16 years of age; or

(4) any receiving or detention home for children under 16 years of age provided or maintained by, or receiving aid from, any city or county or the state.

(d) "Day care facility" means a child care facility that includes a day care home, preschool, child care center, school-age program or other facility of a type determined by the secretary to require regulation under the provisions of K.S.A. 65-501 et seq., and amendments thereto.

(e) “Person” means any individual, association, partnership, corporation, government, governmental subdivision or other entity.

(f) “Boarding school” means a facility which provides 24-hour care to school age children, provides education as its primary function, and is accredited by an accrediting agency acceptable to the secretary of health and environment.

(g) "Maternity center" means a facility which provides delivery services for normal, uncomplicated pregnancies but does not include a medical care facility as defined by K.S.A. 65-425, and amendments thereto.

History: L. 1919, ch. 210, § 3; R.S. 1923, 65-503; L. 1978, ch. 236, § 2; L. 1978, ch. 237, § 2; L. 1980, ch. 184, § 1; L. 1983, ch. 140, § 45; L. 1994, ch. 279, § 6; L. 1998, ch. 166, § 1; L. 2007, ch. 130, § 1; L. 2010, ch. 161, § 4; L. 2012, ch. 99, § 1; L. 2014, ch. 115, § 248; July 1.

K.S.A. 65-504. Licenses; contents; limitations; posting; inspections; temporary permits; access to premises; temporary licenses; denial or revocation of license; procedure.

(a) The secretary of health and environment shall have the power to grant a license to a person to maintain a maternity center or child care facility for children under 16 years of age. A license granted to maintain a maternity center or child care facility shall state the name of the licensee, describe the particular premises in or at which the business shall be carried on, whether it shall receive and care for women or children, and the number of women or children that may be treated, maintained, boarded or cared for at any one time. No greater number of women or children than is authorized in the license shall be kept on those premises and the business shall not be carried on in a building or place not designated in the license. The license shall be kept posted in a conspicuous place on the premises where the business is conducted. A license granted to maintain a day care facility shall have on its face an expiration sticker stating the date of expiration of the license. The secretary of health and environment shall grant no license in any case until careful inspection of the maternity center or child care facility shall have been made according to the terms of this act and until such maternity center or child care facility has

complied with all the requirements of this act. Except as provided by this subsection, no license shall be granted without the approval of the secretary for children and families. The secretary of health and environment may issue, without the approval of the secretary for children and families, a temporary permit to operate for a period not to exceed 90 days upon receipt of an initial application for license. The secretary of health and environment may extend, without the approval of the secretary for children and families, the temporary permit to operate for an additional period not to exceed 90 days if an applicant is not in full compliance with the requirements of this act but has made efforts towards full compliance.

(b) (1) In all cases where the secretary for children and families deems it necessary, an investigation of the maternity center or child care facility shall be made under the supervision of the secretary for children and families or other designated qualified agents. For that purpose and for any subsequent investigations they shall have the right of entry and access to the premises of the center or facility and to any information deemed necessary to the completion of the investigation. In all cases where an investigation is made, a report of the investigation of such center or facility shall be filed with the secretary of health and environment.

(2) In cases where neither approval or disapproval can be given within a period of 30 days following formal request for such a study, the secretary of health and environment may issue a temporary license without fee pending final approval or disapproval of the center or facility.

(c) Whenever the secretary of health and environment refuses to grant a license to an applicant, the secretary shall issue an order to that effect stating the reasons for such denial and within five days after the issuance of such order shall notify the applicant of the refusal. Upon application not more than 15 days after the date of its issuance a hearing on the order shall be held in accordance with the provisions of the Kansas administrative procedure act.

(d) When the secretary of health and environment finds upon investigation or is advised by the secretary for children and families that any of the provisions of this act or the provisions of K.S.A. 59-2123, and amendments thereto, are being violated, or that the maternity center or child care facility is maintained without due regard to the health, safety or welfare of any woman or child, the secretary of health and environment may issue an order revoking such license after giving notice and conducting a hearing in accordance with the provisions of the Kansas administrative procedure act. The order shall clearly state the reason for the revocation.

(e) If the secretary revokes or refuses to renew a license, the licensee who had a license revoked or not renewed shall not be eligible to apply for a license for a period of one year subsequent to the date such revocation or refusal to renew becomes final. If the secretary revokes or refuses to renew a license of a licensee who is a repeat, three or more times, violator of statutory requirements or rules and regulations or is found to have contributed to the death or serious bodily harm of a child under such licensee’s care, such licensee shall be permanently prohibited from applying for a new license to provide child care or from seeking employment under another licensee.

(f) Any applicant or licensee aggrieved by a final order of the secretary of health and environment denying or revoking a license under this act may appeal the order in accordance with the Kansas judicial review act.

History: L. 1919, ch. 210, § 4; R.S. 1923, 65-504; L. 1951, ch. 358, § 1; L. 1961, ch. 285, § 1; L. 1974, ch. 352, § 86; L. 1978, ch. 236, § 3; L. 1982, ch. 258, § 3; L. 1983, ch. 147, § 2; L. 1984, ch. 313, § 93; L. 1985, ch. 209, § 2; L. 1988, ch. 239, § 1; L. 1989, ch. 188, § 1; L. 1990, ch. 145, § 37; L. 1991, ch. 184, § 1; L. 1994, ch. 279, § 7; L. 2000, ch. 137, § 1; L. 2010, ch. 161, § 5; L. 2012, ch. 99, § 2; L. 2014, ch. 115, § 249; July 1.

K.S.A. 65-505. License fees; maternity centers and child care licensing fee fund.

(a) The annual fee for a license to conduct a maternity center or child care facility shall be fixed by the secretary of health and environment by rules and regulations in an amount not exceeding the following:

(1) For a maternity center, $150;

(2) for a child placement agency, $150;

(3) for a child care resource and referral agency, $150; and

(4) for any other child care facility, $75 plus $1 times the maximum number of children authorized under the license to be on the premises at any one time.

The license fee shall be paid to the secretary of health and environment when the license is applied for and annually thereafter. The fee shall not be refundable. No fee shall be charged for a license to conduct a home for children which is a family foster home as defined in K.A.R. 28-4-311, and amendments thereto. Fees in effect under this subsection (a) immediately prior to the effective date of this act shall continue in effect on and after the effective date of this act until a different fee is established by the secretary of health and environment by rules and regulations under this subsection.

(b) Any licensee who fails to renew such license within 30 days after the expiration of the license shall pay to the secretary the renewal fee plus a late fee in an amount equal to the fee for the renewal of a license.

(c) Any licensee applying for an amended license shall pay to the secretary of health and environment a fee established by rules and regulations of the secretary in an amount not exceeding $35.

(d) The secretary of health and environment shall remit all moneys received by the secretary from fees under the provisions of this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer, notwithstanding any other law to the contrary, shall deposit the entire amount in the state treasury to the credit of the maternity centers and child care licensing fee fund. All expenditures from the maternity centers and child care licensing fee fund shall be made only for the purposes of article 5 of chapter 65 of the Kansas Statutes Annotated in accordance with appropriation acts upon warrants of the director of

accounts and reports issued pursuant to vouchers approved by the secretary of health and environment or by a person or persons designated by the secretary. Notwithstanding any other law to the contrary, no moneys shall be transferred or otherwise revert from this fund to the state general fund by appropriation act or other act of the legislature. Moneys available under this section by the creation of the maternity centers and child care licensing fee fund shall not be substituted for or used to reduce or eliminate moneys available to the department of health and environment to administer the provisions of article 5 of chapter 65 of the Kansas Statutes Annotated. Nothing in this act shall be construed to authorize a reduction or elimination of moneys made available by the state to local units of government for the purposes of article 5 of chapter 65 of the Kansas Statutes Annotated.

History: L. 1919, ch. 210, § 5; R.S. 1923, 65-505; L. 1974, ch. 352, § 87; L. 1978, ch. 236, § 4; L. 1982, ch. 259, § 1; L. 1985, ch. 210, § 2; L. 1986, ch. 230, § 1; L. 1991, ch. 184, § 2; L. 1994, ch. 279, § 8; L. 2001, ch. 5, § 217; L. 2010, ch. 161, § 6; July 1.

K.S.A. 65-506. Notice of issuance, limitation, modification, suspension or revocation of license; notice to parents or guardians of enrollees of limitation, modification, suspension, revocation or denial; unlicensed placements prohibited.
The secretary of health and environment shall serve notice of the issuance, limitation, modification, suspension or revocation of a license to conduct a maternity center or child care facility to the secretary for children and families, juvenile justice authority, department of education, office of the state fire marshal, county, city-county or multi-county department of health, and to any licensed child placement agency or licensed child care resource and referral agency serving the area where the center or facility is located. A maternity center or child care facility that has had a license limited, modified, suspended, revoked or denied by the secretary of health and environment shall notify in writing the parents or guardians of the enrollees of the limitation, modification, suspension, revocation or denial. Neither the secretary for children and families nor any other person shall place or cause to be placed any woman or child under 16 years of age in any maternity center or child care facility not licensed by the secretary of health and environment.

History: L. 1919, ch. 210, § 6; R.S. 1923, 65-506; L. 1951, ch. 358, § 2; L. 1974, ch. 352, § 88; L. 1976, ch. 145, § 211; L. 1978, ch. 236, § 5; L. 1986, ch. 230, § 2; L. 1994, ch. 279, § 9; L. 2000, ch. 127, § 1; L. 2010, ch. 161, § 7; L. 2012, ch. 99, § 3; L. 2014, ch. 115, § 250; July 1.

K.S.A. 65-507. Records of maternity centers and child care facilities; confidentiality.

(a) Each maternity center licensee shall keep a record upon forms prescribed and provided by the secretary of health and environment and the secretary for children and families which shall include the name of every patient, together with the patient's place of residence during the year preceding admission to the center and the name and address of the attending physician. Each child care facility licensee shall keep a record upon forms prescribed and provided by the secretary of health and environment which shall include the name and age of each child received and cared for in the facility; the name of the physician who attended any sick children in the facility, together with the names and addresses of the parents or guardians of such children; and such other information as the secretary of health and environment or secretary for children and families may require. Each maternity center licensee and each child care facility licensee shall apply to and

shall receive without charge from the secretary of health and environment and the secretary for children and families forms for such records as may be required, which forms shall contain a copy of this act.

(b) Information obtained under this section shall be confidential and shall not be made public in a manner which would identify individuals.

History: L. 1919, ch. 210, § 7; R.S. 1923, 65-507; L. 1951, ch. 358, § 3; L. 1974, ch. 352, § 89; L. 1978, ch. 236, § 6; L. 1994, ch. 279, § 10; L. 2014, ch. 115, § 251; July 1.

K.S.A. 65-508. Equipment, supplies, accommodations; competent supervision and care of children; rules and regulations; immunizations.

(a) Any maternity center or child care facility subject to the provisions of this act shall:

(1) Be properly heated, plumbed, lighted and ventilated;

(2) have plumbing, water and sewerage systems which conform to all applicable state and local laws; and

(3) be operated with strict regard to the health, safety and welfare of any woman or child.

(b) Every maternity center or child care facility shall furnish or cause to be furnished for the use of each resident and employee individual towel, wash cloth, comb and individual drinking cup or sanitary bubbling fountain, and toothbrushes for all other than infants, and shall keep or require such articles to be kept at all times in a clean and sanitary condition. Every maternity center or child care facility shall comply with all applicable fire codes and rules and regulations of the state fire marshal.

(c) (1) The secretary of health and environment with the cooperation of the secretary for children and families shall develop and adopt rules and regulations for the operation and maintenance of maternity centers and child care facilities. The rules and regulations for operating and maintaining maternity centers and child care facilities shall be designed to promote the health, safety and welfare of any woman or child served in such facilities by ensuring safe and adequate physical surroundings, healthful food, adequate handwashing, safe storage of toxic substances and hazardous chemicals, sanitary diapering and toileting, home sanitation, supervision and care of the residents by capable, qualified persons of sufficient number, after hour care, an adequate program of activities and services, sudden infant death syndrome and safe sleep practices training, prohibition on corporal punishment, crib safety, protection from electrical hazards, protection from swimming pools and other water sources, fire drills, emergency plans, safety of outdoor playground surfaces, door locks, safety gates and transportation and such appropriate parental participation as may be feasible under the circumstances. Boarding schools are excluded from requirements regarding the number of qualified persons who must supervise and provide care to residents.

(2) Rules and regulations developed under this subsection shall include provisions for the competent supervision and care of children in day care facilities. For purposes of such rules and regulations, competent supervision as this term relates to children less than five years of age includes, but is not limited to, direction of activities, adequate oversight including sight or sound monitoring, or both, physical proximity to children, diapering and toileting practices; and for all children, competent supervision includes, but is not limited to, planning and supervision of daily activities, safe sleep practices, including, but not limited to, visual or sound monitoring, periodic checking, emergency response procedures and drills, illness and injury response procedures, food service preparation and sanitation, playground supervision, pool and water safety practices.

(d) Each child cared for in a child care facility, including children of the person maintaining the facility, shall be required to have current such immunizations as the secretary of health and environment considers necessary. The person maintaining a child care facility shall maintain a record of each child's immunizations and shall provide to the secretary of health and environment such information relating thereto, in accordance with rules and regulations of the secretary, but the person maintaining a child care facility shall not have such person's license revoked solely for the failure to have or to maintain the immunization records required by this subsection.

(e) The immunization requirement of subsection (d) shall not apply if one of the following is obtained:

(1) Certification from a licensed physician stating that the physical condition of the child is such that immunization would endanger the child's life or health; or

(2) a written statement signed by a parent or guardian that the parent or guardian is an adherent of a religious denomination whose teachings are opposed to immunizations.

History: L. 1919, ch. 210, § 8; R.S. 1923, 65-508; L. 1951, ch. 358, § 4; L. 1974, ch. 352, § 90; L. 1978, ch. 236, § 7; L. 1992, ch. 55, § 2; L. 1994, ch. 279, § 11; L. 1995, ch. 183, § 9; L. 1998, ch. 166, § 2; L. 2010, ch. 161, § 8; L. 2012, ch. 99, § 4; L. 2014, ch. 115, § 252; July 1.

K.S.A. 65-510. Unlawful for child care facility to care for adults; exceptions.
It shall be unlawful for any child care facility to receive or care for any adult except as authorized by rules and regulations adopted by the secretary of health and environment.

History: L. 1919, ch. 210, § 10; R.S. 1923, 65-510; L. 1965, ch. 369, § 2; L. 1972, ch. 228, §17; L. 1978, ch. 236, § 8; L. 1988, ch. 240, § 1; L. 1994, ch. 279, § 12; July 1.

K.S.A. 65-512. Inspections.

(a) It is hereby made the duty of the secretary of health and environment to inspect or cause to be inspected at least once every 15 months prior to July 1, 2012, and once every 12 months thereafter, every maternity center or child care facility, unless otherwise provided in subsections (b) and (c). For the purpose of inspection the secretary or the secretary's authorized agent shall have the right of entry and access thereto in every department and

to every place in the premises, shall call for and examine the records which are required to be kept by the provisions of this act and shall make and preserve a record of every inspection. The licensee shall give all reasonable information to the authorized agent of the secretary of health and environment and shall afford every reasonable facility for viewing the premises and seeing the patients or children therein. No such patient or child without the consent of the patient or child shall be required to be interviewed by any agent unless the agent is an authorized person or a licensed physician.

(b) (1) On or after the effective date of this act, the secretary of health and environment shall commence the inspection of registered family day care homes pursuant to K.S.A. 2012 Supp. 65-533, and amendments thereto.

(2) The secretary of health and environment shall conduct an inspection of any child care facility upon receiving a complaint. Any new child care facility shall be inspected prior to issuance of a license. The secretary may conduct an inspection of any child care facility that has a record of repeated complaints or serious violations at any time. The secretary shall inspect any child care facility that provides services to military families receiving military assistance for child care every 12 months.

(c) (1) Except as provided in subsection (b)(2), the following categories of child care facilities which were in compliance on the effective date of this act are not required to be inspected until July 1, 2011: Day care homes, as defined in K.A.R. 28-4-113; group day care homes, as defined in K.A.R. 28-4-113; child care centers, as defined in K.A.R. 28-4-420; preschools, as defined in K.A.R 28-4-420; school-age programs, as defined in K.A.R. 28-4-576; and drop-in programs, as defined in K.A.R. 28-4-700.

(2) The provisions of this subsection shall expire on July 1, 2011.

History: L. 1919, ch. 210, § 12; R.S. 1923, 65-512; L. 1974, ch. 352, § 91; L. 1975, ch. 52, § 22; L. 1978, ch. 236, § 9; L. 1986, ch. 230, § 5; L. 1994, ch. 279, § 13; L. 2010, ch. 161, § 9; July 1.

K.S.A. 65-513. Changes or alterations required to comply with law; notice; duty of licensee.

Whenever an authorized agent of the secretary of health and environment or secretary for children and families finds a maternity center or child care facility is not being conducted according to law, it shall be the duty of such agent to notify the licensee in writing of such changes or alterations as the agent determines necessary in order to comply with the requirements of the law, and the agent shall file a copy of such notice with the secretary of health and environment. It shall thereupon be the duty of the licensee to make such changes or alterations as are contained in the written notice within five days from the receipt of such notice. Notice shall be given in accordance with the provisions of the Kansas administrative procedure act.

History: L. 1919, ch. 210, § 13; R.S. 1923, 65-513; L. 1951, ch. 358, § 5; L. 1974, ch. 352, § 92; L. 1978, ch. 236, § 10; L. 1984, ch. 313, § 94; L. 1994, ch. 279, § 14; L. 2014, ch. 115, § 253; July 1.

K.S.A. 65-514. Violations of article 5 of chapter 65; penalties; notice and hearing.
Any person, firm, corporation or association who violates the provisions of article 5 of chapter 65 of the Kansas Statutes Annotated and acts amendatory of the provisions thereof or supplemental thereto shall be guilty of a misdemeanor, and upon conviction shall be fined not less than $5 nor more than $50. Each and every day that the person fails or refuses to comply shall be deemed a separate offense under the provisions of article 5 of chapter 65 of the Kansas Statutes Annotated and acts amendatory of the provisions thereof or supplemental thereto. If for 30 days after any final conviction for such violation or revocation of license the person still fails or refuses to comply with the orders in the notice under K.S.A. 65-513 and amendments thereto, upon notice and a hearing in accordance with the provisions of the Kansas administrative procedure act, the building or premises where such home is conducted may be closed until all provisions of this act shall have been complied with.

History: L. 1919, ch. 210, § 14; R.S. 1923, 65-514; L. 1974, ch. 352, § 93; L. 1984, ch. 313, § 95; L. 1989, ch. 189, § 1; July 1.

K.S.A. 65-515. Prosecutions.
The county attorney of each county in this state is hereby authorized and required, upon complaint of any authorized agent of the secretary of health and environment, to file complaint and prosecute to the final determination all actions or proceedings against any person under the provisions of this act.

History: L. 1919, ch. 210, § 15; R.S. 1923, 65-515; L. 1974, ch. 352, § 94; July 1.

K.S.A. 65-516. Restrictions on persons maintaining or residing, working or volunteering at child care facility; criminal history check by secretary of health and environment; information to be provided sponsoring child placement agency.

(a) No person shall knowingly maintain a child care facility if, there resides, works or regularly volunteers any person who in this state or in other states or the federal government:

(1) (A) Has a felony conviction for a crime against persons;

(B) has a felony conviction under K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer, or article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, or any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009;

(C) has a conviction of any act which is described in articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2013 Supp. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-6421, and amendments thereto, or a conviction of an attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A. 2013 Supp. 21-5301, and

amendments thereto, to commit any such act or a conviction of conspiracy under K.S.A. 21-3302, prior to its repeal, or K.S.A. 2013 Supp. 21-5302, and amendments thereto, to commit such act, or similar statutes of other states or the federal government; or

(D) has been convicted of any act which is described in K.S.A. 21-4301 or 21-4301a, prior to their repeal, or K.S.A. 2013 Supp. 21-6401, and amendments thereto, or similar statutes of other states or the federal government;

(2) has been adjudicated a juvenile offender because of having committed an act which if done by an adult would constitute the commission of a felony and which is a crime against persons, is any act described in articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2013 Supp. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-6421, and amendments thereto, or similar statutes of other states or the federal government, or is any act described in K.S.A. 21-4301 or 21-4301a, prior to their repeal, or K.S.A. 2013 Supp. 21-6401, and amendments thereto, or similar statutes of other states or the federal government;

(3) has committed an act of physical, mental or emotional abuse or neglect or sexual abuse and who is listed in the child abuse and neglect registry maintained by the Kansas department for children and families pursuant to K.S.A. 2013 Supp. 38-2226, and amendments thereto, and

(A) the person has failed to successfully complete a corrective action plan which had been deemed appropriate and approved by the Kansas department for children and families, or

(B) the record has not been expunged pursuant to rules and regulations adopted by the secretary for children and families;

(4) has had a child removed from home based on a court order pursuant to K.S.A. 2013 Supp. 38-2251, and amendments thereto, in this state, or a court order in any other state based upon a similar statute that finds the child to be deprived or a child in need of care based on a finding of physical, mental or emotional abuse or neglect or sexual abuse and the child has not been returned to the home or the child reaches majority before being returned to the home and the person has failed to satisfactorily complete a corrective action plan approved by the department of health and environment;

(5) has had parental rights terminated pursuant to the Kansas juvenile code or K.S.A. 2013 Supp. 38-2266 through 38-2270, and amendments thereto, or a similar statute of other states;

(6) has signed a diversion agreement pursuant to K.S.A. 22-2906 et seq., and amendments thereto, or an immediate intervention agreement pursuant to K.S.A. 2013 Supp. 38-2346, and amendments thereto, involving a charge of child abuse or a sexual offense; or

(7) has an infectious or contagious disease.

(b) No person shall maintain a child care facility if such person has been found to be a person in need of a guardian or a conservator, or both, as provided in K.S.A. 59-3050 through 59-3095, and amendments thereto.

(c) Any person who resides in a child care facility and who has been found to be a person in need of a guardian or a conservator, or both, shall be counted in the total number of children allowed in care.

(d) In accordance with the provisions of this subsection, the secretary of health and environment shall have access to any court orders or adjudications of any court of record, any records of such orders or adjudications, criminal history record information including, but not limited to, diversion agreements, in the possession of the Kansas bureau of investigation and any report of investigations as authorized by K.S.A. 2013 Supp. 38-2226, and amendments thereto, in the possession of the Kansas department for children and families or court of this state concerning persons working, regularly volunteering or residing in a child care facility. The secretary shall have access to these records for the purpose of determining whether or not the home meets the requirements of K.S.A. 59-2132, 65-503, 65-508 and 65-516, and amendments thereto.

(e) In accordance with the provisions of this subsection, the secretary is authorized to conduct national criminal history record checks to determine criminal history on persons residing, working or regularly volunteering in a child care facility. In order to conduct a national criminal history check the secretary shall require fingerprinting for identification and determination of criminal history. The secretary shall submit the fingerprints to the Kansas bureau of investigation and to the federal bureau of investigation and receive a reply to enable the secretary to verify the identity of such person and whether such person has been convicted of any crime that would prohibit such person from residing, working or regularly volunteering in a child care facility. The secretary is authorized to use information obtained from the national criminal history record check to determine such person’s fitness to reside, work or regularly volunteer in a child care facility.

(f) The secretary shall notify the child care applicant or licensee, within seven days by certified mail with return receipt requested, when the result of the national criminal history record check or other appropriate review reveals unfitness specified in subsection (a)(1) through (7) with regard to the person who is the subject of the review.

(g) No child care facility or the employees thereof, shall be liable for civil damages to any person refused employment or discharged from employment by reason of such facility's or home's compliance with the provisions of this section if such home acts in good faith to comply with this section.

(h) For the purpose of subsection (a)(3), a person listed in the child abuse and neglect central registry shall not be prohibited from residing, working or volunteering in a child care facility unless such person has:

(1) Had an opportunity to be interviewed and present information during the investigation of the alleged act of abuse or neglect; and

(2) been given notice of the agency decision and an opportunity to appeal such decision to the secretary and to the courts pursuant to the Kansas judicial review act.

(i) In regard to Kansas issued criminal history records:

(1) The secretary of health and environment shall provide in writing information available to the secretary to each child placement agency requesting information under this section, including the information provided by the Kansas bureau of investigation pursuant to this section, for the purpose of assessing the fitness of persons living, working or regularly volunteering in a family foster home under the child placement agency's sponsorship.

(2) The child placement agency is considered to be a governmental entity and the designee of the secretary of health and environment for the purposes of obtaining, using and disseminating information obtained under this section.

(3) The information shall be provided to the child placement agency regardless of whether the information discloses that the subject of the request has been convicted of any offense.

(4) Whenever the information available to the secretary reveals that the subject of the request has no criminal history or record, the secretary shall provide notice thereof in writing to each child placement agency requesting information under this section.

(5) Any staff person of a child placement agency who receives information under this subsection shall keep such information confidential, except that the staff person may disclose such information on a need-to-know basis to:

(A) The person who is the subject of the request for information;

(B) the applicant or operator of the family foster home in which the person lives, works or regularly volunteers;

(C) the department of health and environment;

(D) the Kansas department for children and families;

(E) the juvenile justice authority; and

(F) the courts.

(6) A violation of the provisions of subsection (i)(5) shall be an unclassified misdemeanor punishable by a fine of $100 for each violation.

(j) No person shall maintain a day care facility unless such person is a high school graduate or the equivalent thereof, except where extraordinary circumstances exist, the secretary of health and environment may exercise discretion to make exceptions to this requirement. The provisions of this subsection shall not apply to any person who was maintaining a day care facility on the day immediately prior to July 1, 2010 or who had an application for an initial license or the renewal of an existing license pending on July 1, 2010.

History: L. 1980, ch. 184, § 2; L. 1982, ch. 259, § 2; L. 1983, ch. 140, § 46; L. 1984, ch. 225, § 1; L. 1985, ch. 210, § 1; L. 1987, ch. 233, § 1; L. 1988, ch. 232, § 10; L. 1991, ch. 185, § 1; L. 1994, ch. 279, § 15; L. 1996, ch. 229, § 117; L. 2002, ch. 114, § 74; L. 2006, ch. 169, § 116; L. 2007, ch. 147, § 1; L. 2009, ch. 32, § 53; L. 2010, ch. 74, § 13; L. 2010, ch. 155, § 18; L. 2011, ch. 30, § 235; L. 2012, ch. 99, § 5; L. 2012, ch. 166, § 10*;* L. 2014, ch. 115, § 254; July 1.

K.S.A. 65-523. Grounds for limitation, modification or suspension of license or temporary permit.

The secretary may limit, modify or suspend any license or temporary permit issued under the provisions of K.S.A. 65-501 through 65-516, and amendments thereto, upon any of the following grounds and in the manner provided in this act:

(a) Violation by the licensee or holder of a temporary permit of any provision of this act or of the rules and regulations promulgated under this act;

(b) aiding, abetting or permitting the violating of any provision of this act or of the rules and regulations promulgated under this act;

(c) conduct in the operation or maintenance, or both the operation and maintenance, of a maternity center or child care facility which is inimical to the health, safety or welfare of any woman or child receiving services from such maternity center or child care facility, or the public;

(d) the conviction of a licensee or holder of a temporary permit, at any time during licensure or during the time the temporary permit is in effect, of crimes as defined in K.S.A. 65-516, and amendments thereto; and

(e) a third or subsequent violation by the licensee or holder of a temporary permit of subsection (b) of K.S.A. 65-530, and amendments thereto.

History: L. 1985, ch. 209, § 3; L. 1994, ch. 279, § 20; L. 2010, ch. 161, § 11; L. 2012, ch. 99, § 6; July 1.

K.S.A. 65-524. Suspension, limitation or modification of license or temporary permit prior to hearing; procedure.
The secretary may limit, modify or suspend any license or temporary permit issued under the provisions of K.S.A. 65-501 through 65-516, and amendments thereto, prior to any hearing when, in the opinion of the secretary, the action is necessary to protect any child in the child care facility from physical or mental abuse, abandonment or any other substantial threat to health, safety or welfare. Administrative proceedings under this section shall be conducted in accordance with the emergency adjudicative proceedings of the Kansas administrative procedure act and in accordance with other relevant provisions of the Kansas administrative procedure act.

History: L. 1985, ch. 209, § 4; L. 1994, ch. 279, § 21; L. 2010, ch. 161, § 12; L. 2012, ch. 99, § 7; July 1.

K.S.A. 65-525. Disclosure of certain information prohibited, exceptions; consent to disseminate certain information required.

(a) Records in the possession of the department of health environment or its agents regarding child care facilities or maternity centers shall not be released publicly in a manner that would identify individuals, except individual names of licensees, applicants, facilities and maternity centers may be released. Nothing in this section prohibits release of any information as required by law.

(b) Records in the possession of the department of health and environment or its agents regarding child care facilities or maternity centers may be released to:

(1) An agency or organization authorized to receive notice under K.S.A. 65-506, and amendments thereto;

(2) any local, state or federal government entity or subdivison thereof;

(3) any child and adult care food program sponsoring agency; or

(4) any disaster or emergency entity.

(c) The secretary of health and environment shall prohibit the release of the name, address and telephone number of a maternity center or child care facility when the secretary determines that prohibition of the release of the information is necessary to protect the health, safety or welfare of the public or the patients or children enrolled in the maternity center or child care facility.

(d) Any records under subsection (a), (b) or (c) shall be available to any member of the standing committee on appropriations of the house of representatives or the standing committee on ways and means of the senate carrying out such member's or committee's official functions in accordance with K.S.A. 75-4319, and amendments thereto, in a closed or executive meeting. Except in limited conditions established by 2/3 of the members of such committee, records received by the committee shall not be further disclosed. Unauthorized disclosure may subject such member to discipline or censure from the house of representatives or senate. Such records shall not identify individuals but shall include data and contract information concerning specific facilities.

(e) In any hearings conducted under the licensing or regulation provisions of K.S.A. 65-501 et seq., and amendments thereto, the presiding officer may close the hearing to the public to prevent public disclosure of matters relating to persons restricted by other laws.

History: L. 1985, ch. 201, § 1; L. 1996, ch. 229, § 157; L. 2000, ch. 127, § 2; L. 2001, ch. 190, § 1; L. 2004, ch. 145, § 19; L. 2010, ch. 161, § 13; July 1, 2011.

K.S.A. 65-526. Civil fine assessed against licensee; limitations.

(a) The secretary of health and environment, in addition to any other penalty prescribed under article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, may assess a civil fine, after proper notice and an opportunity to be heard in accordance with the Kansas administrative procedure act, against a licensee for each violation of such provisions or rules and regulations adopted pursuant thereto which affect significantly and adversely the health, safety or sanitation of children in a child care facility. Each civil fine assessed under this section shall not exceed $500. In the case of a continuing violation, every day such violation continues shall be deemed a separate violation.

(b) All fines assessed and collected under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

History: L. 1988, ch. 239, § 3; L. 1994, ch. 279, § 22; L. 1999, ch. 19, § 1; L. 2001, ch. 5, § 219; L. 2004, ch. 145, § 20; L. 2010, ch. 161, § 14; July 1.

K.S.A. 65-527. Child care programs in recreation centers and schools; licensing of.

(a) As used in this section:

(1) "Child care program" means a day care center, group day care home or day care home.

(2) "Recreation center" means any building used by a political or taxing subdivision of this state, or by an agency thereof, for recreation programs which serve children who are 16 years of age or younger.

(3) "School" means any building used by a unified school district or an accredited nonpublic school for student instruction or attendance of pupils enrolled in kindergarten or any of the grades 1 through 6.

(b) No license for a child care program for school age children shall be denied on the basis that the building does not meet requirements for licensure if the building:

(1) Is a recreation center or school;

(2) complies, during all hours of operation of the child care program, with the Kansas fire prevention code or a building code compliance with which is by law deemed to be compliance with the Kansas fire prevention code;

(3) subject to subsection (c), complies, during all hours of operation of the child care program, with all local building code provisions that apply to recreation centers, if the building is a recreation center, or schools, if the building is a school; and

(4) as a recreation center or school, is used by school age children and the same age children are cared for in the child care program.

(c) In the case of an inconsistency in standards with which a building is required to comply pursuant to subsections (b)(2) and (b)(3), the standards provided by subsection (b)(2) shall control.

History: L. 1992, ch. 125, § 1; July 1.

K.S.A. 65-528. Child care policy of state; desired outcome.

(a) The desired outcome of the child care policy of the state of Kansas is that families be able to fulfill their roles as primary child care givers and educators of young children by having access to high quality, affordable child care. The following principles shall guide development and implementation of state policy to achieve that outcome:

(1) Family self-sufficiency. A stable source of child care is a critical ingredient to economic self-sufficiency. Child care policies and programs must facilitate a smooth transition into the work force for parents and a rich and stable environment for children.

(2) Investment in children. Child care is a critical investment that affects a child's readiness to learn. High quality child care programs recognize and implement good early childhood practices.

(3) Consumer orientation and education. Child care policies and programs must be responsive to the changing needs of families and educate families about available options, identifying quality programs and selecting appropriate care.

(4) Accessibility. High quality child care must be available to any family seeking care regardless of where the family lives or the special needs of the child. A centralized place in local communities must be available to facilitate parents' access to child care.

(5) Affordability. High quality child care must be available on a sliding scale basis, with families contributing based on ability to pay.

(6) Diversity. It is the goal of the state to strive wherever possible to provide child care in an integrated setting where children with various needs and of various income levels and cultures are cared for together.

(7) Efficient, coordinated administration and support for infrastructure. Child care programs must be coordinated to ensure the most effective use of federal, state, local and private funds. State child care agencies and policies must support the orderly development of a high quality child care system working with local and private providers.

(b) Any state agency involved in implementing any part of the state's child care policy shall develop appropriate measures of progress toward achievement of the stated outcome under the oversight of the joint committee on children and families in accordance with K.S.A. 46-2001 et seq. and amendments thereto.

History: L. 1994, ch. 279, § 1; July 1.

K.S.A. 65-529. Continuation of effect of license, registration or permit.
Any license, certificate of registration or temporary permit which was issued prior to the effective date of this act and which is in effect on the effective date of this act shall continue in effect until the expiration thereof, unless suspended or revoked prior to such time.

History: L. 1994, ch. 279, § 23; July 1.

K.S.A. 65-530. Smoking prohibited in day care homes.

(a) As used in this section:

(1) "Day care home" means a day care home as defined under Kansas administrative regulation 28-4-113 and a group day care home as defined under Kansas administrative regulation 28-4-113.

(2) "Smoking" means possession of a lighted cigarette, cigar, pipe or burning tobacco in any other form or device designed for the use of tobacco.

(b) Smoking within any room, enclosed area or other enclosed space of a facility or facilities of a day care home during a time when children who are not related by blood, marriage or legal adoption to the person who maintains the home are being cared for, as part of the operation of the day care home, within the facility or facilities is hereby prohibited. Nothing in this subsection shall be construed to prohibit smoking on the premises of the day care home outside the facility or facilities of a day care home, including but not limited to porches, yards or garages.

(c) Each child care license shall contain a statement in bold print that smoking is prohibited within a room, enclosed area or other enclosed space of the facility or facilities of the day care home under the conditions specified in subsection (b). The statement shall be phrased in substantially the same language as subsection (b). The license shall be posted in a conspicuous place in the facility or facilities.

(d) Each day care home shall be equipped with a fire extinguisher which shall be maintained in an operable condition in a readily accessible location.

(e) The secretary of health and environment may levy a civil fine under K.S.A. 65-526, and amendments thereto, against any day care home for a first or second violation of this section. A third or subsequent violation shall be subject to the provisions of K.S.A. 65-523, and amendments thereto.

(f) In addition to any civil fine which may be levied pursuant to subsection (d), any day care home that violates any provision of this section may also be subject to criminal punishment pursuant to K.S.A. 21-4012 and amendments thereto.

History: L. 1994, ch. 279, § 26; L. 2010, ch. 8, § 7; L. 2011, ch. 91, § 28; July 1.

K.S.A. 65-531. Immunization information and records; disclosure. On and after July 1, 1996:

(a) Except as provided further, information and records which pertain to the immunization status of persons against childhood diseases as required by K.S.A. 65-508, and amendments thereto, may be disclosed and exchanged without a parent or guardian's written release authorizing such disclosure, to the following, who need to know such information to assure compliance with state statutes or to achieve age appropriate immunization status for children:

(1) Employees of public agencies or departments;

(2) health records staff of child care facilities, including, but not limited to, facilities licensed by the secretary of health and environment;

(3) persons other than public employees who are entrusted with the regular care of those under the care and custody of a state agency including, but not limited to, operators of day care facilities, group homes, residential care facilities and adoptive or foster homes; and

(4) health care professionals.

(b) Notwithstanding K.S.A. 60-427, and amendments thereto, or any other Kansas statute which provides for privileged information between a patient and a health care provider, there shall be no privilege preventing the furnishing of information and records as authorized by this section by any health care provider.

(c) Information and records which pertain to the immunization status of persons against childhood diseases as required by K.S.A. 65-508, and amendments thereto, whose parent or guardian has submitted a written statement of religious objection to immunization as provided in K.S.A. 65-508, and amendments thereto, may not be disclosed or exchanged without a parent or guardian's written release authorizing such disclosure.

History: L. 1996, ch. 229, § 156; L. 2010, ch. 161, § 16; July 1.

K.S.A. 65-532. Lexie's law. The changes to law in this act shall be known as Lexie's law.

History: L. 2010, ch. 161, § 1; July 1.

K.S.A. 65-534. Online information dissemination system; rules and regulations. On or before July 1, 2011, the secretary of health and environment shall establish or cause to be established an online information dissemination system that is accessible to the public, including names of licensees, applicants and history of citations and substantiated findings. The secretary of health and environment shall adopt rules and regulations which are consistent with the requirements for the receipt of child care ARRA funds and which provide for the establishment of an online information dissemination system in accordance with the provisions of this subsection. The notice of hearing on the initial rules and regulations proposed to be adopted under this subsection shall be published in the Kansas register after February 14, 2011, but prior to March 11, 2011.

History: L. 2010, ch. 161, § 18; July 1.

K.S.A. 65-535. Staff secure facility; requirements; services; rules and regulations.

(a) A staff secure facility shall:

(1) Not include construction features designed to physically restrict the movements and activities of residents, but shall have a design, structure, interior and exterior environment, and furnishings to promote a safe, comfortable and therapeutic environment for the residents;

(2) implement written policies and procedures that include the use of a combination of supervision, inspection and accountability to promote safe and orderly operations;

(3) rely on locked entrances and delayed-exit mechanisms to secure the facility, and implement reasonable rules restricting entrance to and egress from the facility;

(4) implement written policies and procedures for 24-hour-a-day staff observation of all facility entrances and exits;

(5) implement written policies and procedures for the screening and searching of both residents and visitors;

(6) implement written policies and procedures for knowing the whereabouts of all residents at all times and for handling runaways and unauthorized absences; and

(7) implement written policies and procedures for determining when the movements and activities of individual residents may, for treatment purposes, be restricted or subject to control through the use of intensive staff supervision.

(b) A staff secure facility shall provide the following services to children placed in such facility:

(1) Case management;

(2) life skills training;

(3) health care;

(4) mental health counseling;

(5) substance abuse screening and treatment; and

(6) any other appropriate services.

(c) Service providers in a staff secure facility shall be trained to counsel and assist victims of human trafficking and sexual exploitation.

(d) If the staff secure facility is on the same premises as that of another licensed facility, the living unit of the staff secure facility shall be maintained in a separate, self-contained unit. No staff secure facility shall be in a city or county jail.

(e) The secretary of health and environment, in consultation with the attorney general, shall promulgate rules and regulations to implement the provisions of this section on or before January 1, 2014.

(f) This section shall be part of and supplemental to article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

History: L. 2013, ch. 120, § 6; L. 2014, ch. 28, § 7; July 1.

Chapter 59. PROBATE CODE
Article 21. ADOPTION

K.S.A. 59-2123. Certain advertisements and offers relating to adopting and placing children prohibited; licensure of person placing advertisement; definitions.

(a) Except as otherwise provided in this section:

(1) Any person who advertises that such person will adopt, find an adoptive home for a child or otherwise place a child for adoption shall state in such advertisement whether or not such person is licensed and if licensed, under what authority such license is issued and in what profession;

(2) no person shall offer to adopt, find a home for or otherwise place a child as an inducement to a woman to come to such person's maternity center during pregnancy or after delivery; and

(3) no person shall offer to adopt, find a home for or otherwise place a child as an inducement to any parent, guardian or custodian of a child to place such child in such person's home, institution or establishment.

(b) The provisions of subsection (a)(1) shall not apply to the Kansas department for children and families or to an individual seeking to adopt a child.

(c) As used in this section:

(1) “Advertise” means to communicate by newspaper, radio, television, handbills, placards or other print, broadcast, telephone directory or electronic medium.

(2) “Person” means an individual, firm, partnership, corporation, joint venture or other association or entity.

(3) “Maternity center” means the same as provided in K.S.A. 65-502, and amendments thereto.

(d) Any person who violates the provisions of this section shall be guilty of an unclassified misdemeanor and shall be fined not more than $1,000 for each violation.

History: L. 1990, ch. 145, § 13; L. 1994, ch. 279, § 3; L. 2008, ch. 140, § 1; L. 2014, ch. 115, § 202; July 1.

Chapter 72. SCHOOLS
Article 82. ORGANIZATION, POWERS AND FINANCES OF BOARDS OF EDUCATION

K.S.A. 72-8236. Child care facilities; authority to establish, operate, and maintain; fees, collection and disposition.

(a) The board of education of any school district may:

(1) Establish, operate and maintain a child care facility;

(2) enter into cooperative or interlocal agreements with one or more other boards for the establishment, operation and maintenance of a child care facility;

(3) contract with private, nonprofit corporations or associations or with any public or private agency or institution, whether located within or outside the state, for the establishment, operation and maintenance of a child care facility; and

(4) prescribe and collect fees for providing care at a child care facility.

(b) Fees for providing care at a child care facility established under authority of this section shall be prescribed and collected only to recover the costs incurred as a result of and directly attributable to the establishment, operation and maintenance of the child care facility. Revenues from fees collected by a board under this section shall be deposited in the general fund of the school district and shall be considered reimbursements to the district for the purpose of the classroom learning assuring student success act, section 4 et seq., and amendments thereto, and may be expended whether the same have been budgeted or not and amounts so expended shall not be considered operating expenses.

(c) Every school district which establishes, operates and maintains a child care facility shall be subject to the provisions contained in article 5 of chapter 65 of Kansas Statutes Annotated, and amendments thereto.

(d) As used in this section, the term “child” means any child who is three years of age or older, and any infant or toddler whose parent or parents are pupils or employees of a school district which establishes, operates and maintains, or cooperates in the establishment, operation and maintenance of, a child care facility under authority of this act.

History: L. 1993, ch. 186, § 1; L. 2015, ch. 4, § 53; July 1.

K.S.A. 72-8237. Summer programs; establishment; fees, limitation; summer program fund; use of money, unencumbered balance in fund.

(a) The board of education of any school district may:

(1) Establish, operate and maintain a summer program for pupils;

(2) enter into cooperative or interlocal agreements with one or more other boards of education for the establishment, operation and maintenance of a summer program for pupils; and

(3) prescribe and collect fees for providing a summer program for pupils or provide such program without charge.

(b) Fees for providing a summer program for pupils shall be prescribed and collected only to recover the costs incurred as a result of and directly attributable to the establishment, operation and maintenance of the program.

(c) No school district may collect fees for providing a summer program for pupils required to attend such a program in accordance with the provisions of law, rules and regulations of the state board of education, policy of the board of education, or an individualized education plan developed for an exceptional child.

(d) There is hereby established in every district which establishes, operates and maintains a summer program a fund which shall be called the summer program fund, which fund shall consist of all moneys deposited therein or transferred thereto according to law. All moneys received by a district from fees collected under this section or from any other source for summer programs shall be credited to the summer program fund. Amounts deposited in the summer program fund may be used for the payment of expenses directly attributable to the program or may be transferred to the general fund of the school district as approved by the board of education.

(e) As used in this section, the term “summer program” means a program which is established by the board of education of a school district and operated during the summer months for the purpose of giving remedial instruction to pupils or for the purpose of conducting special projects and activities designed to enrich and enhance the educational experience of pupils, or for both such purposes.

History: L. 1993, ch. 264, § 15; L. 2011, ch. 107, § 12; L. 2012, ch. 155, § 14; L. 2013, ch. 121, § 13; L. 2015, ch. 4, § 54; July 1.

K.S.A. 72-8238. Extraordinary school programs; authority to establish, operate and maintain; fees, collection, limitations, disposition; fund.

(a) The board of education of any school district may:

(1) Establish, operate and maintain an extraordinary school program for pupils who meet the district's criteria for attendance of such programs;

(2) enter into cooperative or interlocal agreements with one or more other boards of education for the establishment, operation and maintenance of an extraordinary school program for pupils; and

(3) prescribe and collect fees for providing an extraordinary school program for pupils or provide such program without charge.

(b) Fees for providing an extraordinary school program for pupils shall be prescribed and collected only to recover the cost incurred as a result of and directly attributable to the establishment, operation and maintenance of the program.

(c) No school district may collect fees for providing an extraordinary school program for pupils who are required to attend such a program in accordance with the provisions of law, rules and regulations of the state board of education, policy of the board of education, or an individualized education plan developed for an exceptional child or who are eligible for free or reduced price meals under the national school lunch act.

(d) There is hereby established in every district which establishes, operates and maintains an extraordinary school program a fund which shall be called the extraordinary school program fund, which fund shall consist of all moneys deposited therein or transferred thereto according to law. All moneys received by a district from fees collected under this section or from any other source for extraordinary school programs shall be credited to the extraordinary school program fund. The expenses of a district directly attributable to extraordinary school programs shall be paid from the extraordinary school program fund.

(e) As used in this section, the term "extraordinary school program" means a program which is established by the board of education of a school district, operated before or after regular school hours during the regular school term, and maintained for any or all of the following purposes:

(1) Providing pupils with additional time to achieve learner exit or improvement plan outcomes;

(2) giving pupils remedial instruction or independent study assistance;

(3) affording pupils an opportunity to strengthen or attain mastery of basic or higher order thinking skills; and

(4) conducting special projects and activities designed to enrich and enhance the educational experience of pupils.

History: L. 1994, ch. 310, § 1; July 1.

GENERAL REGULATION

K.A.R. 28-4-92. License fees. When an applicant or licensee submits an application for a license or for the renewal of a license, the applicant or licensee shall submit to the secretary the appropriate nonrefundable license fee specified in this regulation:

(a) For each maternity center as defined in K.S.A. 65-502 and amendments thereto, $75;

(b) for each child placement agency as defined in K.S.A. 65-503 and amendments thereto, $75;

(c) for each child care resource and referral agency as defined in K.S.A. 65-503 and amendments thereto, $75;

(d) for each of the following child care facilities, $75 plus $1 times the maximum number of children to be authorized under the license:

(1) Day care home or group day care home, as defined in K.A.R. 28-4-113; and

(2) child care center, as defined in K.A.R. 28-4-420; and

(e) for each of the following child care facilities with a license capacity of 13 or more children, $35 plus $1 for each child included in the license capacity, with the total not to exceed $75, and for each of the following child care facilities with a license capacity of 12 or fewer children, $15:

(1) Attendant care facility, as defined in K.A.R. 28-4-285;

(2) detention center or secure care center, as defined in K.A.R. 28-4-350;

(3) preschool, as defined in K.A.R. 28-4-420;

(4) psychiatric residential treatment facility, as defined in K.A.R. 28-4-1200;

(5) residential center or group boarding home, as defined in K.A.R. 28-4-268; and

(6) secure residential treatment facility, as defined in K.A.R. 28-4-330.

(Authorized by and implementing K.S.A. 65-505, as amended by L. 2010, ch. 161, sec. 6; effective, T-83-24, Aug. 25, 1982; effective May 1, 1983; amended, T-86-46, Dec. 18, 1985; amended May 1, 1986; amended, T-87-22, Aug. 21, 1986; amended May 1, 1987; amended, T-28-8-16-10, Aug. 16, 2010; amended Dec. 17, 2010.)

GENERAL REGULATION

K.A.R. 28-4-93. Online information dissemination system. This regulation shall apply to the department's online information dissemination system for child care facilities, as defined in K.S.A. 65-503 and amendments thereto.

(a) Definitions. The following terms shall have the meanings specified in this regulation:

(1) "Applicant" means a person who has applied for a license to operate a child care facility but who has not yet been granted the license.

(2) "Applicant with a temporary permit" means a person who has been granted a temporary permit to operate a child care facility.

(3) "Department" means Kansas department of health and environment.

(4) "Licensee" means a person who has been granted a license to operate a child care facility.

(5) "Online information dissemination system" means the electronic database of the department that is accessible to the public.

(b) Identifying information. Each applicant, each applicant with a temporary permit, and each licensee that wants the department to display the address and the telephone number of the child care facility on the online information dissemination system shall notify the department on a form provided by the department.

(Authorized by and implementing K.S.A. 2010 Supp. 65-534; effective Feb. 3, 2012.)

GENERAL REGULATIONS FOR LICENSED DAY CARE HOMES, GROUP DAY CARE HOMES, CHILD CARE CENTERS, PRESCHOOLS, RESIDENTIAL CENTERS AND GROUP BOARDING HOMES

K.A.R. 28-4-122. General regulations for family day care homes and child care facilities.

K.A.R. 28-4-123 through 28-4-132 shall apply to the following**:**

(a) Family day care home as defined in K.S.A. 65-517, and amendments thereto;

(b) day care home and group day care home as defined in K.A.R. 28-4-113;

(c) preschool and child care center as defined in K.A.R. 28-4-420; and

(d) residential center and group boarding home as defined in K.A.R. 28-4-268.

(Authorized by and implementing K.S.A. 65-508 and 65-522; effective, T-86-46, Dec. 18, 1985; effective May 1, 1986; amended March 28, 2008.)

K.A.R. 28-4-123. Parental access to child care facilities.

Each parent or guardian of a child enrolled in a day care facility or preschool as defined in K.S.A. 65-517, K.A.R. 28-4-113 or K.A.R. 28-4-420 shall have access to the premises during all hours of operation. Each residential facility as defined in K.A.R. 28-4-311 and K.A.R. 28-4-268 shall develop a plan for parental visitation in cooperation with the legal custodian if different from the parent.

(Authorized by and implementing K.S.A. 65-508 and K.S.A. 65-522; effective, T-86-46, Dec. 18, 1985; effective May 1, 1986.)

K.A.R. 28-4-124. Parental permission for children to go off-premises.

Each day care facility as defined in K.A.R. 28-4-113, K.A.R. 28-4-420 and K.S.A. 65-517, and any amendments to it shall obtain a signed parental permission for each location to which children go off of the premises on a form supplied by the department of health and environment. The destination, the time children leave the child care facility, the adults responsible for the children while off premises, and the estimated time of return shall be posted in a place accessible to parents.

(Authorized by and implementing K.S.A. 65-508 and 65-522; effective, T-86-46, Dec. 18, 1985; effective May 1, 1986; amended Feb. 26, 1990.)

K.A.R. 28-4-125. Criminal history and child abuse registry information for the purpose of obtaining criminal and child abuse histories.

(a) Each child care facility subject to licensing or registration by the secretary of health and environment shall at the time of initial application and reapplication report the name, address, and birthdate of each person over 10 years of age who resides, works or

regularly volunteers in the facility, excluding children placed in care. The report shall be forwarded to the Kansas department of health and environment on departmental forms.

(b) Within one week of the time a new person over 10 years of age resides, works or regularly volunteers in the facility, excluding children placed in care, a report of the name, address and birthdate shall be filed with the Kansas department of health and environment.

(c) A copy of each report required by K.A.R. 28-4-125(a) and (b) shall be kept on file at the facility.

(Authorized by and implementing K.S.A. 1988 Supp. 65-516; effective, T-86-46, Dec. 18, 1985; effective May 1, 1986; amended Feb. 26, 1990.)

K.A.R. 28-4-126. Health of Persons 16 years or older in child care facilities.

(a) (1) Each person caring for children shall be free from physical, mental or emotional handicaps as necessary to protect the health, safety and welfare of the children, and shall be qualified by temperament, emotional maturity, sound judgment, and an understanding of children.

(2) Persons in contact with children shall not be in a state of impaired ability due to the use of alcohol or drugs.

(b) (1) Each person regularly caring for children shall have a health assessment conducted by a licensed physician or by a nurse trained to perform health assessments. The health assessment shall be conducted no earlier than one year before the date of employment or initial application for a license or certificate of registration, or not later than 30 days after the date of employment or initial application.

(2) Each substitute in a day care facility as defined in K.A.R. 28-4-113 or K.S.A. 65-517 shall be exempt from K.A.R. 28-4-126(b)(1).

(c) Tuberculin testing.

(1) Each person living, working or regularly volunteering in the facility shall have a record of a negative tuberculin test or x-ray obtained not more than two years before the employment or initial application for a license or certificate of registration or not later than 30 days after the date of employment or initial application.

(2) Additional tuberculin testing shall be required if significant exposure to an active case of tuberculosis occurs, or symptoms compatible with tuberculosis develop. Proper treatment or prophylaxis shall be instituted, and results of the follow-up shall be recorded on the person's health record. The Kansas department of health and environment shall be informed of each case described within this paragraph.

(d) Results of the health assessment and tuberculin test shall be recorded on forms supplied by the Kansas department of health and environment and kept on file at the facility. Health assessment records may be transferred to a new place of employment if the transfer occurs within one year of previous employment.

(e) Each resident 16 years or older in a residential facility as defined in K.A.R. 28-4-268 shall meet the requirements in K.A.R. 28-4-126(b), (c) and (d).

(Authorized by and implementing K.S.A. 65-508 and K.S.A. 65-522; effective May 1, 1986; amended Feb. 26, 1990.)

K.A.R. 28-4-127. Emergencies.

(a) A working telephone shall be on the premises. Emergency telephone numbers shall be posted next to the telephone for the police, fire department, ambulance, hospital or hospitals, and poison control center.

(b) Emergency medical treatment.

(1) Each facility shall have on file at the facility for each child:

(A) written permission of the parent, guardian, or legal custodian for emergency medical treatment on a form that meets the requirements of the hospital or clinic where emergency medical care will be given; and

(B) the name, address and telephone number of a physician to be called in case of emergency.

(2) Residential facilities providing emergency care shall be exempt from K.A.R. 28-4-127(b)(l)(A).

(3) Provisions shall be made at a hospital or clinic for emergency treatment for children.

(c) Health assessment forms and emergency release forms shall be taken to the emergency room with the child.

(d) When a staff member accompanies a child to the source of emergency care, that person shall remain with the child unless or until a parent or parent's designee assumes responsibility for the child. Such an arrangement shall not compromise the supervision of the other children in the facility.

(e) Reporting illnesses and injuries:

(1) (A) Residential facilities shall have on file at the facility written policies on reporting of illnesses and injuries of adults and children.

(B) The policies shall be approved by the licensing agency.

(2) Day care facilities shall report immediately to the parent or guardian each illness or injury of a child which requires medical attention.

(3) Communicable diseases shall be reported to the county health department by the next working day.

(f) Any injury or illness which results in the death of a child in care shall be reported by the next working day to the county health department or the Kansas department of health and environment.

(Authorized by and implementing K.S.A. 65-508 and 65-522; effective May 1, 1986; amended May 1, 1987; amended Feb. 26, 1990.)

K.A.R. 28-4-128. Safety procedures.

(a) Each facility shall develop an emergency plan to provide for the safety of children and staff in emergencies such as fire, tornadoes, storms, floods, and serious injury.

(b) Each emergency plan shall be posted in a conspicuous place in the facility. Staff in day care facilities shall review the plan with parents of children enrolled.

(c) Each person responsible for the children, including each substitute, shall be informed of and shall follow the emergency plans.

(d) A fire drill shall be conducted monthly and scheduled to allow participation by each child. Each date and time shall be recorded.

(e) A tornado drill shall be conducted monthly, April through September, and scheduled to allow participation by each child. Each date and time shall be recorded.

(f) Each person regularly caring for children shall have first-aid training. Documentation of the training shall be on file at the facility.

(Authorized by and implementing K.S.A. 65-508 and K.S.A. 65-522; effective May 1, 1986; amended Feb. 26, 1990.)

K.A.R. 28-4-129. Swimming and wading activities.

(a) Swimming and wading pools on the premises.

(1) If swimming pools with water over 24 inches deep, wading pools, or hot tubs are on the premises, they shall be constructed, maintained, and used in such a manner as to safeguard the lives and health of the children.

(2) The number and ages of children using either swimming or wading pools shall be limited to allow appropriate supervision by adult staff members.

(3) Required staff/child ratios shall be maintained at all times that children are involved in swimming or wading activities.

(4) Legible safety rules for the use of swimming pools shall be posted in a conspicuous location, and shall be read and reviewed weekly by each staff member responsible for the supervision of children.

(b) Swimming pools on the premises.

(1) Below-ground swimming pools shall be enclosed by a fence not less than five feet high to prevent chance access by children.

(2) Above-ground swimming pools shall be four feet high, or shall be enclosed with a fence not less than five feet high. Steps shall be removed from the pool when the pool is not in use.

(3) Sensors shall not be used in lieu of a fence.

(4) Water in the swimming pool shall be maintained between pH 7.2 and pH 8.2. Available free chlorine content shall be between 0.4 and 3.0 parts per million. The pool shall be cleaned daily, and the chlorine level and pH level shall be tested daily. The results of these tests shall be recorded and available.

(5) A person with a life saving certificate or a person with training in CPR who can swim shall be in attendance when children are using a swimming pool.

(6) Each swimming pool more than six feet in width, length, or diameter shall be provided with a ring buoy and rope or shepherd's hook. Such equipment shall be of sufficient length to reach the center of the pool from its edge.

(c) Wading pools on the premises.

(1) Children shall never be permitted to play without supervision in areas where there is a wading pool containing water.

(2) Water in wading pools shall be emptied daily.

(d) Hot tubs or spas on the premises.

(1) Each hot tub or spa shall be covered with an insulated cover secured by straps or locks.

(2) Children in day care facilities shall not be permitted to use hot tubs. Children in residential facilities shall be permitted to use hot tubs when medically indicated.

(e) Ponds and lakes may be used only for children over six years of age, and shall be approved for swimming by the county health department or Kansas department of health and environment or like departments in other states. Required staff/child ratios shall be maintained at all times, and a certified life guard shall be on duty.

(Authorized by and implementing K.S.A. 65-508 and 65-522; effective May 1, 1986; amended Feb. 26, 1990.)

K.A.R. 28-4-130. Transportation.

(a) Facility-owned or leased vehicles.

(1) When a vehicle used for transportation of children is owned or leased by the facility, the driver shall be 18 years of age or older, and shall hold an operator's license of a type appropriate for the vehicle being used. Trailers pulled by another vehicle, camper shells or truck beds shall not be used for transportation of children.

(2) (A) Each transporting vehicle shall be maintained in safe operating condition.

(B) The transporting vehicle shall have a yearly mechanical safety check of tires, lights, windshield, wipers, horn, signal lights, steering, suspension, glass, brakes, tail lights, exhaust system, and outside mirror. A record of the date of the annual safety check and corrections made shall be kept on file at the facility.

(3) The vehicle shall be covered by accident and liability insurance in amount of not less than $100,000 for personal injury or death in any one accident, $300,000 for injury or death to two or more persons in any one accident; and $50,000 for loss to property of others.

(4) (A) Emergency release forms and health assessment records shall be in the vehicle when children are transported. Residential facilities shall be exempt from K.A.R. 28-4-130(a)(4)(A) unless children are being transported more than 60 miles from the facility, or if children are in emergency care.

(B) A first-aid kit shall be in the transporting vehicle and shall include band-aids of all sizes; adhesive tape; a roll of gauze; scissors; one package of 4x4 inch gauze squares; a cleansing agent; and one elastic bandage.

(5) Each vehicle shall be equipped with an individual restraint for each child as follows:

(A) An infant unable to sit up without support shall be provided with an infant car carrier which faces the rear.

(B) A child able to sit up without support shall be provided with one of the following restraints:

(i) A shield-type device;

(ii) a car seat facing the front that is designed to hold a child weighing up to 40 pounds; or

(iii) a safety harness.

(C) A child four years of age or older, or weighing 40 pounds or more, shall have a lap belt. Shoulder straps shall be used if they do not cross the child's neck or face.

(D) Not more than one child shall be restrained in each lap belt.

(E) Buses of the type used by schools shall not be required to be equipped with individual restraints if the buses are used to transport only school-age children.

(6) The safety of the children riding in the vehicle shall be protected as follows:

(A) All doors except the front door on the driver's side shall be locked while the vehicle is in motion.

(B) Discipline shall be maintained at all times.

(C) All parts of the child's body shall remain inside the vehicle at all times.

(D) Children shall neither enter nor exit the vehicle into a lane of traffic.

(E) Children under 10 years of age shall not be left in a vehicle unattended by an adult. When the vehicle is vacated, the driver shall make certain no child is left in the vehicle.

(F) Smoking in the vehicle shall be prohibited while children are being transported.

(G) (i) Day care facilities defined by K.S.A. 65-517, K.A.R. 28-4-113 and K.A.R. 28-4-420 shall maintain applicable staff/child ratios.

(ii) Residential facilities as defined by K.A.R. 28-4-268 and K.A.R. 28-4-311 shall maintain applicable staff/child ratios when children under six are being transported.

(H) The driver shall transport the child to the intended location, person, agency or institution as designated by the child's parent or legal guardian, or by the agency person in charge.

(b) Vehicles owned by staff or volunteers.

(1) When a vehicle used for transportation of children is owned by staff or volunteers the vehicle shall be covered by accident and liability insurance required by K.S.A. 40-3104 and 40-3118 and any amendments to it.

(2) Each such vehicle shall meet the requirements of K.A.R. 28-4-130(a)(1); (a)(2)(A); (a)(4)(A); (a)(5); and (a)(6)(A) through (H).

(c) (1) Each driver shall be informed of the provisions of K.A.R. 28-4-130.

(2) Paragraphs (A) through (H) of subsection (a)(6) of K.A.R. 28-4-130 shall be posted in the vehicle or given to the driver.

(Authorized by and implementing K.S.A. 65-508; effective May 1, 1986; amended May 1, 1987; amended Feb. 26, 1990.)

K.A.R. 28-4-131. Animals, birds, or fish.

(a) When animals, birds, or fish are kept on the premises, the pet area shall be maintained in a sanitary manner. No animal or bird shall be in the kitchen while food is being prepared. Parents shall be informed whenever children have access to pets in the child care facility.

(b) Dogs and cats shall have current immunizations as recommended by a veterinarian. A record of immunizations shall be kept on file in the facility.

(c) When animals that represent a hazard to children are on the premises, children shall be protected from them. Pit bulldogs shall be prohibited. If animals are displayed as part of an animal exhibit, they shall be supervised by appropriate animal care personnel.

(Authorized by and implementing K.S.A. 65-508 and 65-522; effective May 1, 1986; amended Feb. 26, 1990.)

K.A.R. 28-4-132. Child care practices.

(a) Supervision. Each child in day care shall be under the supervision of a person 16 years of age or older who is responsible for the child's health, safety and well-being.

(b) Discipline.

(1) There shall be a written discipline policy indicating methods of guidance appropriate to the age of the children enrolled. Parents shall be informed of the policy.

(2) Prohibited punishment. Punishment which is humiliating, frightening or physically harmful to the child shall be prohibited. Prohibited methods of punishment include:

(A) corporal punishment such as spanking with the hand or any implement, slapping, swatting, pulling hair, yanking the arm, or any similar activity;

(B) verbal abuse, threats, or derogatory remarks about the child or the child's family;

(C) binding or tying to restrict movement, or enclosing in a confined space such as a closet, locked room, box, or similar cubicle;

(D) withholding or forcing foods; and

(E) placing substances which sting or burn on the child's mouth or tongue or other parts of the body.

(3) If isolation is used in residential facilities as defined in K.A.R. 28-4-268, the isolation policies shall be approved by the department of social and rehabilitation services before implementation.

(4) Each staff member and care provider's discipline practices shall comply with K.A.R. 28-4-132.

(c) Diapering and toileting.

(1) Each child's clothing or bedding shall be changed whenever wet or soiled.

(2) Each child under three years of age shall have at least one complete change of clothing at the facility.

(3) (A) Handwashing facilities shall be in or readily accessible to the diaper-changing area.

(B) Each person caring for children shall wash hands with soap and water after changing diapers or soiled clothing.

(4) Children shall be diapered in their own cribs or playpens, on a clean pad on the floor, or on a changing table. Each unit in a child care center as defined by K.A.R. 28-4-420 shall have a changing table.

(5) Changing tables and pads shall have a waterproof, undamaged surface. Tables shall be sturdy, and shall be equipped with railing or safety straps. Children shall not be left unattended on the changing table.

(6) Changing tables and pads shall be sanitized after each use by washing with a disinfectant solution of 1/4 cup of chlorine bleach to one gallon of water, or an appropriate commercial disinfectant.

(7) The following procedures shall be followed when washable diapers or training pants are used:

(A) Day care facilities. Washable diapers or training pants shall not be rinsed out. They shall be stored in a labeled covered container or plastic bag and returned home with the parents.

(B) Residential facilities. Sanitary laundering procedures which promote infection control shall be followed.

(8) Disposable diapers shall be placed in a covered container or plastic bag which shall be emptied daily, or more frequently as necessary for odor control.

(9) (A) Potty chairs when used shall be left in the toilet room. The wastes shall be disposed of immediately in a flush toilet. The container shall be sanitized after each use and shall be washed with soap and water daily.

(B) There shall be one potty chair or child-sized toilet for every five toddlers in a child care center as defined by K.A.R. 28-4-420. Potty chairs shall not be counted as toilets.

(10) Diapering procedures recommended by the U.S. Department of Health and Human Services, Public Health Service, December, 1984, shall be followed in all child care facilities caring for infants and toddlers. Diapering and toileting procedures shall be posted in child care centers, group boarding homes, residential centers and group day care homes serving children under 2 1/2 years of age.

(Authorized by and implementing K.S.A. 65-508 and K.S.A. 65-522; effective Feb. 26, 1990.)

Kansas Department of Health and Environment
Bureau of Child Care and Health Facilities
1000 SW Jackson, Suite 200
Topeka, KS 66612-1274
Phone: 785-296-1270 Fax: 785-296-0803
Website: www.kdheks.gov/kidsnet

IF YOU HAVE DIAPERED CHILDREN IN YOUR CHILD CARE PROGRAM:

Always use this method for changing diapers. This is the best way to stop diseases that spread through the intestinal tract.

1. CHECK to make sure the supplies you need are ready.
   - fresh diaper or clothes;
   - freshly dampened paper towels or pre-moistened towelettes; and
   - plastic bag for soiled diaper

2. PLACE roll paper or a disposable towel on the part of the diapering table where the child's bottom will be.

3. HOLD the child AWAY from your body when you pick him up. When you know a child has soiled his diaper use only your hands to carry him. LAY the child on the paper or towel.

4. REMOVE soiled diaper or clothes.
   - Put disposable diapers in a plastic bag or a plastic lined receptacle.
   - Put soiled clothes in a plastic bag for parents to take home with the child at the end of the day.

     Tell the parents that washing or rinsing clothes soiled with stool at the day care center might cause disease germs to spread.

5. CLEAN the child's bottom with:
   - a pre-moistened disposable towelette, or
   - a damp paper towel.

     Put the used towelette or paper towel in the plastic bag or plastic-lined receptacle.

6. REMOVE the paper or towel from beneath the child and dispose of it in the plastic bag or plastic-lined receptacle.

7. WIPE your hands with a pre-moistened disposable towelette or a damp paper towel and dispose of it in the plastic bag or plastic-lined receptacle. If you are wearing a glove, dispose of it now.

8. DIAPER or dress the child.
   Now you can hold him close to you.

9. WASH the CHILD'S hands:
   IMPORTANT: If you must walk from the diapering table to the sink
   - be sure the child cannot fall, or
   - carry him with you.

10. RETURN the child to his CRIB.

11. CLEAN and DISINFECT
    - diapering area;
    - equipment or supplies touched; and
    - soiled crib or cot, if necessary.

12. WASH your hands.

Reprinted from: *What You Can Do to Stop Disease in the Child Day Care Center*
U.S. Department of Health and Human Services
Public Health Service, Centers for Disease Control
Atlanta, Georgia December, 1984

K.A.R. 28-4-420. Definitions.

(a) "Administrator" means the staff member of a child care center or preschool who is responsible for the general and fiscal management of the facility.

(b) "Attendance" means the number of children present at any one time.

(c) "Basement" means an area in which all four outside walls are more than two-thirds below ground level.

(d) "Child care center" means a facility:

(1) which provides care and educational activities for 13 or more children two weeks to 16 years of age for more than three hours and less than 24 hours per day including day time, evening, and nighttime care; or

(2) which provides before and after school care for school-age children. A facility may have fewer than 13 children and be licensed as a center if the program and building meet child care center regulations.

(e) "Child with handicaps" means a child in care who does not function according to age-appropriate expectations to such an extent that the child requires special help, program adjustment, and support services on a regular basis.

(f) "Corporal punishment" means activity directed toward modifying a child's behavior by means of physical contact such as spanking with the hand or any implement, slapping, swatting, pulling hair, yanking the arm, or any similar activity.

(g) "Discipline" means the on-going process of helping children develop inner control so that they can manage their own behavior in a socially-approved manner.

(h) "Enrollment" means the total number of children for whom services are available.

(i) "Evening care" means care provided between 6 o'clock p.m. and midnight of the same day.

(j) "Fire inspector" means a person approved by the state fire marshal to conduct fire safety inspections.

(k) "Infant" means a child who is between two weeks and 12 months of age, or a child over 12 months who has not learned to walk.

(l) "In-service training" means job-related training provided for employed staff and volunteers.

(m) "Integrated unit" means a center or preschool program serving both handicapped and

non-handicapped children, in which not less than 1/3 and not more than 2/3 of the children are handicapped.

(n) “License” means a document issued by the Kansas department of health and environment which authorizes a licensee to operate and maintain a child care center or preschool.

(o) “License capacity” means the maximum number of children that is allowed to attend at any one time.

(p) “Licensed physician” means a person licensed to practice medicine and surgery in Kansas as set forth in K.S.A. 65-2869 and 65-2870, and any amendments thereto.

(q) “Licensee” means a person, corporation, firm, association, educational group or other organization which operates or maintains a child care center or preschool.

(r) “Mother's day out” means a program operating more than five consecutive hours or more than one day per week and in which any one child is enrolled for not more than one session per week.

(s) “Nighttime care” means care provided after six o'clock p.m. and continuing until after midnight.

(t) “Preschool” means a facility:

(1) which provides learning experiences for children who have not attained the age of eligibility to enter kindergarten as prescribed in K.S.A. 72-1107(c) and any amendments thereto, and who are 30 months of age or older;

(2) which conducts sessions not exceeding three hours per session;

(3) which does not enroll any child more than one session per day; and

(4) which does not serve a meal. The term “preschool” shall include educational preschools, Montessori schools, nursery schools, church-sponsored preschools, and cooperatives. A facility may have fewer than 13 children and be licensed as a preschool if the program and facility meet preschool regulations.

(u) “Preschool age” means a child who is between 30 months of age and the age of eligibility to enter kindergarten as prescribed in K.S.A. 72-1107(c) and any amendments thereto.

(v) “Program” means a comprehensive and coordinated plan of activities providing for the education, care, protection, and development of children who attend a preschool or a child care center.

(w) “Program director” means the staff member of a child care center or preschool who meets the requirements specified in K.A.R. 28-4-429(b), (c), (d) or (e) and who is responsible for implementing and supervising the program.

(x) "School-age" means a child who will attain the age of six years on or before the first day of September of any school year, but who is not 16 years of age or older.

(y) "Self-contained unit" means an area separated by walls or partitions not less than five feet high which contains indoor learning materials for the maximum number of children permitted in one group as specified in K.A.R. 28-4-428(a).

(z) "Sick child" means a child who has a contagious disease or shows other signs or symptoms of an acute illness.

(aa) "Special purpose unit" means a program in which more than two-thirds of the children enrolled have severe or mild handicaps.

(bb) "Summer program for school-age children" means a program in which school-age children are enrolled for more than three hours daily for more than two consecutive weeks, and shall include summer camps.

(cc) "Swimming pool" means an enclosed body of water more than 12 inches deep.

(dd) "Toddler" means a child who has learned to walk and who is between 12 and 30 months of age.

(ee) "Unit" means the number of children that may be present in one group, as specified in K.A.R. 28-4-428(a).

(Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended May 1, 1987.)

K.A.R. 28-4-421. Terms of license.

(a) License capacity shall be specified on the license.

(1) License capacity shall be determined by age of children, available space, program director qualifications, and number of self-contained units per facility.

(2) Permission for a change of license capacity, age of children to be enrolled or number of units shall be requested on forms prescribed by the Kansas department of health and environment. No change shall be made unless permission is granted in writing by Kansas department of health and environment. If granted, permission shall be posted.

(3) Permission for an overlap period of attendance to accommodate lunch time and shift changes shall be requested from the Kansas department of health and environment, and if granted, shall be posted.

(4) Children enrolled on an irregular basis shall not cause the center or preschool to exceed its license capacity.

(5) Each license shall be valid only for the licensee and the address appearing on the license.

(b) A copy of "regulations for licensing child care centers and preschools," provided by the Kansas department of health and environment shall be kept on the premises at all times.

(Authorized by K.S.A. 65-508; implementing K.S.A. 1983 Supp. 65-504 and K.S.A. 65-508; effective May 1, 1983; amended May 1, 1984.)

K.A.R. 28-4-422. Procedures.

(a) General.

(1) Any person, corporation, firm, association, or other organization desiring to conduct a child care center or preschool which will operate for more than five consecutive hours or more than one day per week shall apply for a license on forms supplied by the Kansas department of health and environment.

(2) In lieu of being licensed, preschools operated on the premises of private schools providing kindergarten through grade six shall be governed by Kansas statutes applicable to private schools.

(3) Each application for a license or an application for renewal of license shall be accompanied by the license fee which shall not be refundable.

(4) Children shall not be in attendance at the center or preschool until a license has been issued by the Kansas department of health and environment.

(5) Applicants shall be 18 years of age or older at time of application.

(6) A license shall be issued if the secretary finds that the applicant is in compliance with the requirements of K.S.A. 65-501 et seq. and amendments thereof, and the rules and regulations promulgated pursuant to those statutes, and that the applicant has made full payment of the license fee required by the provisions of K.S.A. 65-505 and amendments thereof.

(A) A license for an additional facility operated by a licensee shall not be issued until all existing facilities operated by the licensee are in compliance with licensing regulations.

(B) It shall be the responsibility of the licensee to provide the financial resources necessary to maintain compliance with licensing regulations.

(b) Statement of services offered. When making application to the Kansas department of health and environment for a license to conduct a child care center or preschool, the applicant shall state what services will be provided. Advertisements shall conform to the written statement of services. No claims as to specialized services shall be made unless the facility is staffed and equipped to offer those services. No general claim as to "state approval" shall be made unless the facility has obtained a license issued by the Kansas

department of health and environment. The licensing agency shall be notified of any change in the position of program director or any change in program which effects licensure.

(c) Initial application.

(1) Site approval.

(A) The proposed site shall be approved by the Kansas department of health and environment, the local building inspector when required, and a fire safety inspector. Inspection reports shall accompany the application for license.

(B) When a building is to be constructed or an existing building is to be remodeled, construction or remodeling plans shall be submitted to the Kansas department of health and environment.

(C) When additional space in an existing building is to be used, prior approval shall be obtained from the Kansas department of health and environment.

(2) A working telephone shall be on the premises and available at all times for use by staff.

(d) Renewals.

(1) Before an existing license expires, the licensee shall apply for renewal of the license on forms supplied by the Kansas department of health and environment.

(2) Any application may be withdrawn at any time upon request by the applicant. The applicant shall submit a new application to the Kansas department of health and environment prior to reopening a facility.

(3) A new application and fee shall be submitted for each change of ownership, sponsorship or location.

(e) Grievance procedures.

(1) Each applicant or licensee receiving notice of denial or revocation of license shall be notified of the right to an administrative hearing by the Kansas department of health and environment and subsequently of the right of appeal to the district court.

(2) Each applicant or licensee aggrieved by a licensing evaluation or by licensing procedures may appeal in writing to the Kansas department of health and environment.

(f) Exceptions.

(1) Any applicant or licensee may submit a written request for an exception to a regulation to the Kansas department of health and environment. An exception shall be granted if the secretary determines the exception to be in the best interest of a child or children and their families, and if statutory requirements are not violated.

(2) Written notice from the Kansas department of health and environment stating the nature of the exception and its duration shall be posted with the license.

(Authorized by K.S.A. 65-508; implementing K.S.A. 65-501, 65-504, 65-505 and 65-508; effective May 1, 1983; amended May 1, 1984; amended, T-87-34, Nov. 19, 1986; amended May 1, 1987.)

K.A.R. 28-4-423. Physical plant.

(a) Premises.

(1) The building shall meet the legal requirements of the community as to fire protection, water supply, and sewage disposal.

(2) The designated area for children's activities shall contain a minimum of thirty-five square feet of floor space per child, exclusive of kitchen, passageways, storage areas, and bathrooms.

(3) The building shall have two exits approved by a fire inspector. One exit shall lead directly to the outside.

(4) Second floors approved by a fire inspector may be used for children 2 1/2 years or over. Second-floor windows shall be guarded.

(5) Finished basements approved by a fire inspector may be used for children 2 1/2 years or older. Basements shall be dry and well-ventilated, heated and cooled as specified in paragraph (a)(19) of this regulation, and lighted as specified in paragraph (a)(17) of this regulation.

(6) When mobile classroom units are used, they shall be securely anchored to the ground and shall meet all requirements for permanent structures.

(7) All stairs which have more than two steps shall be provided with sturdy handrails. When balusters are more than four inches apart, provisions shall be made to prevent a child's head or body from falling through.

(8) Landings or gates shall be provided beyond each exterior door, and any door opening onto a full-length stairway.

(9) Ceiling height shall be not less than seven feet, six inches.

(10) Windows and doors.

(A) Each window and glass door shall be screened or guarded.

(B) Each window and door opened for ventilation shall be screened.

(11) Floors shall be smooth and not slippery, free from cracks, clean and in good condition. A floor covering shall be required over concrete.

(12) Carpeting shall be clean and in good repair. Newly-installed carpeting shall meet fire safety requirements of the state fire marshal.

(13) Walls shall be clean and free of cracks.

(14) All surfaces shall be free of toxic materials.

(15) Electrical outlets within the reach of children under five years of age shall be provided with receptacle covers when not in use.

(16) Extension cords shall not be used.

(17) Each room occupied by children shall have a minimum of 20 foot candles of light in all parts of the room. Each sleeping room shall be lighted to allow freedom of movement.

(18) The premises shall be maintained in good condition and shall be clean at all times, free from accumulated dirt and trash, and any evidence of vermin or rodent infestation. Each outdoor trash and garbage container shall be covered, and the contents shall be removed at least weekly.

(19) Each room occupied by the children shall be heated, ventilated and cooled. The temperature in each room shall not be less than 65° F. nor more than 90° F. Each area occupied by children shall be free of drafts.

(20) Each electric fan if used, shall be mounted high on the wall or shall be guarded.

(21) When a gas heater is used, it shall be approved by a fire inspector before use. Open-faced heaters shall be prohibited.

(22) All heating elements, including hot water pipes, shall be insulated or installed in such a way that children cannot come in contact with them. Asbestos insulation shall not be used. Fireplaces shall not be used when children are present.

(23) Medicines, household poisons, and other dangerous substances and instruments shall be in locked storage.

(24) Storage of firearms in any area used for children's activities shall be prohibited. Firearms stored in any other area of the premises shall be in locked storage, or shall be equipped with trigger locks.

(b) Water supply.

(1) The water supply shall be from a source approved by a health department, or by the Kansas department of health and environment.

(2) Sanitary drinking facilities shall be available to children while indoors or outdoors. One of the following methods shall be used:

(A) Individual disposable cups and a water dispenser;

(B) individually-marked glasses or cups which shall be washed daily; or

(C) a fountain designed so that a child can get a drink of water without assistance.

(3) Drinking fountains shall not be plumbed to sinks.

(4) Water from drinking fountains shall be under pressure so that the stream is not less than three inches high.

(5) Cold water and hot water not exceeding 110° F. shall be supplied to lavatory fixtures accessible to children.

(c) Toilet and lavatory facilities.

(1) All plumbing fixtures and building sewers shall be connected to public sewers where available.

(2) When a public sewer is not available, a private sewage disposal system meeting requirements of the county health department or the Kansas department of health and environment shall be installed and connected to all plumbing fixtures.

(3) Plumbing shall be installed and maintained according to local and state plumbing codes.

(4) Bathroom facilities shall be readily accessible to the children, and shall be placed low or be provided with safety steps.

(5) There shall be one toilet and one washbasin for each fifteen children.

(6) Bathroom facilities shall be planned to assure privacy for staff.

(7) Soap, individual cloth towels or paper towels, and toilet paper shall be provided. The use of common towels and wash cloths shall be prohibited. When cloth towels and wash cloths are used, they shall be labeled with the child's name, and laundered at least weekly.

(Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended May 1, 1985.)

K.A.R. 28-4-426. Administration.

(a) Line of authority. There shall be a written delegation of administrative authority designating the person in charge in the facility for all hours of operation.

(b) Admission policy.

(1) Arrangements for the admission of children shall be made prior to the admission date to the center or preschool.

(2) Each admission policy shall be non-discriminatory in regard to race, color, religion, national origin, ancestry, physical handicap, or sex, in accordance with K.S.A. 44-1009. A copy of the admission policy shall be available for review.

(3) Each parent shall be informed of services offered.

(4) Each parent shall be informed when religious training is included in the program.

(c) Insurance.

(1) Accident insurance shall be carried on children.

(2) Liability insurance shall be carried by the center or preschool to provide recourse to parents of children enrolled in the event of negligence.

(3) Documentation of insurance coverage shall be on file, including the name of the insurance company or companies, policy number or numbers and dates of coverage.

(d) Staff records. The following records shall be maintained for each staff person:

(1) A record of education and experience;

(2) date of employment;

(3) a record of scheduled hours;

(4) a record of in-service training;

(5) a health certificate; and

(6) work references.

(e) Children's records.

(1) A daily attendance record shall be maintained and kept on file at the facility.

(2) The following emergency information shall be readily accessible and near the telephone:

(A) Name, date of birth, and sex of child;

(B) name, home and business address, and phone numbers of parents or legal guardian;

(C) name, address, and telephone number of physician, hospital, and person to notify in case of emergency; and

(D) persons authorized to call for the child.

(3) A file shall be maintained for each child which includes:

(A) The application for enrollment, including beginning date and date of termination;

(B) a record of scheduled hours and days of attendance;

(C) a health assessment and immunization record;

(D) each accident report; and

(E) signed parental permission for field trips, transfer of records, and when applicable, walking to and from activities away from the facility.

(4) Children's records shall be confidential. Staff shall not disclose nor discuss personal information regarding children and their relatives with any unauthorized person.

(5) Each child's records and reports shall be made available to the child's parents on request. Children's health records shall be returned to the parents when the children are no longer enrolled.

(Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended May 1, 1985; amended May 1, 1986.)

K.A.R. 28-4-427. Program.

(a) Programs shall be conducted in self-contained units with staff and children designated for each unit. Centers or preschools which cannot develop self-contained units shall present a plan for space use to the Kansas department of health and environment for approval.

(b) Equipment.

(1) Low, open shelves shall be provided for play equipment and materials so that they are readily accessible to the children.

(2) Equipment shall be scaled to the size of the children.

(3) Equipment shall be of sound construction with no sharp, rough, loose, nor pointed edges, and in good operating condition.

(4) Equipment shall be placed to avoid danger of accident or collision, and to permit freedom of movement.

(5) Equipment shall be provided in a sufficient quantity so that each child has a choice of at least three activities when all children are using equipment at the same time.

(6) Storage space located conveniently for the staff shall be provided for supplies and equipment not in use.

(7) Each child shall have individual space for the child's garments, clothing, and possessions during the session attended.

(c) Learning experiences.

(1) There shall be a written program plan which includes daily learning experiences appropriate to the developmental level of the children. Experiences shall be designed to develop:

(A) Self-esteem and positive self-image;

(B) social interaction skills;

(C) self-expression and communication skills;

(D) creative expression;

(E) large and small muscle skills; and

(F) intellectual growth.

(2) The program schedule shall be planned to provide a balance of active, quiet, individual and group activities.

(3) A written program plan shall be posted in each unit.

(d) Discipline.

(1) There shall be a written discipline policy outlining methods of guidance appropriate to the ages of the children enrolled. This policy shall be made available to staff and parents.

(2) Prohibited punishment. Punishment which is humiliating, frightening or physically harmful to the child shall be prohibited. Prohibited methods of punishment include:

(A) Corporal punishment;

(B) verbal abuse, threats, or derogatory remarks about the child or the child's family;

(C) binding or tying to restrict movement, or enclosing in a confined space such as a closet, locked room, box, or similar cubicle; and

(D) withholding or forcing foods.

(Authorized by and implementing K.S.A. 65-508; effective May 1, 1983.)

K.A.R. 28-4-428. Staff requirements.

(a) Minimum staff/child ratio. The ratio between staff and children shall be determined by the age of children and type of service provided. The required staff/child ratio shall not fall below the minimum level at any time and no child shall be left unsupervised. Only staff who are in attendance with the children shall be counted in the minimum staff/child ratio as follows:

Age of Children	Minimum Staff/Child Ratio	Maximum Number of children per unit
Infants (2 weeks to 12 months)	1 to 3	9
Infants to 6 years	1 to 4 (max. 2 infants)	8 (max. 4 infants)
Toddlers (12 mos. to 2 ½ years, if walking alone)	1 to 5	10
2 years to 3 years	1 to 7	14
2 ½ years to school age	1 to 10	20
3 years to school age	1 to 12	24
Kindergarten enrollees	1 to 14	28
School age	1 to 16	32

(b) Substitute staff. Each facility shall have two additional adults who are available to work in case of illness or emergency. Their names and phone numbers shall be posted, and their health certificates shall be on file.

(c) Volunteers. Volunteers shall be at least 14 years of age. Volunteers may be counted in the staff/child ratio if they are 16 years of age or older, participate in in-service training programs, and are supervised at all times by employed staff.

(d) (1) Each child care center shall have a program director who is employed full time.

(2) Each facility licensed for more than 60 children shall employ a program director who has no other assigned responsibilities.

(3) Each facility licensed for more than 60 children shall have an administrator, who may also be the program director.

(e) Staff training.

(1) The program director shall receive at least five clock-hours of approved in-service training annually. In-service training shall be conducted away from the facility.

(2) Teaching staff shall receive at least 10 clock-hours of approved in-service training annually.

(f) References. Each staff member shall provide work references at the time of application for employment.

(g) The program director shall submit an annual program report to the Kansas department of health and environment on forms supplied by the department.

(Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended May 1, 1986.)

K.A.R. 28-4-428a. Education and training requirements.

(a) Orientation.

(1) Each person shall, before applying for a license, complete an orientation program on the requirements for operating a preschool or a child care center. If the person is not an individual, the person shall designate an individual to meet this requirement. The orientation shall be provided by the county health department or the secretary's designee that serves the county in which the preschool or child care center will be located.

(2) Each licensee shall provide orientation to each program director not later than seven calendar days after the date of employment and before the program director is given sole responsibility for implementing and supervising the program.

(3) Each licensee shall ensure that orientation is completed by each staff member who will be counted in the staff-child ratio and by each volunteer who will be counted in the staff-child ratio. Each staff member and volunteer shall complete the orientation within seven calendar days after the date of employment or volunteering and before the staff member or volunteer is given sole responsibility for the care and supervision of children.

(4) Each licensee shall ensure that the orientation for each program director, staff member, and volunteer is related to work duties and responsibilities and includes the following:

(A) Licensing regulations;

(B) the policies and practices of the preschool or child care center, including emergency procedures, behavior management, and discipline;

(C) the schedule of daily activities;

(D) care and supervision of children in care;

(E) health and safety practices; and

(F) confidentiality.

(b) Health and safety training.

(1) Each staff member who is counted in the staff-child ratio, each volunteer who is counted in the staff-child ratio, and each program director shall complete health and safety training either before employment or volunteering or not later than 30 calendar days after the date of employment or volunteering.

(2) The training shall be approved by the secretary and shall include the following:

(A) At least two clock-hours of training in recognizing the signs of child abuse or neglect, including prevention of abusive head trauma, and the reporting of suspected child abuse and neglect;

(B) at least two clock-hours of training in basic child development; and

(C) at least two clock-hours of training on safe sleep practices and sudden infant death syndrome if the individual will be caring for children under 12 months of age.

(3) Each individual who is required to complete this training and who was employed in the preschool or child care center before the effective date of this regulation shall complete the training within one calendar year after the effective date of this regulation.

(c) Pediatric first aid and cardiopulmonary resuscitation (CPR) certifications.

(1) Each staff member counted in the staff-child ratio, each volunteer counted in the staff-child ratio, and each program director shall obtain certification in pediatric first aid and in pediatric CPR as specified in this subsection either before the date of employment or volunteering or not later than 30 calendar days after the date of employment or volunteering.

(2) Each individual who is required to obtain the certifications and who was employed in the preschool or child care center before the effective date of this regulation shall obtain the certifications within one calendar year after the effective date of this regulation.

(3) Each individual who is required to obtain the certifications shall maintain current certifications.

(4) Each licensee shall ensure that, for each unit in a preschool or child care center, at least one staff member or volunteer counted in the staff-child ratio who has

current certification in pediatric first aid and current certification in pediatric CPR is in attendance at all times.

(d) Education requirements. Each program director shall be a high school graduate or equivalent. For each unit in a preschool or child care center, there shall be in attendance at all times at least one staff member who has a high school diploma or equivalent, as required in K.A.R. 28-4-429(h).

(e) Annual in-service training requirements.

(1) Each program director shall complete annual in-service training as required in K.A.R. 28-4-428(e)(1).

(2) Each staff member counted in the staff-child ratio and each volunteer counted in the staff-child ratio shall complete annual in-service training as required in K.A.R. 28-4-428(e)(2).

(f) Documentation. Each licensee shall ensure that documentation of all orientation, training, certifications, and education requirements is kept in each individual's file in the preschool or child care center.

(Authorized by and implementing K.S.A. 2010 Supp. 65-508; effective Feb. 3, 2012.)

K.A.R. 28-4-429. Staff qualifications.

(a) Program directors shall be 18 years of age or older and shall meet the training requirements for the license capacity of the facility.

(b) Facilities with fewer than 13 children shall have a program director who meets the training requirements by one of the following options:

(1) Option 1: Six months' teaching experience in licensed facilities with children of the same age as enrolled in present facility.

(2) Option 2:

(A) Five sessions of observation for not less than 2 1/2 consecutive hours per observation in licensed facilities with children of the same age as enrolled in present facility; and

(B) 10 clock hours of workshops approved by the state licensing staff;

(3) Option 3:

(A) A minimum of three semester hours of academic credit or equivalent training in child development, early childhood education, and curriculum resources; and

(B) supervised observation in high school or college or three months' work experience with children of the same age as enrolled in present facility; or

(4) Option 4: A child development associate credential.

(c) Facilities licensed for not less than 13 and not more than 24 children shall have a program director who meets the training requirements by one of the following options:

(1) Option 1:

(A) Five sessions of observation for not less than 2 1/2 consecutive hours per observation in licensed preschools or child care centers. Child care center staff shall plan their observations so that daily activities during morning, lunch, nap time and late afternoon can be observed; and

(B) one year of teaching experience in licensed centers or preschools, or one year of supervised practicum in licensed centers or preschools; or

(2) Option 2:

(A) Seven to nine semester hours of academic credit or equivalent training in child development or early childhood education; and

(B) three months' teaching experience in licensed centers or preschools, or one year of supervised practicum in licensed centers or preschools; or

(3) Option 3: A child development associate credential.

(d) Facilities licensed for more than 24 children shall have a program director who meets the training requirements by one of the following options:

(1) Option 1:

(A) Twelve semester hours of academic study or equivalent training in child development, early childhood education, curriculum resources, nutrition, child guidance, parent education, supervised practicum, and administration of early childhood programs; and

(B) six months' teaching experience in licensed centers or preschools;

(2) Option 2: A child development associate credential and one year of teaching experience in licensed centers or preschools, or supervised practicum in licensed centers or preschools;

(3) Option 3:

(A) An associate of arts degree or a two-year certificate in child development; and

(B) one year of teaching experience in licensed centers or preschools, or a supervised practicum in licensed centers or preschools;

(4) Option 4: (A) An A.B. or B.S. degree in child development or early childhood education, including a supervised practicum; and

(B) three months' teaching experience in licensed centers or preschools; or

(5) Option 5: (A) An A.B. or B.S. degree in a related academic discipline, and 12 hours of academic study or equivalent training in child development, early childhood education, curriculum resources, nutrition, child guidance, parent education, supervised practicum, and administration of early childhood programs; and

(B) six months teaching experience in licensed centers or preschools.

(e) Facilities licensed for more than one hundred children shall have a program director who meets the following requirements:

(1) (A) A degree in child development or early childhood education; or

(B) an A.B. or B.S. degree in a related academic discipline and 12 hours of academic study or equivalent training in child development, early childhood education, curriculum resources, nutrition, child guidance, parent education, supervised practicum, and administration of early childhood programs; and

(2) one year of experience as a program director in a center licensed for more than 24 children, or one year of experience as an assistant program director in a center licensed for more than 100 children.

(f) Facilities licensed for more than 100 children shall have an assistant program director who meets the requirements for program director specified in 28-4-429(d).

(g) Facilities licensed for more than 160 children shall have an assistant program director who meets the requirements for program director specified in 28-4-429(d), and who has no other assigned responsibilities.

(h) Each unit shall have one staff person who is at least 18 years of age and who has a high school diploma or its equivalent. Units enrolling fewer than 13 children shall have a staff person who meets the training requirements specified in subsection (b) of this rule and regulation. Units enrolling 13 to 24 children shall have a staff person who meets the training requirements specified in subsection (c) of this rule and regulation. Units enrolling more than 24 school-age children shall have a staff person who meets the requirements specified in subsection (d) of this rule and regulation.

(i) Assistant teachers shall be at least 16 years of age and shall participate in staff orientation at time of employment.

(Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended May 1, 1984; amended May 1, 1987.)

K.A.R. 28-4-430. Health practices; illness and abuse; general health requirements for staff.

(a) Children's health assessments.

(1) A preentrance health assessment conducted within six months before enrollment shall be required for each child. The assessment shall be conducted by a licensed physician or by a nurse approved to perform health assessments.

(2) The results of the health assessment shall be kept on file at the child care facility.

(3) Children transferring from one child care facility to another shall not be required to obtain a new health assessment if the previous assessment record is available.

(4) Tuberculin testing shall be required only if the child comes in contact with a new active or reactivated case of tuberculosis. The results of the examination shall become a part of the child's health record.

(5) Immunizations for each child in care shall be current as medically appropriate and shall be maintained current for protection from the diseases specified in K.A.R. 28-1-20(d). A record of each child's immunizations shall be maintained on the child's medical record form.

(6) Exceptions to the requirements for immunizations shall be permitted as specified in K.S.A. 65-508, and amendments thereto. Documentation of each exception shall be maintained on file at the child care facility.

(7) Each licensee shall provide information to the parents of children in care about the benefits of annual, well-child health assessments for children under six years of age, and biennial health assessments for children six years of age and older. Each licensee shall also provide information about the importance of seeking medical advice when a child exhibits health problems. This information may be either given on a form provided by the Kansas department of health and environment to the parent at the time the child is enrolled or posted in a conspicuous place, with copies of the form available to parents on request.

(b) Health practices.

(1) Each child's hands shall be washed with soap and water before and after eating and after toileting.

(2) Children shall be allowed to go to the bathroom individually as needed.

(c) Illness and abuse.

(1) If a child is absent due to a communicable disease, staff shall inform all parents of the nature of the illness.

(2) Each communicable disease shall be reported to the county health department.

(3) Each staff member shall be trained to observe symptoms of illness, neglect, and child abuse, and shall observe each child's physical condition daily.

(4) Symptoms of illness shall be reported upon discovery to parents.

(5) All evidence of neglect or unusual injuries, including bruises, contusions, lacerations, and burns, shall be noted on the child's record, and shall be reported upon discovery to the program director or, in the absence of the program director, the person designated in charge of the child care facility.

(6) The program director or, in the absence of the program director, the person designated in charge of the facility shall report within 24 hours to the Kansas department of social and rehabilitation services any evidence of suspected child abuse or neglect. When the local offices of the department of social and rehabilitation services are not open, reports shall be made to local law enforcement agencies.

(7) If care of sick children is to be provided, written plans regarding the needs of a sick child and the care of a sick child shall be prepared in consultation with the public health nurse and shall be presented to the parents at time of enrollment. The requirements for the infectious and contagious diseases specified in K.A.R. 28-1-2 and for the isolation and quarantine of individuals with the infectious and contagious diseases specified in K.A.R. 28-1-6 shall be met.

(8) A quiet area shall be provided for any sick children. Each sick child shall be supervised by an adult.

(9) Non-prescription medications shall not be administered to any child except on written order of the parent or guardian. Each order shall be renewed yearly. Each non-prescription medication shall be administered by a designated staff member.

(10) Each prescription medication shall be administered by a designated staff member, from a pharmacy container labeled with the child's name, the name of the medication, the dosage and dosage intervals, the name of the physician, and the date the prescription was filled. The label shall be considered the order from the physician.

(11) A record of the name of the designated staff member who administered the medication and the date and time the medication was given to the child shall be kept in the child’s file.

(d) Staff.

(1) Smoking shall be prohibited in the child care center or preschool.

(2) Alcohol as defined in K.S.A. 41-102 and amendments thereto, and non-prescribed controlled substances, as defined in K.S.A. 65-4101 and amendments thereto, shall not be consumed on the premises during the hours of operation and shall not be consumed while children are present.

(3) Each child residing in the same location as that of a child care center or preschool shall meet the requirements specified in subsection (a).

(Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended May 1, 1984**;** amended May 1, 1985; amended May 1, 1986; amended July 11, 2008.)

K.A.R. 28-4-434. Preschools.

(a) Inside area. Any building used as a residence shall be licensed as a preschool only if there is a room or rooms designated exclusively for preschool use.

(b) Nutrition.

(1) A nutritious snack shall be provided daily and shall include at least one of the following foods:

(A) Milk, milk product, or food made with milk;

(B) fruit, vegetable, or full-strength fruit or vegetable juice;

(C) meat;

(D) peanut butter; or

(E) bread or cereal product.

(2) Fluid dairy products shall be Grade A pasteurized. Solid dairy products shall be pasteurized.

(3) Refrigeration shall be provided for perishable foods.

(4) If reusable table service is used for snacks, appropriate dishwashing methods shall be followed as specified in K.A.R. 28-4-439(k).

(5) Appropriate table service shall be used for serving snacks. Children's food shall not be placed on the bare table.

(c) Outdoor play. Outdoor play space shall not be required. If outdoor play is included in the preschool program, the requirements of K.A.R. 28-4-437 shall be met.

(Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended May 1, 1984.)

K.A.R. 28-4-435. Programs serving children with handicapping conditions.

(a) Records. Written parental permission shall be on file for evaluation and placement of children.

(b) Physical plant.

(1) Programs which include non-ambulatory children shall be conducted on the ground floor. All exits and steps shall have ramps approved by a fire inspector.

(2) Facilities enrolling children who use walkers or wheelchairs shall have 50 square feet of space for each physically handicapped child.

(3) When physically handicapped children are enrolled, toilets and washbasins shall be designed to accommodate them.

(c) Transportation. A second adult shall ride in the rear seat of the vehicle when three or more handicapped children are being transported.

(d) Staff requirements. Facilities shall have staff who meet the qualifications listed in K.A.R. 28-4-429. The following additional requirements shall be met:

(1) The parent of a child enrolled in the unit shall not be a teacher in that unit.

(2) Each unit shall have a staff person who has a minimum of six hours of academic credits or equivalent clock hours in understanding the needs of handicapped children, and in developing individual program plans.

(3) Consultants shall meet the educational requirements of their profession.

(e) Minimum staff/child ratios. If fewer than one-third of the children enrolled have handicapping conditions, the minimum staff/child ratios shall be those as specified in K.A.R. 28-4-428. If one-third or more of the children enrolled have handicapping conditions, the following minimum staff/child ratios shall be maintained:

	Integrated unit or center		Special purpose unit or center	
Age of children	Adult/child	Max. unit	Adult/child	Max. unit
Under 2 1/2 years	1 to 3	9	1 to 2	6
2 years to 3 years	1 to 4	12	1 to 3	9
2 1/2 years and above	1 to 6	18	1 to 4	12

(f) In-service training. All staff shall have 10 clock-hours of annual in-service training specific to handicapping conditions.

(g) Program. A written individual program plan shall be on file for each handicapped child enrolled, and in consultation with the parents, shall be reviewed and revised annually. The plan shall assign responsibility for the delivery of services, and shall indicate the anticipated change in the child's behavior, and how these changes will be measured.

(Authorized by and implementing K.S.A. 65-508; effective May 1, 1983.)

K.A.R. 28-4-436. Child care centers: physical plant.

(a) Inside area. A building used as a residence shall be licensed as a child care center only if there is a room or rooms designated exclusively for child care use.

(b) Napping and sleeping.

(1) Children remaining at the center more than four hours shall be encouraged to nap or rest according to their individual needs. Children who do not sleep shall be permitted to have a quiet time through the use of equipment or activities which will not disturb other children.

(2) Centers shall have a crib, cot or pad for each child. Pads shall be enclosed in washable covers and shall be used only over carpet. When pads are used, they shall be long enough so that the child's head does not rest on the carpet. Bunk beds shall be prohibited.

(3) Each crib or cot shall be equipped with individually-labeled bottom sheet. Every child shall have a cover. Children shall not share bedding.

(4) There shall be a complete change of bedding after each five uses, immediately when wet or soiled, and always upon a change in occupancy. Blankets shall be laundered monthly.

(5) Cribs, cots, or pads, when in use, shall be separated from each other by at least two feet in all directions except when bordering on the wall. When not in use, they shall be stored in a clean and sanitary manner.

(6) Nighttime care.

(A) Movable screens shall be available to insure privacy as needed.

(B) Separate sleeping areas shall be provided for boys and girls over six years of age.

(C) A center in which children sleep for more than three consecutive hours shall be provided with a smoke detector installed in consultation with a fire inspector.

(c) Laundry facilities.

(1) If laundry is done at the center, laundry fixtures shall be located in an area separate from food preparation areas and shall be installed and used in such a manner as to safeguard the health and safety of the children.

(2) Separate areas shall be provided for soiled and clean items.

(Authorized by and implementing K.S.A. 65-508; effective May 1, 1983.)

K.A.R. 28-4-437. Child care centers: outside area.

(a) There shall be at least 75 square feet of outdoor play space on the premises for each child using the space at a given time. The total outdoor space shall accommodate not less than one-half of the licensed capacity, or shall include a minimum of 750 square feet, whichever is greater.

(b) The boundaries of outdoor play space shall be enclosed with a fence not less than four feet high.

(c) The outdoor play space shall be located to provide both sunshine and shade. A hard-surfaced area or gravel shall not be used under anchored play equipment.

(d) The outdoor play space shall be well drained and free of hazards.

(e) Outdoor play equipment shall be safely constructed and in good repair. Climbing equipment and swings shall be anchored in the ground with metal straps or pins, or set in cement. Swings shall be safely located and shall have canvas or soft rubber seats. Teeter-totters and merry-go-rounds designed for school-age children shall not be used for children under six years.

(f) Sandboxes shall be maintained in a safe and sanitary condition.

(g) A rooftop used as a play area shall be enclosed with a flat board fence or a chainlink fence angled toward the play area. The fence shall not be less than six feet high. An approved fire escape shall lead from the roof to the ground.

(h) The play area shall be arranged so that staff can provide close supervision at all times.

(i) Outdoor equipment shall be provided in sufficient quantity so that each child has access to at least one activity appropriate to the child's age level.

(j) There shall be bathroom facilities accessible to the play area.

(Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended May 1, 1984.)

K.A.R. 28-4-438. Child care centers: program.

(a) The program shall provide regularity in routines such as eating and napping, and protection from excess fatigue and overstimulation.

(b) Unless extreme weather conditions prevail, children shall have a daily period of outdoor play under the supervision of an adult. Children spending more than four consecutive hours at the center shall play outdoors for at least one hour daily.

(c) Routines such as toileting and eating, and intervals between activities shall be planned so that children do not have to wait in lines, or assemble in large groups.

(d) If television is on the premises, its use shall be limited to children's programs.

(e) Activities shall be available for children during the entire time they are in attendance, including early morning and late afternoon.

(Authorized by and implementing K.S.A 65-508; effective May 1, 1983.)

K.A.R. 28-4-439. Child care centers: food service.

(a) Single or multi-unit centers serving a meal prepared at the center to 13 or more children shall employ a staff person who:

(1) Has knowledge of nutritional needs of children;

(2) understands quantity food preparation and service;

(3) practices sanitary methods of food handling and storage;

(4) is sensitive to individual and cultural food tastes of children; and

(5) is willing to work with the program director in planning learning experiences for children relative to nutrition.

(b) Centers shall serve meals and snacks as follows:

Length of Time at Center	Food Served
2 1/2 to 4 hours	1 snack
4 to 8 hours	1 snack & 1 meal
8 to 10 hours	2 snacks & 1 meal or 1 snack & 2 meals
10 hours or more	2 meals & 2 or 3 snacks

(c) Meals and snacks.

(1) Breakfasts shall include:

(A) A fruit, vegetable, or full-strength fruit or vegetable juice;

(B) bread, a bread product or cereal; and

(C) milk.

(2) Noon or evening meals shall include one item from each of the following:

(A) Meat, poultry, fish, egg, cheese, cooked, dried peas or beans, or peanut butter;

(B) two vegetables, two fruits, or one vegetable and one fruit;

(C) bread, bread product or cereal; and

(D) milk.

(3) Mid-morning and mid-afternoon snacks shall include at least two of the following:

(A) Milk, milk product or food made with milk;

(B) fruit, vegetable, or full-strength fruit or vegetable juice;

(C) meat or a meat alternate; or

(D) bread, bread product or cereal.

(d) A sufficient quantity of food shall be prepared for each meal to allow the children second portions of vegetables or fruit, bread, and milk.

(e) Food allergies or special dietary needs of specific children shall be known to cooks, staff members, child care workers, and substitutes.

(f) Menus shall be posted where parents can see them. Copies of menus served the previous month shall be kept on file.

(g) Staff shall sit at the table with the children, and socialization shall be encouraged. Children shall be encouraged to serve themselves. Spoons and forks shall be provided for each child's use. Appropriate service shall be used for meals and snacks.

(h) Children's food shall not be placed on a bare table.

(i) Toothbrushes shall be provided for each child's use. They shall be used daily after meals, and shall be stored in a sanitary manner out of children's reach.

(j) When meals are prepared on the premises, the kitchen shall be separate from the eating, play, and bathroom areas, and shall not be used as a passageway while food is being prepared.

(k) Food shall be stored as follows:

(1) Poisonous or toxic materials shall not be stored with food. Medications requiring refrigeration shall be labeled and kept in locked storage in the refrigerator.

(2) All perishables and potentially hazardous foods shall be continuously maintained at 45°F or lower in the refrigerator, or 10°F or lower in the freezer, with 0°F recommended. Each cold storage facility shall be provided with a clearly visible, accurate thermometer.

(3) All foods stored in the refrigerator shall be covered.

(4) Foods not requiring refrigeration shall be stored at least six inches above the floor in clean, dry, well-ventilated storerooms or other areas.

(5) Dry, bulk foods which are not in their original, unopened containers shall be stored in metal, glass or food-grade plastic containers with tightfitting covers, and shall be labeled.

(l) Table service shall be maintained in sanitary condition using one of the following methods:

(1) Disposable plates and cups, and plastic utensils of food grade, medium weight; or

(2) a three-compartment sink supplied with hot and cold running water and a drainboard for washing, rinsing, sanitizing, and airdrying; or

(3) a mechanical dishwasher.

(m) Dishes shall have smooth, hard-glazed surfaces, and shall be entirely free from cracks or chips.

(n) Tables shall be washed before and after meals, and floors shall be swept after meals.

(o) If meals are catered:

(1) Food shall be obtained from sources licensed by the Kansas department of health and environment.

(2) Food shall be transported in covered and temperature-controlled containers, and shall not be allowed to stand. Hot foods shall be maintained at not less than 140°F, and cold foods shall be maintained at 45°F or less.

(p) Fluid dairy products shall be Grade A pasteurized. Solid dairy products shall be pasteurized. Dry milk shall be used only for cooking.

(q) Meat shall be from government-inspected sources.

(r) Home-canned food, food from dented, rusted, bulging, or leaking cans, or food from cans without labels shall not be used.

(s) Garbage shall be placed in covered containers inaccessible to children, and shall be removed from the kitchen daily.

(Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended May 1, 1984; amended May 1, 1985.)

K.A.R. 28-4-440. Infant and toddler programs.

(a) Infant and toddler programs shall be conducted on the ground floor only.

(b) Each unit of infants and each unit of toddlers shall be separate from each unit of older children.

(c) Floor furnaces shall be prohibited.

(d) A sleeping area separate from the play area shall be provided for infants.

(e) A crib or playpen shall be provided for each infant in care at any one time. Cribs and playpens shall be maintained in good condition. Clean individual bedding shall be provided.

(f) Each licensee shall ensure that the following requirements are met:

(1) The use of stacking cribs, cribs with water mattresses, or bassinets shall be prohibited.

(2) Cribs and playpens shall have slats not more than 2 3/8 inches apart.

(3) All sides of each crib or playpen shall be up while the crib or playpen is in use.

(4) On and after December 28, 2012, each licensee shall ensure that no crib purchased before June 28, 2011 is in use in the facility.

(g) Each licensee shall make any necessary changes to follow the recommendations of any consumer warning or recall of a crib or a playpen as soon as the warning or recall is known.

(h) Each licensee shall develop and implement safe sleep policies and practices for infants and toddlers and shall ensure that the policies and practices are discussed with the parent or legal guardian of each child before the first day of care. The safe sleep policies and practices shall include the following requirements:

(1) Each staff member who cares for children and each volunteer who cares for children shall follow the safe sleep policies and practices of the child care center.

(2) Each staff member who cares for infants and each volunteer who cares for infants shall ensure that all of the following requirements are met:

(A) Each infant shall nap or sleep in a crib or a playpen.

(B) An infant shall not nap or sleep in the same crib or playpen as that occupied by another infant or child at the same time.

(C) If an infant falls asleep on a surface other than a crib or playpen, the infant shall be moved to a crib or playpen.

(D) Each infant shall be placed on the infant's back to nap or sleep.

(E) When an infant is able to turn over independently, the infant shall be placed on the infant's back but then shall be allowed to remain in a position preferred by the infant. Wedges or infant positioners shall not be used.

(F) Each infant shall sleep in a crib or a playpen that is free of any soft items, which may include pillows, quilts, heavy blankets, bumpers, and toys.

(G) If a lightweight blanket is used, the blanket shall be tucked along the sides and foot of the mattress. The blanket shall not be placed higher than the infant's chest. The head of the infant shall remain uncovered. Any infant may nap or sleep in sleep clothing, including sleepers and sleep sacks, in place of a lightweight blanket.

(i) When children are awake, they shall not be left unattended in cribs or other confinement for more than 30 minutes.

(j) An adult-size rocking chair shall be provided for each unit of infants.

(k) Children not held for feeding shall have low chairs and tables, infant seats with trays, or high chairs with a wide base and a safety strap.

(l) Either individually labeled towels and washcloths or disposable products shall be provided.

(m) Items that children can place in their mouths shall be washed and sanitized daily and shall be washed and sanitized before being used by another child, if contaminated by saliva or other bodily fluids.

(n) Each licensee shall ensure that at least one staff member who meets one of the following staff requirements is present for each unit of infants and each unit of toddlers:

(1) Option 1: An individual who meets the qualifications of K.A.R. 28-4-429(b) and has at least three months' experience caring for infants and toddlers;

(2) Option 2: a licensed L.P.N. or R.N. with three months' experience in pediatrics or in licensed child care centers enrolling infants and toddlers; or

(3) Option 3: a child development associate credential in infant and toddler care.

(o) Each licensee shall ensure that the following program requirements are met:

(1) Daily activities shall contribute to the following:

(A) Gross and fine motor development;

(B) visual-motor coordination;

(C) language stimulation; and

(D) social and personal growth.

(2) Infants and toddlers shall spend time outdoors daily unless extreme weather conditions prevail.

(p) Each licensee shall ensure that the following food service requirements are met:

(1) The nitrate content of water for children under one year of age shall not exceed 10 milligrams per liter (10 mg/l) as nitrogen.

(2) Drinking water shall be available to each child at all times when the child is in care.

(3) Infants shall be held when bottle-fed until they can hold their own bottles.

(4) Infants and toddlers shall not be allowed to sleep with bottles in their mouths.

(5) Each bottle that contains prepared formula or breast milk shall be refrigerated with the nipple covered. The bottle shall be labeled with the child’s name, the contents, and the date received and shall be used within 24 hours of the date on the label. If a child does not finish a bottle, the contents of the bottle shall be discarded. No formula or breast milk shall be heated in a microwave oven.

(6) Solid foods shall be offered when the program director and the parent or legal guardian of a child determine that the child is ready for solid foods. Opened containers of solid foods shall be labeled with child's name, the contents, and the date opened. Containers shall be covered and refrigerated. The food shall be used within three calendar days of the date opened. Food in previously opened containers shall be reheated only once and shall not be served to another child.

(q) Each licensee shall ensure that the following toileting requirements are met:

(1) Children's clothing shall be changed whenever wet or soiled.

(2) Each child shall have at least two complete changes of clothing.

(3) Handwashing facilities shall be in or adjacent to the diaper-changing area.

(4) A changing table shall be provided for each unit of infants and each unit of toddlers.

(5) Each changing table shall have an impervious, undamaged surface. Each table shall be sturdy and shall be equipped with railings or safety straps.

(6) Changing tables shall be sanitized after each use by washing with a disinfectant solution of 1/4 cup of chlorine bleach to one gallon of water or with an appropriate commercial disinfectant.

(7) Wet or soiled washable diapers or training pants shall be stored in a labeled, covered container or plastic bag and shall be returned home with the parent.

(8) Wet or soiled disposable diapers shall be placed in a covered container or plastic bag, which shall be emptied daily.

(9) There shall be one potty chair or child-sized toilet for every five toddlers. When a potty chair is used, the following requirements shall be met:

(A) Potty chairs shall be left in the toilet room.

(B) The wastes shall be disposed of immediately in a flush toilet.

(C) The container shall be sanitized after each use and shall be washed with soap and water daily.

(D) Potty chairs shall not be counted as toilets.

(10) Each individual shall wash that individual’s hands after diapering, assisting a child with toileting, or changing a child’s wet or soiled clothing.

(11) Changing and toileting procedures shall be posted.

(r) There shall be daily communication between the parent, parents, or legal guardian and the staff about each child's behavior and development.

(Authorized by and implementing K.S.A. 2010 Supp. 65-508; effective May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended May 1, 1986; amended, T-87-34, Nov. 19, 1986; amended May 1, 1987; amended Feb. 3, 2012.)

K.A.R. 28-4-441. Programs for school-age children.

(a) Physical plant. Centers shall have a minimum of 35 foot candles of light in each area used for reading, study, and other close work.

(b) Staffing.

(1) Single or multi-unit centers shall employ teaching staff who meet the requirements under one of the following options:

Option 1: As specified in K.A.R. 28-4-429; or

Option 2: An B.A. or B.S. degree in elementary education, physical education, child development or a related academic discipline, and three months' experience with school-age children.

(2) Each unit for school-age children shall be separate from units for younger children, except for periods not to exceed two hours before and after school. Staff/child ratios and unit size shall conform to the provisions of K.A.R. 28-4-428 and shall be based on the age of the youngest child in the group.

(c) Program.

(1) Educational and recreational activities shall meet the individual needs of the children.

(2) Children shall be provided the opportunity to plan activities appropriate to their age.

(3) Activities shall include arts, crafts, music, reading, table games, and sports.

(4) Program plans shall be written and posted.

(5) Written parental permission shall be obtained for children to participate in activities away from the center.

(d) Summer programs for school-age children.

(1) License applications or application renewals for summer programs shall be submitted to the Kansas department of health and environment not later than April 15.

(2) Summer programs shall be based in facilities which meet license requirements.

(3) Sack lunches may be served. Sack lunches and beverages shall be refrigerated.

(Authorized by and implementing K.S.A 65-508; effective May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended May 1, 1986.)

K.A.R. 28-4-442. Definitions.

(a) (1) "Adult" means a person 18 years of age or older.

(2) "Child" means a person as defined in K.A.R. 28-4-420(u), (x) and (dd).

(3) "Infant" means a person as defined in K.A.R. 28-4-420(k).

(b) When adults are cared for in the same premises as children, adults shall have space, staff and equipment separate from the children. Intergenerational activities shall be permitted when the facility is in compliance with K.A.R. 28-4-442.

(c) Each adult shall sign a consent form indicating willingness to participate in intergenerational activities.

(d) Written parental permission shall be on file for each child participating in intergenerational activities.

(e) No infant shall participate in intergenerational activities.

(f) There shall be an intergenerational activities program coordinator.

(g) There shall be a written activity plan which includes program objectives, space to be used and staffing patterns. Special needs of both adults and children shall be addressed.

(h) A weekly schedule of activities and participants shall be posted in both adult and child care facilities.

(i) A staff person from the adult care unit shall be in attendance while adults are with children.

(j) Adults from the intergenerational program who volunteer in the child care center shall not be counted in the child/staff ratio.

(Authorized by and implementing K.S.A. 1988 Supp. 65-510; effective Feb. 26, 1990.)