

2020 Legislative Changes for Licensed Child Care Centers

New laws passed by the 2020 Legislature include some changes that impact Department of Human Services licensed child care centers. This document outlines those changes.

Maltreatment of Minors Act (MOMA)

Where MOMA is located in the law is changing from Minnesota Statutes, section 626.556 to [Minnesota Statutes, chapter 260E](#), as of August 1, 2020. This does not change any reporting or training requirements for child care centers. DHS will update its website and forms to reflect this new statutory citation.

Alternative Sleeping Position for an Infant

Language was added to the safe sleep statute, [Minnesota Statutes, 245A.1435](#), to also allow an advanced practice registered nurse (APRN) to direct an alternative sleeping position for an infant. Previously the statute only allowed a physician to provide this direction. APRNs may include Certified Nurse Practitioners and Clinical Nurse Specialists, among others. More information about APRNs can be found on the [Minnesota Board of Nursing website](#). This change is effective August 1, 2020. The Physician Directive for Alternative Infant Sleep Position form will be updated to reflect this change.

Supervision of Preschoolers

Note: Underlined text (like this) is used for words that are being added to the law.

[245A.02, Subd. 18](#): (a) For purposes of licensed child care centers, "supervision" means when a program staff person:

- (1) is accountable for the child's care;
- (2) can intervene to protect the health and safety of the child; and

(3) is within sight and hearing of the child at all times except as described in paragraphs (b) to ~~(d)~~ (e).

(b) When an infant is placed in a crib room to sleep, supervision occurs when a program staff person is within sight or hearing of the infant. When supervision of a crib room is provided by sight or hearing, the center must have a plan to address the other supervision components.

(c) When a single school-age child uses the restroom within the licensed space, supervision occurs when a program staff person has knowledge of the child's activity and location and checks on the child at least every five minutes. When a school-age child uses the restroom outside the licensed space, including but not limited to field trips, supervision occurs when staff accompany children to the restroom.

(d) When a school-age child leaves the classroom but remains within the licensed space to deliver or retrieve items from the child's personal storage space, supervision occurs when a program staff person has knowledge of the child's activity and location and checks on the child at least every five minutes.

(e) When a single preschooler uses an individual, private restroom within the classroom with the door closed, supervision occurs when a program staff person has knowledge of the child's activity and location, can hear the child, and checks on the child at least every five minutes.

Summary

The definition of supervision is amended to provide additional flexibility under specific circumstances for supervision of preschoolers. The new definition allows a single preschooler to use an individual, private restroom within the classroom with the door closed as long as the program staff person knows the child's activity and location, can hear the child, and checks on the child at least every five minutes. This does not change the supervision expectations for children younger than preschool. This change is effective August 1, 2020.

What do providers need to do?

Familiarize yourself and your staff with this new supervision definition, and evaluate whether or not your facility is set up in such a way that would allow for this supervision. If the classroom contains an individual, private restroom and you choose to implement this level of supervision, it is recommended that you add specific procedures to the supervision section of your Risk Reduction Plan to train staff and ensure adequate supervision under this new supervision definition. Additionally, centers should consider the development of each preschool child and determine whether it is appropriate and safe for the preschooler to privately use the bathroom. Please note: this expanded definition does not apply in situations where the restroom is located down the hall or anywhere outside of the classroom.

DHS recognizes all licensed programs are unique. If you have a specific question about your program and whether or not the layout of your facility allows you to utilize this supervision option, please contact your licenser.

Preschool supervision FAQs

1. Can a preschool child go inside the building on their own and use a private bathroom within the classroom when the class is out on the playground? Does it make a difference if the classroom is connected to the playground?

No. The staff person(s) would be on the playground and would not be able to hear the child and intervene to protect the health and safety of the child if the child needed assistance. The child would be allowed to go inside and use the bathroom on their own if a staff person stepped into the classroom and was able to monitor the situation.

2. If the bathroom is located outside of a classroom in a shared space or in an area that has the potential for others to access the bathroom (such as in a fellowship hall, gym, or cafeteria), can a preschool child use it independently?

No. The bathroom must be a private bathroom located within a classroom. Bathrooms located in other areas that may be shared spaces or have the potential for others to access the bathroom require a staff person to be present to supervise.

3. If the bathroom is located within the classroom and has multiple stalls, can more than one child use the bathroom at the same time under this new supervision definition?

No. If more than one child uses the bathroom at the same time, this new supervision option cannot be applied. If a bathroom within the classroom has multiple stalls and only one child is allowed to use the bathroom at a time, this new supervision option can be applied.

4. When a center has a bathroom located between two separate classrooms that is accessible and shared by the two classrooms, can a single child from either classroom use it without a staff person present?

No. A bathroom shared between two classrooms with access to and from each of those classrooms is not a private bathroom so the new supervision option cannot be applied.

5. When preschoolers are mixed with other age groups in a classroom, does this supervision definition apply?

Yes, as long as the child is designated as a preschool child, is able to safely and independently use the bathroom, and the situation meets all the components of the new supervision definition as described above.