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## **Draft Revised Child Care Center Licensing Standards (245K)**

For Minnesota's child care community to review and provide feedback on

April 22, 2024

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*These draft licensing standards were developed by the Minnesota Department of Human Services (DHS) Licensing Division with substantial consultative support from the National Association for Regulatory Administration (NARA). The content included in these draft standards is at the discretion of the Minnesota DHS Licensing Division. Your feedback will help DHS to refine and improve these draft standards further.*

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## Introduction to Revised Licensing Standards

### Message from the Deputy Inspector General, Alyssa Dotson

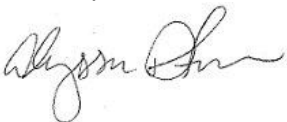
This document contains draft child care center licensing standards, which we are excited to share with providers and the public for feedback. It has been nearly forty years since Minnesota's Rule 9503 regulations were established for child care centers, and the standards have remained largely unchanged. Much has changed in child care and in society since the 1980s, and these draft revised licensing standards aim to catch Minnesota up to those changes. You will notice new environmental health provisions around testing for radon and ensuring a safe water supply to protect the health of young children. You will also see significant revisions to the behavior guidance and staff qualifications sections, to better align with how child care centers operate in Minnesota today and the challenges they face.

Our intent in releasing these draft licensing standards is to hear from providers, licensors, and the public on how they would be impacted by the changes to child care licensing that are proposed here. This is a draft, and the feedback you provide will be used to inform revisions to these licensing standards. What we learn from our child care community will allow us to create a stronger draft proposal for consideration in the 2025 legislative session. That work will be led by our Child Care Regulation Modernization team, which will be offering robust opportunities for you to weigh in on these draft standards in the coming months and will appear on the [project website](#) as well as communicated out via email. Public engagement will continue once the proposal is taken up by the 2025 Legislature, and the department is committed to implementing any new standards passed by the legislature in a deliberate and thoughtful way, to ensure providers and licensors are ready for the changes.

Minnesota's child care industry has faced unprecedented challenges and disruptions in the past several years, and early childhood educators and advocates have risen to those challenges with heroic efforts. I acknowledge these draft licensing standards present yet another change for our child care providers, but I also know that these changes are long overdue and represent an opportunity for an even stronger child care field in Minnesota. We know that other states have strengthened their protections for children's health and safety in recent decades, while Minnesota's child care regulations have largely stayed the same. These standards represent an opportunity to modernize Minnesota regulations in a way that improves the clarity of our regulations while strengthening health and safety for children.

Thank you for taking time to review and share your perspective on these draft standards. We look forward to working with you to improve child care licensing throughout Minnesota.

Sincerely,



Alyssa Dotson  
Deputy Inspector General, Licensing Division  
Department of Human Services, Office of Inspector General

## Comparison of new proposed standards with existing regulations

Proposed Rule Number	Proposed Rule Title	Previous Statute or Rule Number	Type of Revisions
245K.01	Definitions	<a href="#">MN Rules, part 9503.0005</a>	Significant revisions
245K.02	Applicability and licensing process	<a href="#">MN Rules, part 9503.0010</a>	Minor revisions
245K.03	Options for child care programs	<a href="#">MN Rules, part 9503.0015</a>	Minor revisions
245K.04	Qualifications of applicants and staff	<a href="#">MN Rules, part 9503.0030</a>	Significant revisions
245K.05	Directors	<a href="#">MN Rules, part 9503.0031</a>	Significant revisions
245K.06	Teachers	<a href="#">MN Rules, part 9503.0032</a>	Significant revisions
245K.07	Assistant Teachers	<a href="#">MN Rules, part 9503.0033</a>	Significant revisions
245K.08	Aides, Volunteers, and Substitutes	<a href="#">MN Rules, part 9503.0034</a>	Significant revisions
245K.09	Staff Orientation and Training	<a href="#">MN Statutes, section 245A.40</a>	Significant revisions
245K.10	Staff Ratios and Group Size	<a href="#">MN Rules, part 9503.0040</a>	Minor revisions
245K.11	Child Care Program Plan	<a href="#">MN Rules, part 9503.0045</a>	Minor revisions
245K.12	Naps and Rest	<a href="#">MN Rules, part 9503.0050</a>	Significant revisions
245K.13	Behavior Guidance	<a href="#">MN Rules, part 9503.0055</a>	Significant revisions
245K.14	Furnishings, Equipment, Materials and Supplies	<a href="#">MN Rules, part 9503.0060</a>	Significant revisions
245K.15	Children with Special Health Care Needs or Disabilities	<a href="#">MN Rules, part 9503.0065</a>	Significant revisions
245K.16	Night Care Programs	<a href="#">MN Rules, part 9503.0070</a>	Minor revisions

<b>Proposed Rule Number</b>	<b>Proposed Rule Title</b>	<b>Previous Statute or Rule Number</b>	<b>Type of Revisions</b>
245K.17	Drop-in and School-age Care Programs	<a href="#">MN Rules, part 9503.0075</a>	Minor revisions
245K.18	Exclusion of Sick Children	<a href="#">MN Rules, part 9503.0080</a>	Significant revisions
245K.19	Sick Care Program	<a href="#">MN Rules, part 9503.0085</a>	Significant revisions
245K.20	Information for Parents	<a href="#">MN Rules, part 9503.0090</a>	Significant revisions
245K.21	Parent Visitation	<a href="#">MN Rules, part 9503.0095</a>	Minor revisions
245K.22	Consent for Research, Cameras, and Social Media Participation	<a href="#">MN Rules, part 9503.0105</a>	Significant revisions
245K.23	Emergency and Accident Policies and Records	<a href="#">MN Rules, part 9503.0110</a> and <a href="#">MN Statutes section 245A.41, subd. 3</a>	Significant revisions
245K.24	Risk Reduction Plan	<a href="#">MN Statutes section 245A.66</a>	Minor revisions
245K.25	Center Administrative Records	<a href="#">MN Rules, part 9503.0115</a>	Minor revisions
245K.26	Personnel Records	<a href="#">MN Rules, part 9503.0120</a>	Minor revisions
245K.27	Children’s Records	<a href="#">MN Rules, part 9503.0125</a>	Minor revisions
245K.28	Reporting Requirements	<a href="#">MN Rules, part 9503.0130</a>	Minor revisions
245K.29	Sanitation and Health	<a href="#">MN Rules, part 9503.0140</a> and <a href="#">MN Statutes 245A.41, Subd. 2</a>	Significant revisions
245K.30	Attendance Records	N/A	New section
245K.31	Cleaning, Sanitizing, and Disinfecting	N/A	New section
245K.32	Food, Drinking Water and Nutrition	<a href="#">MN Rules, part 9503.0145</a>	Significant revisions
245K.33	Transportation and Trip Safety	<a href="#">MN Rules, part 9503.0100</a> and <a href="#">9503.0150</a>	Significant revisions

Proposed Rule Number	Proposed Rule Title	Previous Statute or Rule Number	Type of Revisions
245K.34	Facility	<a href="#">MN Rules, part 9503.0155</a>	Significant revisions
245K.35	Environmental Health	N/A	New section
245K.36	Crib Safety	Refers to <a href="#">MN Statutes section 245A.146</a>	No changes
245K.37	Infant Safe Sleep	Refers to <a href="#">MN Statutes section 245A.1435</a>	No changes

## 245K.01 Definitions

Subdivision 1. **Scope.** The definitions in this subdivision apply to 245K.01 to 245K.37.

Subd. 2. **Accessible to Children.** "Accessible to children" means items, areas or materials of a child care program that a child can reasonably reach, enter, use, or get to on their own.

Subd. 3. **Applicant.** "Applicant" has the same meaning as Chapter 245A.02 Subd.03.

Subd. 4. **Building official.** "Building official" means a person appointed according to Minnesota Statutes, section 326B.133, to administer the State Building Code. The term includes the appointee's authorized representative.

Subd. 5. [This subdivision intentionally left blank. Definitions will be re-numbered in final version.]

Subd. 6. **Center.** "Center" means a facility in which a child care program is operated when the facility is not excluded by Minnesota Statutes, section 245A.03, subdivision 2, and is not required to be licensed under Chapter 245J as a family or group family child care program.

Subd. 7. **Child.** "Child" means a person who is younger than 13 years of age.

Subd. 8. **Child care center child age classifications:** For the purposes of child care licensing under this statute, the following terms have the meanings given them in this subdivision.

(a) "Infant" means a child who is at least six weeks old but less than 16 months old.

(b) "Toddler" means a child who is at least 16 months old but less than 33 months old.

(c) "Preschooler" means a child who is at least 33 months old up to school age.

(d) "School age" means a child who is at least of sufficient age to have attended the first day of kindergarten, or is eligible to enter kindergarten within the next four months, but is younger than 13 years of age. A child who becomes 13 during the school year may continue to be defined as a school-age child through the end of that same school year.



Subd. 9. **Child care program.** "Child care program" means the systematic organization or arrangement of activities, personnel, materials, and equipment in a facility to promote the physical, intellectual, social, and emotional development of a child in the absence of the parent for a period of less than 24 hours a day.

Subd. 10. **Child care program plan.** "Child care program plan" means the written document that states the specific activities that will be provided by the license holder to promote the physical, intellectual, social, and emotional development of the children enrolled in the center.

Subd. 11. [This subdivision intentionally left blank. Definitions will be re-numbered in final version.]

Subd. 12. **Clean.** "Clean" means free from dirt or other contaminants that can be detected by sight, smell, or touch.

Subd. 13. **Commissioner.** "Commissioner" "Commissioner" has the same meaning as 245A.02 Subd. 5.

Subd. 14. **Department.** "Department" means the Minnesota Department of Human Services.

Subd. 15. **Direct Contact.** "Direct contact" has the same meaning as in Chapter 245C.02, Subd. 11.

Subd. 16. **Disinfected.** "Disinfected" means treated to reduce microorganism contamination after an object has been cleaned. Disinfection must be done in accordance with 245K.31 or using equivalent products or processes approved by the community health board as defined in Minnesota Statutes, section 145A.02, or its designee.

Subd. 17. **Drop-in child care program.** "Drop-in child care program" means a nonresidential program of child care in which children participate on a onetime only or occasional basis up to a maximum of 90 hours per child, per month.

Subd. 18 [This subdivision intentionally left blank. Definitions will be re-numbered in final version.]

Subd. 19. **Equivalency.** "Equivalency" when referring to staff qualifications means an individual is allowed to meet the requirements through a department recognized alternative credential, or demonstration of competency, that indicates similar knowledge as the named credential.

Subd. 20. **Facility.** "Facility" means the indoor and outdoor space in which the child care program is provided.

Subd. 21. **Fire marshal.** "Fire marshal" means the person designated by Minnesota Statutes, section 299F.011, to administer and enforce the Minnesota Uniform Fire Code. The term includes the fire marshal's authorized representative.

Subd. 22. **Health consultant.** "Health consultant" means a physician or physician's assistant licensed to practice medicine under Minnesota Statutes, chapter 147; a public health nurse, advance practice registered nurse or registered nurse licensed under Minnesota Statutes, section 148.171; or the community health board as defined in Minnesota Statutes, section 145A.02, or its designee.

Subd. 23. **Inaccessible.** "Inaccessible" means not capable of being reached or utilized by a child without the aid of an adult.

Subd. 24. **License.** "License" has the same meaning as 245A.02, Subd.8.

Subd. 25. **License holder.** "License holder" has the same meaning as 245A.02, Subd.9.

Subd. 26. **Licensed capacity.** "Licensed capacity" means the maximum number of children permitted at any one time in the program for which the license holder is licensed to operate a child care program in a center.

Subd. 27. [This subdivision intentionally left blank. Definitions will be re-numbered in final version.]

Subd. 28. **Medication.** "Medication" means any substance or preparation which is used to prevent or treat a wound, injury, infection, disease, maintain health, heal, or relieve pain. This includes medication that is over the counter, or prescribed or recommended by a physician, physician assistant, or advance practice nurse certified to prescribe medication, and permitted by the parent for administration or application. This term applies to substances taken internally or applied externally. This also includes but is not limited to diapering products, sunscreen lotions, hand sanitizer, lip balm, body lotion, and insect repellents.

Subd. 29. **Minnesota State Fire Code.** "Minnesota State Fire Code" or "State Fire Code" means those codes and regulations adopted by the state fire marshal in accordance with Minnesota Statutes, section 299F.011 and contained in chapter 7511.

Subd. 30. **Parent.** "Parent" means the person or persons who has the legal responsibility for a child such as the child's mother, father, or legally appointed guardian.

Subd. 31. **Physical intervention.** "Physical intervention" is the act of using bodily contact as a short-term immediate response to prevent children from incurring substantial or serious injury to themselves or injuring others.

Subd. 32. **Program staff person.** "Program staff person" means an employee of the child care center who carries out the child care program plan and has direct contact with children.

Subd. 33. **Serious Injury.** "Serious Injury" means an injury that requires treatment by a medically licensed person. When a child sees a medically licensed person for evaluation of an injury, but no treatment is given, the injury does not meet the definition of serious. Treatment does not include application of or recommendation to use nonprescription medication or diagnostic testing.

Subd. 34. **Sick child.** "Sick child" means a child with a condition or illness as specified in 245K.18

Subd. 35. **Staff Person.** "Staff person" means an employee of a child care center.

Subd. 36. **State Building Code.** "State Building Code" means those codes and regulations adopted by the commissioner of the Department of Administration according to Section 326B.101, and contained in chapter 1300.

Subd. 37. **Substitute.** "Substitute" means a person who is temporarily filling a position as a director, teacher, assistant teacher, or aide in a licensed child care center for less than 240 hours total in a calendar year due to the absence of a regularly employed program staff person.

Subd. 38. **Supervision of children.** "Supervision of children" means when a program staff person:

(a) is accountable for the child's care;

(b) can intervene to protect the health and safety of the child; and

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

(d) 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 in accordance with 245K.12 Subd. 4. When supervision of a crib room is provided by sight or hearing, the center must have a written plan to address the other supervision component

(e) When a single school-age child uses a restroom that is not available to the public when the child care center is operating and serving children, 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 services are provided away from the childcare facility, including but not limited to field trips, a school-age child who uses a restroom that is available to the public must be accompanied by a program staff person.

(f) When a school-age child leaves the classroom but remains within the licensed child care center 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 preschool child 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.

Subd. 39. **Variance.** "Variance" means written permission by the commissioner for a license holder or applicant to depart from the provisions of a specified subdivision of Chapter 245K in accordance with the requirements in 245A.04, Subd.9.

Subd. 40. **Volunteer.** "Volunteer" means an individual who assists in the care of a child and is not employed by the child care center.

## **245K.02 Applicability and Licensing Process**

Subdivision 1. **Sections 245A and 245K govern licensure of the applicants for and license holders operating a child care center.**

(a) License required. An individual, organization, or government entity may not operate a child care center unless licensed by the commissioner under Chapters 245A and 245K or the child care center meets an exclusion from licensure under Chapter 245A.03, Subd 2.

(b) Posting license. A license holder must post the license in a clearly visible place within the child care center that is accessible to parents and guardians.

Subd. 2. **Human Services Background Studies Act.** The applicant or license holder must comply with the requirements of Minnesota Statutes, Chapter 245C, Human Services Background Studies.

### 245K.03 Operating Options

Subdivision 1. **Day Program.** A "day program" means a nonresidential child care program operated during waking hours (approximately 5 a.m. to 11 p.m.) and does not provide overnight care.

Subd. 2. **Drop In-Child Care Program.** A "drop-in child care program" means a child care program as defined in 245K.01 Subd. 17.

Subd. 3. **Night Care Program.** A "night care program" means a nonresidential child care program that provides overnight care to children during sleeping hours (approximately 7:00 p.m. to 5 a.m.) and is subject to night care requirements under 245K.16.

Subd. 4. **Sick Child Care Program.** A "sick care program" means a nonresidential child care program that provides care to a sick child and is subject to sick care requirements under 245K.19.

### 245K.04 Qualifications of Applicants and Staff

Subdivision 1. **Definitions.** As used in 245K.04 through 245K.08;

(a) **Accredited.** "Accredited" means a postsecondary institution or technical college recognized and listed in The Database of Accredited Postsecondary Institutions and Programs maintained by the U.S. Department of Education.

(b) **Accredited course.** "Accredited course" means a course that is offered for credit by or through an accredited postsecondary institution.

(c) **Develop.** "Develop" means Minnesota's Quality Improvement and Registry tool for early education and school-age care professionals.

(d) **Experience.** "Experience" means paid or unpaid employment:

(1) caring for children as a teacher, assistant teacher, aide, or student intern:

(i) in a licensed child care center, a licensed family day care or group family day care, or a Tribally licensed child care program in any United States state or territory; or

(ii) in a public or nonpublic school;

(2) caring for children as a staff person or unsupervised volunteer in a certified, license-exempt child care center under chapter 245H; or

(3) providing direct contact services in a home or residential facility serving children with disabilities that requires a background study under section 245C.03

(e) **Postsecondary general education.** "Postsecondary general education" means accredited course work in mathematics; science; English language arts; recreational sports, arts, and crafts methods or theory; psychology; sociology; cultural studies; ethics; communication studies; history; government; or other coursework approved by the commissioner.

(f) **Postsecondary child development education.** "Postsecondary child development education" means accredited course work in child development; children with special needs; early childhood education; elementary education; curriculum planning; child study techniques; family studies; child psychology; parent involvement; behavior guidance; child nutrition; child health and safety; early childhood special education; elementary special education; child abuse and neglect prevention; child health and wellness; coordination of community and school activities; or other coursework approved by the commissioner.

(g) **Student intern.** "Student intern" means a student of a postsecondary institution assigned by that institution for a supervised experience with children. The experience must be in a licensed center, an elementary school operated by the commissioner of education or a legally constituted local school board, or a private school approved under rules administered by the commissioner of education. The term includes a person who is practice teaching, student teaching, or carrying out a practicum or internship.

(h) **Staff supervision.** "Staff supervision" means responsibility to hire, train, assign duties, and direct staff in day-to-day activities and evaluate staff performance. A "supervisor" is a person with staff supervision responsibility.

## 245K.05 Directors

Subdivision 1. **General requirements for a director.** A director must:

- (a) be at least 18 years old;
- (b) be a graduate of a high school or hold an equivalent diploma attained through successful completion of the commissioner of education-selected high school equivalency test;
- (c) have at least 1,040 hours of paid or unpaid staff supervision experience;
- (d) have at least 12 semester credits in accredited coursework in postsecondary child development education, supervision, management, administration, or leadership; or 120 hours of training earned in the topics of child development, supervision, management, administration, or leadership; and
- (e) have completed Child Care Basics training as defined in 245K.09, Subd. 3 within the first 90 days of employment, unless taken within the previous two years.

An individual who has completed a Minnesota Association for the Education of Young Children (MnAEYC) Early Childhood Director's Credential or Child Care Aware Minnesota Director Credential is considered to have met qualification options (c) and (d).

Subd. 2. **Director or designee onsite.**

(a) The director or their designee must be on site while the center is in operation.

(b) Any program staff person who is at least 18 years old may serve as the designee. The designee does not have to meet the director qualifications in 245K.05, Subdivision 1. but must be aware of their designation and be able to perform the responsibilities.

Subd. 3. **Director functioning as a teacher.** Directors may be used as a teacher in any classroom as needed, regardless if they have met the qualifications specified in 245K.06.

## 245K.06 Teachers

Subdivision. 1. **Teacher general qualifications.** A teacher must:

(a) be at least 18 years old;

(b) be a graduate of a high school or hold an equivalent diploma attained through successful completion of the commissioner of education-selected high school equivalency test; and

(c) have completed Child Care Basics training as defined in 245K.09, subdivision 3 within the first 90 days of employment.

Subd. 2. **Teacher education and experience requirements.** Teachers must meet one of the following qualification options, in addition to the general requirements in subdivision 1:

(a) at least 12 postsecondary semester credits with at least 50 percent of credits being in child development education, and 160 hours of experience;

(b) a credential or diploma from the American Montessori Society or Association Montessori International and 1040 hours of experience;

(c) a certificate or credential in child development or early childhood education from a Minnesota community college or technical college and 1040 hours of experience;

(d) a license as a Minnesota family child care provider; 6 semester credits or 60 hours of training in Development, of which up to 50 percent can be completed within 12 months of employment date; and 2080 hours of experience;

(e) any license from the Minnesota Department of Education in prekindergarten or elementary education;

(f) current license as a Registered Nurse (RN) and 520 hours of pediatric nursing experience or Licensed Practical Nurse (LPN) and 1040 hours of pediatric nursing experience;

(g) a Child Development Associate credential in progress and 1040 hours of on-the-job experience. The CDA must be completed within 12 months of the employment date;

(h) a completed Child Development Associate credential and 1040 hours of experience;

- (i) an Associate or Bachelor's degree in early childhood education in progress and enrolled in a T.E.A.C.H. Early Childhood Minnesota Apprenticeship program;
- (j) a Bachelor's degree or higher from any accredited post-secondary institution and 520 hours of experience; or
- (k) a Bachelor's degree or higher in child development, early childhood education, or elementary education.

**Subd 3. Postsecondary credits.**

- (a) "Postsecondary credits" which are specified for the teacher qualification options in this section are in addition to the credential specified in qualification subdivision 2 paragraphs (a) through (k), unless the course work has been completed as part of the credential.
- (b) For teacher qualification options where postsecondary semester credits are required, at least 50 percent of the minimum semester credits specified must meet the definition of child development post-secondary education as specified in 245K.04, subdivision 1, paragraph (f).

## **245K.07 Assistant Teachers**

**Subdivision 1. Assistant teacher general qualifications.** An assistant teacher must work under the supervision of a teacher and be used in accordance with the staff distribution requirement specified in 245K.10, subdivision 2 . They must also meet the following requirements:

- (a) be at least 18 years old;
- (b) be a graduate of a high school or hold an equivalent diploma attained through successful completion of the commissioner of education-selected high school equivalency test; and
- (c) have completed Child Care Basics training as defined in 245K.09, subdivision 3 within the first 90 days of employment.

**Subd. 2. Assistant teacher education and experience requirements.** Assistant Teachers must meet one of the following qualification options, in addition to the general requirements in Subdivision 1:

- (a) at least 6 postsecondary semester credits with at least 50 percent of credits being in child development education, and 2080 hours of experience;
- (b) a credential or diploma from the American Montessori Society or Association Montessori International;
- (c) a certificate or credential in child development or early childhood education from a Minnesota community college or technical college;
- (d) a license as a Minnesota family child care provider; 3 semester credits or 30 hours of training in Develop, of which up to 50% can be completed within 12 months of employment date; and 1040 hours of experience;
- (e) any license from the Minnesota Department of Education in prekindergarten or elementary education;
- (f) current license as a Registered Nurse (RN) has 260 hours of pediatric nursing experience or Licensed Practical Nurse (LPN) and 520 hours of pediatric nursing experience;

- (g) a Child Development Associate (CDA) credential in progress and 520 hours of on-the-job experience. The CDA must be completed within 12 months of the employment date;
- (h) a completed CDA credential;
- (i) an Associate or Bachelor's degree in early childhood education in progress and enrolled in a T.E.A.C.H. Early Childhood Minnesota Apprenticeship program;
- (j) a Bachelor's degree or higher from any accredited post-secondary institution; or
- (k) a Bachelor's degree or higher in child development, early childhood education, or elementary education.

**Subd 3. Postsecondary credits.**

(a) "Postsecondary credits" which are specified for the assistant teacher qualification options in this section are in addition to the credential specified in qualification Subd. 2. (a) through (k) unless the course work has been completed as part of the credential.

(b) For assistant teacher qualification options where postsecondary semester credits are required, at least 50 percent of the minimum semester credits specified must meet the definition of child development post-secondary education as specified in 245K.04, subdivision 1, paragraph(d).

## **245K.08 Aides, Volunteers, and Substitutes**

**Subdivision 1. Aide qualifications.**

(a) An "aide" means a program staff person who carries out child care program activities under the supervision of a teacher or assistant teacher. An aide must be supervised by a teacher or assistant teacher except when assisting with the supervision of sleeping children, assisting children with washing, toileting, and diapering, or accompanying children to and from the bus stop. An aide must not work alone with a child unless the aide meets the experienced aide requirements under Subd 2.

(b) an aide must have completed Child Care Basics training as defined in 245K.09, subdivision 3 within the first 90 days of employment.

(c) An aide must be at least 16 years old.

(d) An aide who is under 18 years of age must not be permitted to administer medication under 245K.29, subdivision 6

**Subd. 2. Experienced aides.**

(a) An individual employed as an aide at a child care center may work with children without being under the supervision of a teacher or assistant teacher for an amount of time that does not exceed 25 percent of the child care center's daily licensed hours of operation if all of the following is met:

- (1) a teacher is in the facility;
- (2) the individual is at least 20 years old; and



(3) the individual has at least 2080 documented hours of child care experience as a staff member in a licensed or certified child care center or in a program licensed as a family program, 90 days of which must be in the employment of the current company.

(b) A child care center may use one experienced aide per every four full-time child care classroom staff based on the license capacity of the center.

(c) The license holder must document the number of hours of experienced aide usage and include the dates and hours for each experienced aide. Documentation must be kept on site and given to the commissioner upon request.

**Subd. 3. Volunteers used as staff.**

(a) A volunteer who is included in the staff-to-child ratio must be at least 16 years old and meet the requirements for the assigned staff position as specified in sections 245K.04 through 245K.08.

(b) The license holder must maintain a list of all volunteers and relevant information about each volunteer, including their first and last names, whether they are supervised at all times or occasionally unsupervised, and the first date of direct contact with children.

(c) Unsupervised and supervised volunteers must successfully complete training as required in 245K.09. Unsupervised and supervised volunteers must successfully complete training as required in 245K.09. Unsupervised and supervised volunteers must successfully complete training as required in 245K.09.

**Subd. 4. Substitute staff.**

(a) Substitute includes both qualified and unqualified substitutes. A substitute must meet one of the following requirements:

(1) A person designated as a substitute must meet the qualifications for the assigned staff position as specified in sections 245K.04 through 245K.08, or

(2) A person designated as an unqualified substitute means a person who does not meet the qualifications for teacher in part 245K.06, Subd. 2 or assistant teacher in 245K.07, Subd. 2 and may be used as an unqualified substitute if:

(i) there is always a person qualified as a teacher present within the center except as specified in 245K.10, subdivision 2, paragraph (c);

(ii) the unqualified substitute is aware of their designated staffing position as either a teacher or assistant teacher; and

(iii) aides under 18 years of age cannot be used as unqualified substitute staff.

(b) All substitutes must successfully complete the required training as specified in 245K.09.

**Subd. 5 Tracking Unqualified Substitute Hours.**

(a) The license holder must document the use of unqualified substitute hours. The hours worked must be recorded on the day the unqualified substitute works.

(b) The maximum hours that unqualified substitutes may be used must not exceed 40 hours multiplied by the number of fulltime Teacher and Assistant Teacher positions needed to comply with the staff distribution requirements under 245K.10, subdivision 1.

(c) A continuous log of the use of unqualified substitutes must be maintained in the center administrative record for review by the commissioner. The log used must be on a form prescribed by the commissioner.

## **245K.09 Staff Orientation and Training**

**Subdivision 1. Orientation and Child Care Basics training.**

(a) The child care center license holder must ensure that the director, program staff persons, substitutes, and unsupervised volunteers complete the Orientation training before providing direct contact services to a child.

(b) Unless training has been completed within the previous two years, the director, staff persons, substitutes, and unsupervised volunteers must satisfactorily complete Child Care Basics training prior to having unsupervised direct contact with a child, but not to exceed the first 90 days of employment.

(c) Documentation of staff successfully completing Orientation and Child Care Basics trainings must be recorded in a manner prescribed by the Commissioner.

**Subd. 2. Orientation training content.**

(a) The orientation training must include the following topics:

- 1) abusive head trauma for staff working with a child under school age in accordance with subdivision 8;
- 2) the center's policy on administration of medication in accordance with 245K.29, subdivision 6;
- 3) the center's policy on allergy prevention and response in accordance with 245K.15;
- 4) the center's policy on behavior guidance in accordance with 245K.13;
- 5) child passenger restraint systems in accordance with subdivision 9 and 245K.33;
- 6) center child care program plan in accordance with 245K.11;
- 7) the center's policy on cleaning, sanitizing and disinfecting in accordance with 245K.31;
- 8) the center's emergency preparedness plan and procedures in accordance with 245K.23. Subdivision 1;
- 9) procedures for handling and disposal of bodily fluids in accordance with 245K.29, subdivision 16;
- 10) the center's emergency and accident policies in accordance with 245K.23;
- 11) the center's sanitation and health policies in accordance with 245K.29;

- 12) individual child care program plan or plans in accordance with 245K.15, if applicable;
- 13) job responsibilities specific to the individual's position at the center;
- 14) prevention and control of infectious diseases in accordance with 245K.18;
- 15) the center's policy on research, cameras and social media participation procedures in accordance with 245K.22;
- 16) the center's policy on the use of alcohol, drugs and tobacco products policies in accordance with section 245A.04, subdivision 1, paragraph (c);
- 17) recognition and reporting of maltreatment, abuse and neglect in accordance with Chapter 260E Reporting of Maltreatment of Minors;
- 18) the center's risk reduction plan in accordance with 245K.24;
- 19) reduction of risk of sudden unexpected infant death in accordance with the requirements of subdivision 7 and chapter 245A.1435;
- 20) transportation and field trip safety procedures in accordance with 245K.33;

(b) Training for orientation cannot be used to meet in-service training requirements.

**Subd. 3. Child Care Basics training content.** The Child Care Basics training must include information on effectively working in a child care center setting in Minnesota, including but not limited to the following topics:

- (a) active supervision;
- (b) an overview of Minnesota's child care center licensing requirements ;
- (c) behavior guidance;
- (d) child development and learning in accordance with subdivision 4;
- (e) cultural awareness and inclusion; and
- (f) identifying and supporting children with special health care needs or disabilities, in accordance with the requirements of 245K.15.

Child Care Basics training topics may be updated by the Commissioner on an ongoing basis.

**Subd. 4. Child Development and Learning Training Requirements and Exemptions.**

(a) Training Requirements.

(1) The director, program staff persons, substitutes, and unsupervised volunteers must complete child development and learning training as part of Child Care Basics training as specified in subdivision 1, paragraph (b).

(2) Following completion of Child Care Basics training, the director and program staff persons must complete at least two hours of training on child development and learning every two calendar years.

(3) Following completion of Child Care Basics training, substitutes and unsupervised volunteers must complete training on child development and learning training every two calendar years, but there is no minimum number of training hours required.

(4) For purposes of this subdivision, "child development and learning training" means any training in understanding how children develop physically, cognitively, emotionally, and socially and learn as part of the children's family, culture, and community.

(5) Except for training required under subdivisions 2 and three training completed under this subdivision may be used to meet the in-service training requirements under subdivision 10.

(b) Training exemptions. Notwithstanding, subdivision, paragraph (a), individuals are exempt from this requirement if they:

(1) have taken a three-credit college course on early childhood development within the past five years; or

(2) have received a baccalaureate or master's degree in early childhood education or school-age child care within the past five years; or

(3) are licensed in Minnesota as a prekindergarten teacher, an early childhood educator, a kindergarten to sixth grade teacher with a prekindergarten specialty, an early childhood special education teacher, or an elementary teacher with a kindergarten endorsement; or

(4) have received a baccalaureate degree with a Montessori certificate within the past five years.

#### **Subd. 5. Pediatric First Aid.**

(a) Before initial licensure and before caring for a child, the director, program staff persons, substitutes, and unsupervised volunteers must satisfactorily complete pediatric first aid. Pediatric first aid training completed within the previous two calendar years meets this requirement.

(b) Notwithstanding the provisions of this section, the director, program staff persons, substitutes, and unsupervised volunteers who have yet to complete initial pediatric first aid training may provide direct contact services for up to 90 days of employment, if they are under the continuous direct supervision of an individual who has met the pediatric first aid training requirements under this subdivision. For purposes of this paragraph, "continuous, direct supervision" means the program staff person is within sight or hearing of the program's supervising individual to the extent that the program's supervising individual is capable at all times of intervening to protect the health and safety of the children served by the program as defined in Minnesota Statutes, section 245C.02, subdivision 8.

(c) The first aid training must have been provided by an individual approved to provide pediatric first aid instruction.

(d) The director, program staff, substitutes, and unsupervised volunteers must complete training in Pediatric First Aid every two calendar years. Documentation of the training must be maintained at the center.

(e) On-line training reviewed and approved by the department satisfies the training requirement of this subdivision.

(f) Pediatric First Aid training in this subdivision must not be used to meet in-service training requirements under subdivision 11.

**Subd. 6. Pediatric Cardiopulmonary Resuscitation. (CPR)**

(a) Before initial licensure and before caring for a child, the director, program staff persons, substitutes, and unsupervised volunteers must satisfactorily complete pediatric cardiopulmonary resuscitation (CPR) training, including CPR techniques for infants and children, and in the treatment of obstructed airways. Pediatric CPR training completed within the previous two calendar years meets this requirement.

(b) Notwithstanding the provisions of this section, the director, program staff persons, substitutes, and unsupervised volunteers who have yet to complete initial Pediatric CPR training may provide direct contact services for up to 90 days of employment, if they are under the continuous direct supervision of an individual who has met Pediatric CPR training requirements under this subdivision. For purposes of this paragraph, "continuous, direct supervision" means the caregiver is within sight or hearing of the program's supervising individual to the extent that the program's supervising individual is capable at all times of intervening to protect the health and safety of the children served by the program as defined in Minnesota Statutes, chapter 245C.02, subdivision 8.

(c) The director, program staff persons, substitutes, and unsupervised volunteers must complete training in Pediatric CPR every two calendar years. Documentation of the training must be maintained at the center.

(d) The license holder must ensure persons providing Pediatric CPR training use Pediatric CPR training that has been developed:

(1) by the American Heart Association or the American Red Cross and incorporates a hands-on skill session to support the instruction; or

(2) using nationally recognized, evidence-based guidelines for Pediatric CPR training and incorporates a hands-on skills session to support the instruction.

(e) Pediatric CPR courses must be either instructor lead or a blended course of online instruction with a hands-on skill component.

(f) Online only Pediatric CPR courses that do not include a hands-on skill session component do not meet the requirements of this subdivision.

(g) Pediatric CPR training must not be used to meet in-service training requirements under subdivision 11 of this section.

**Subd. 7. Sudden Unexpected Infant Death Training.**

(a) Before caring for infants, the director, program staff persons, substitutes, unsupervised volunteers, and any other volunteers must receive training on the standards under section 245A.1435 and on reducing the risk of sudden unexpected infant death during orientation and each calendar year thereafter.

(b) Sudden unexpected infant death reduction training required under this subdivision must be at least one-half hour in length. At a minimum, the training must include the standards under section 245A.1435, and address the risk factors related to sudden unexpected infant death, methods of reducing the risk of sudden unexpected infant death in child care, and license holder communication with parents regarding reducing the risk of sudden unexpected infant death.

(c) Except if completed during orientation, training taken under this subdivision may be used to meet the in-service training requirements under subdivision 11.

**Subd. 8. Abusive Head Trauma training.**

(a) Before caring for children under school age, the director, program staff persons, substitutes, and unsupervised volunteers must receive training on the risk of abusive head trauma during orientation and each calendar year thereafter.

(b) Abusive head trauma training under this subdivision must be at least one-half hour in length. At a minimum, the training must address the risk factors related to shaking infants and young children, methods of reducing the risk of abusive head trauma in child care, and license holder communication with parents regarding reducing the risk of abusive head trauma.

(c) Except if completed during orientation, training taken under this subdivision may be used to meet the in-service training requirements under subdivision 11.

**Subd. 9. Child passenger restraint systems; training requirement.**

(a) Before a license holder transports a child or children under age eight in a motor vehicle, the person placing the child or children in a passenger restraint must satisfactorily complete training on the proper use and installation of child restraint systems in motor vehicles.

(b) Training required under this subdivision must be repeated at least once every five years. At a minimum, the training must address the proper use of child restraint systems based on the size, weight, and age of the child, and the proper installation of a car seat or booster seat in the motor vehicle used by the license holder to transport the child or children.

(c) Training required under this subdivision must be provided by individuals who are certified and approved by the Department of Public Safety, Office of Traffic Safety. License holders may obtain a list of certified and approved trainers through the Department of Public Safety website or by contacting the agency.

(d) Child care providers that only transport school-age children as defined in section 245K.01, subdivision 8 in child care buses as defined in Minnesota Statutes, section 169.448, subdivision 1, paragraph (e), are exempt from this requirement.

(e) Training completed under this subdivision may be used to meet in-service training requirements under subdivision 11. Staff training completed within the previous five years is transferable upon change in employment to another child care center.

**Subd. 10. In-service training.**

(a) A license holder must ensure that the center director, program staff persons, substitutes, and unsupervised volunteers complete in-service training.

(b) In-service training completed within the last 12 months by a program staff person that is not specific to that child care center is transferable upon a staff person's change in employment to another child care program. The staff person must provide documentation of the completed training to the current child care program.

**Subd. 11. Ongoing In-Service Training Requirements.**

(a) The license holder must ensure that the director, program staff persons, substitutes, and unsupervised volunteers complete in-service training.

(b) The director and program staff persons who work more than 20 hours per week must complete 24 hours of in-service training each calendar year.

(c) The director and program staff persons who work 20 hours or less per week must complete 12 hours of in-service training each calendar year.

(d) Substitutes and unsupervised volunteers must complete in-service training in topics identified under subdivision 11 but do not otherwise have a minimum number of hours of training to complete.

(e) The number of in-service training hours may be prorated for directors and program staff persons not employed for an entire year.

(f) Pediatric First Aid and Pediatric CPR training must not be used to meet in-service training requirements.

**Subd. 12. In-service Content.**

(a) Each calendar year, in-service training must include the following:

(1) Abusive Head Trauma training of at least one-half hour duration for individuals working with a child under school age in accordance with subdivision 8 of this section.

(2) The center policies and procedures for maintaining health and safety including:

(i) allergy prevention and response training in accordance with 245K.15, subdivision 5;

(ii) emergency preparedness and procedures in accordance with 245K.23, subdivision 1;

(iii) handling emergencies, accidents, incidents, and injuries in accordance with 245K.23, subdivision 2; and

(iii) handling and disposal of bodily fluids in accordance with 245K.29, subdivision 16;

(3) Maltreatment, abuse and neglect reporting in accordance with Minnesota Statutes, chapter 260E Reporting of Maltreatment of Minors.

(4) Reduction of Risk of Sudden Unexpected Infant Death training of at least one half hour duration for individuals working with infants in accordance with the requirements of subdivision 7 and 245A.1435.

(5) risk reduction plan in accordance with the requirements of 245K.24; and

(c) At least every two calendar years, in-service training must include the following:

(1) child development and learning in accordance with subdivision 4;

(2) cultural awareness and inclusion, of at least one hour in length; and

(3) identifying and supporting children with special needs, of at least one hour in length.

(d) At least every five calendar years, training on the following must occur:

(1) child passenger restraint systems in accordance with subdivision 9, if applicable.

(e) The remaining hours of the in-service training requirement must be met by completing training in the Minnesota Knowledge and Competency Framework areas.

**Subd. 13. Documentation Required.**

(a) The license holder must document and maintain on site completed training for the director, program staff persons, substitutes and unsupervised volunteers. Documentation of training includes training cards or certificates issued by the training organization, as applicable to the training.

(b) Documentation must be in a manner prescribed by the commissioner.

## **245K.10 Staff Ratios, Group Size, and Staff Distribution**

Subdivision 1. **Staff-to-child ratios and maximum group size.** Except as provided in paragraph (a) and section 245K.12 regarding naps and rest , the minimally acceptable staff-to-child ratios and the maximum group size within each age category are:

<b>Age Category</b>	<b>Staff: Child Ratio</b>	<b>Maximum Group Size</b>
Infant	1:4	8
Toddler	1:7	14



Age Category	Staff: Child Ratio	Maximum Group Size
Preschooler	1:10	20
School-age child	1:15	30

(a) Except for groups that include an infant, the staff-to-child ratio may be doubled for no more than two hours during nap time if the following requirements are met:

- (1) there are enough program staff persons in the facility to meet staff-to-child ratio and staff distribution requirements pursuant to subdivisions 1 and 2 for the groups in case of an emergency; and
- (2) additional program staff return to the group to meet staff-to-child ratios as the number of awake children increases.

(b) The maximum group size applies at all times except during meals, outdoor activities, field trips, naps and rest, and special activities at the center such as guest speakers and holiday programs.

Subd. 2. **Staff distribution.** The license holder must ensure that the following requirements for staff distribution are met and a documented staff schedule is kept in the administrative record.

(a) Only a staff person who is qualified as a teacher, assistant teacher, or aide and who works directly with children can be counted in meeting the staff-to-child ratios.

(b) An aide must not work alone with a child unless the aide is performing certain duties as specified in 245K.08, subdivision 1, paragraph (a) or they meet the experienced aide requirements under 245K.08, subdivision 2.

(c) An assistant teacher may be substituted for a teacher during arrival and departure times.

(d) Except as provided in paragraphs (a), (b), and (c), staff distribution within each age category must be as follows;

- (1) The first staff member needed to meet the required staff child ratio must be a teacher.
- (2) The second staff member must have at least the qualifications of a child care aide.
- (3) The third staff member must have at least the qualifications of an assistant teacher.
- (4) The fourth staff member must have at least the qualifications of an aide.

(e) A volunteer who is included in the staff-to-child ratio must meet the requirements for the assigned staff position as specified in 245K.04 through 245K.08. Volunteers who have direct contact with or access to children must be supervised by a staff person who meets the qualifications for director, teacher, or assistant teacher.

(f) The pattern in paragraph (d) must be repeated until the number of staff needed to meet the staff-to-child ratio for each age category has been achieved.

Subd. 3. **Age category grouping.** Each center must specify specific arrival and departure times of the day in center policy. Children in different age categories may be grouped as follows:

(a) During arrival and departure times, not to exceed 25 percent of the licensed hours of operation for the center, children in different age categories may be grouped together if:

(1) the staff-to-child ratio, group size, and staff distribution applied are for the age category of the youngest child present; and

(2) the group is divided when the number of children present reaches the maximum group size of the youngest child present.

(b) During the regular hours of operation of the center, children in different age categories may be mixed within a group between arrival and departure times if:

(1) infants are not grouped with children of other age categories;

(2) there is no more than a 36-month range in age among children in a group, unless all children in the group are school age; and

(3) the staff-to-child ratios, group size, and staff distribution applied are for the youngest child present.

Subd. 4. **Age designation.** A child must be designated as a member of the age category that is consistent with the child's date of birth of the child with the following exceptions:

(a) A child with special health care needs must be included in the group that best meets the child's developmental needs, best interest of the child, and in accordance with the Individual Child Care Program Plan (ICCPP) for the child.

(b) A child older than 16 months of age may be designated as an "infant" up to the age of 18 months if the parent, teacher, health consultant, and center director determine that such a designation is in the best interests of the child. The center must document the determination and designation in the file of the child.

(c) A child older than 33 months of age may be designated as a "toddler" up to the age of 35 months if the parent, teacher, health consultant, and center director determine that the designation is in the best interests of the child. The center must document the determination and designation in the file of the child.

Subd. 5. **Transitioning Children.** The following requirements must be met for transitioning a child to the next age group:

(a) Transitions to the next age group may occur up to two weeks prior to the child moving into the next age group. The transition must be planned in advance, based on the child's readiness and in consultation with the parents/guardians, program staff and any other individuals involved in the provision of care for the child at the center. This includes the staff for the next older age group.

(b) The applicant must develop a written policy on transition children to the next age group. The applicant and license holder must ensure the policy is carried out, and the policy is provided to parents at the time of enrollment.

## **245K.11 Child Care Program Plan and Activities**

Subdivision 1. **General requirements.** The applicant must develop a written child care program plan, and the license holder must ensure it is carried out. The child care program plan must:

(a) include a statement mandating that children are supervised at all times in accordance with the requirements under 245K.01, subdivision 38, section 245K.12 and the following;

(b) specify the age categories and number of children to be served by the program;

(c) specify the days and hours of operation of the program;

(d) describe the general educational methods to be used by the program and the religious, political, or philosophical basis, if any;

(e) be developed and evaluated in writing each calendar year by a staff person qualified as a teacher or director under sections 245K.05 and 245K.06. Documentation of the evaluation, the date of the evaluation and the signature of the teacher or director completing the evaluation must be maintained in the center administrative records;

(f) specify planned activities designed to support and nurture the whole child in all areas of the development and learning of the child, including, but not limited to the following: intellectual, social, emotional, and physical development. The activities must be in a manner consistent with the cultural and ethnic backgrounds of a child, as feasible;

(g) specify that the intellectual, social, emotional and physical development of each child be documented in the record of the child and it be conveyed to the parent during the conferences specified under 245K.20 subdivision 2;

(h) include a daily schedule of planned indoor and outdoor activities for each age category served;

(i) specify activities that are both quiet and active, teacher directed and child initiated;

(j) specify a variety of activities that require the use of varied equipment and materials;

(k) describe use of technology and screen time for each age category; and

(l) be available to a parent for review upon request.

Subd. 2. **Interest areas.**

(a) A child care program must provide daily access to interest areas of the center that are supplied with the equipment and materials needed to carry out the following activities:

- 1) creative arts and crafts;
- 2) construction;
- 3) dramatic or practical life activities;
- 4) science;
- 5) music;
- 6) fine motor activities;
- 7) large muscle activities; and
- 8) sensory stimulation activities.

Subd. 3. **General activities.** Child care activities must provide for the physical, intellectual, social, and emotional development of the child. The environment must facilitate the implementation of the activities. Activities must:

(a) Include outdoor play in suitable weather as defined in paragraphs (b) and (c).

(b) Suitable weather is conditions that do not pose a health or safety risk which may include, but is not limited to the following conditions:

- (1) temperatures in excess of 90 degrees (accounting for heat index) or less than 0 degrees Fahrenheit (accounting for wind chill);
- (2) lockdown notification ordered by a public safety authority; and
- (3) an air quality emergency ordered by a local or state authority on air quality or public health.

(c) When determining if the weather permits outdoor play, defer to weather advisory notifications, including air quality emergencies, provided by local weather experts or a local or state authority on air quality or public health.

(d) Outdoor activities must be scheduled daily:

- (1) for all toddler, preschool and school-age children in attendance for three or more consecutive daylight hours per day. There must be at least one morning and one afternoon period of outdoor time;
- (2) for all infants in attendance for three or more consecutive daylight hours per day, as practicable;
- (3) when outdoor activity poses a health or safety risk, the program must provide indoor gross motor play activities such as climbing, jumping, running, riding wheel toys, yoga, other physical fitness or music and movement activities.

(e) outdoor activities must be appropriate to the developmental stage and age of the child.

## 245K.12 Naps and Rest

Subdivision 1. **Naps and rest policy.** The applicant must develop and implement a policy for naps and rest that is consistent with the developmental level of the children enrolled in the center. The policy must include, but is not limited to, the requirements under subdivision 3, as applicable.

Subd. 2. **Parent consultation.** The parent of each child must be informed at the time the child is enrolled of the center's policy on naps and rest and be offered the opportunity to provide information specific to their child.

Subd. 3. **Requirements.** The license holder must meet the following requirements:

(a) The child care center must provide a quiet space for children to nap and rest:

(b) Nap and rest time must be in accordance with the developmental needs of the child;and

(c) Nap and rest areas must be lighted to allow for visual supervision of all children at all times.

(d) Any child who does not fall asleep during a designated nap time or completed a nap must have the opportunity to engage in quiet activities.

(e) Evacuation routes must not be blocked by resting or napping children. Each child must have a free and direct means of escape, and the staff must have a clear path to each resting child, including full access to at least one long side of a cot or crib.

(f) A crib that meets the safety requirements of Minnesota Statutes, sections 245A.146 and 245K.36 must be provided for each infant for which the center is licensed to provide care.

(g) The license holder must follow the Infant Safe Sleep Requirements under Minnesota Statutes, sections 245A.1435 and 245K.37.

(h) Cribs, cots, and mats must be placed so there are clear aisles and unimpeded access for both adults and children on at least one side of each piece of napping and resting equipment.

(i) Cribs and cots, and mats must be placed directly on the floor and must not be stacked when in use.

(j) A program operating less than 5 hours per day may use mats in lieu of cots.

(j) Infant sleep supervision in accordance with the requirements of Subd. 4.

Subd. 4. **Monitoring Napping Infants.**

(a) The infant must be supervised in accordance with the supervision requirements outlined in 245K.01, subdivision 38. In addition, staff must conduct in-person checks of the infant every 15 minutes and provide supervision as follows:

(1) When an infant is placed in a crib to sleep, direct supervision means the program staff person must be physically within sight or hearing of the infant at all times during hours of sleep. Sight or hearing means when the program staff person can see the infants in their cribs or hear their sounds.

(2) When baby monitors or other mechanical equipment is used to hear or see infants during sleep, the following conditions must be met:

- i. Personal cell phones are not permitted to be used by program staff persons as an infant monitor;
- ii. the monitoring equipment must be able to pick up the sounds of all infants in the separate room;
- iii. the receiver of the monitoring equipment must be actively monitored by the program staff at all times; and
- iv. monitoring equipment must be checked daily prior to use to ensure it is working correctly. If equipment is malfunctioning the program staff person must put in place an alternate means of supervision until the equipment can be fixed.

Subd. 4. **Confinement limitation.** A child who has completed a nap or rested quietly for 30 minutes must not be required to remain on a cot, mat or in a crib. Any child who does not fall asleep during a designated nap time must have the opportunity to engage in quiet activities.

Subd.5. **Bedding and sleeping equipment.** Separate bedding must be provided and stored separately for each child in care. Bedding and sleeping equipment must be cleaned when soiled or at least once per week in accordance with 245K.31, subdivision 4, paragraph (b), clause (f).

## 245K.13 Behavior Guidance

### Subd. 1. Definitions

(a) “Behavior guidance” is an ongoing process whereby caregivers offer constructive, positive, and developmentally-appropriate guidance to children, to help them manage their own behavior in a socially acceptable manner.

(b) “Persistent unacceptable behavior” occurs when either of the conditions below are met:

- i. A child is separated five times or more in one week, or eight times or more in two weeks; or
- ii. a child exhibits behavior that presents a serious safety risk for the child or others, and the program is not able to reduce or eliminate the safety concern. This behavior may include physical aggression, verbal threats or actions that significantly disrupt the learning environment, or repetitive behaviors that have been addressed through standard behavior guidance techniques without improvement.

(c) “Redirection” is when a staff person intervenes and guides a child away from potential problems toward constructive activity; it is a positive guidance technique.

(d) “Separation” is a form of behavior guidance that involves interruption of unacceptable behavior by the removal of a child from a situation, with the intention of allowing the child an opportunity to pause and gain self-control. During a separation a child is isolated from participating in activities with other children. Separation of children must be done in accordance with subdivision 7 of n.

**Subd. 2. Behavior Guidance Policies and Procedures.** The applicant must develop written behavior guidance policies and procedures. The applicant and license holder must ensure that the policies and procedures are carried out. The policies and procedures must include:

- (a) Methods of promoting positive behavior as specified under subdivision 3;
- (b) Prohibited actions as specified under subdivision 4;4
- (c) Addressing persistent unacceptable behavior as specified under subdivision 6; and
- (d) Separation from the group as specified in subdivision 7.

**Subd. 3. Methods of Promoting Positive Behavior.** The license holder must:

- (a) Ensure that each child is provided with a positive model of acceptable behavior;
- (b) Tailor methods of promoting positive behavior to the developmental level of the children the center is licensed to serve;
- (c) Ensure redirection is used, as appropriate in addressing the behavior of a child, to guide a child away from potential problems and toward constructive activity;
- (d) Teach children how to use acceptable alternatives to problem behavior in order to reduce conflict;
- (e) Use redirection as defined in subdivision 1;
- (f) Protect the safety and well-being of children and staff persons; and
- (g) Provide immediate and directly-related consequences for the unacceptable behavior of a child.

**Subd. 4. Prohibited Actions.** The license holder must have and enforce a policy that prohibits the following actions by or at the direction of the license holder or any other staff person:

- (a) Subjection of a child to corporal or physical punishment. This includes, but is not limited to rough handling, shoving, hair pulling, ear pulling, shaking, slapping, kicking, biting, pinching, spitting, hitting, and spanking;
- (b) Subjection of a child to name calling, ostracism, shaming, making derogatory remarks about the child or the child's family, cultural or racial slurs, and yelling or using profane language that threatens, humiliates, or frightens the child;
- (c) Forcing a child to maintain an uncomfortable position, or to continuously repeat physical movements;
- (d) Utilizing group punishments for the behavior of an individual child. A group activity must not be cancelled for the entire group, prior to the activity, due to the behavior of one or more children;
- (e) Separation of a child from the group except as provided in subdivision 7;
- (f) Punishment for not resting, napping or sleeping; toileting accidents; failing to eat all or part of meals or snacks; or failing to complete an activity;
- (g) Denial of food or drink, or forcing food or drink upon a child;
- (h) Denial of light, warmth, clothing, or medical care as a punishment for unacceptable behavior;

- (i) The use of physical restraint other than to physically hold a child when containment is necessary to protect a child or others from harm;
- (j) The use of mechanical restraints, such as tying, or any device or equipment intended to restrict or prevent movement as a means of discipline or convenience by staff, including but not limited to confinement to a swing, highchair, infant carrier, walker, or crib;
- (k) The use of any substance given to a child to subdue or restrict movement or behavior;
- (l) Discipline and punishment must not be delegated to another child; and
- (m) Punishing or shaming a child for the actions of a parent or guardian. This includes, but is not limited to, failure to pay fees, failure to provide appropriate clothing, failure to provide materials for an activity, or any conflict between the license holder or staff and the parent or guardian.

**Subd 5. Additional Provisions.**

- (a) When providing services to a child with a developmental disability or related condition, the license holder must follow Minnesota Statutes 245A.23.
- (b) A program that cares for a child with a developmental disability or related condition must comply with the individual child care program plan requirements under 245K.15.

**Subd.6. Persistent unacceptable behavior.** The persistent unacceptable behavior policies and procedures must include:

- (a) Staff who observe the behavior must document the behavior of the child and staff response to the behavior within 24 hours of the incident occurring or as soon as is practicable, including;
  - 1) information on where the child was, what activity the child was doing, and the staff person(s) present when the incident occurred;
  - 2) staff actions, including the positive guidance techniques that were tried;
  - 3) if the child was separated from the group, in accordance with subd. 7; and
  - 4) circumstances within the program that may have contributed to the incident, including but not limited to staffing or curriculum.
- (b) When persistent unacceptable behavior as defined in Subd. 1 (b) occurs, a behavior plan must be developed to address the behavior documented in paragraph (a) of this subdivision, in consultation with the child's parent, the program staff and other professionals involved in the care and treatment of the child, as appropriate. The behavior plan must include, but is not limited to the following:
  - 1) a description of the specific behavior;
  - 2) planned behavior management method to be used in response to the behavior in accordance with Subd. 3 or any other previously approved methods;
  - 3) behavior management methods that are not to be used based upon the child's medical, psychological or developmental history; and



- 4) an area to document the effectiveness of the plan and progress of the child.
- (c) The plan must be signed and dated by the child's parent, the director, and other professionals involved in the care and treatment of the child, as applicable, and kept in the child's record.
- (d) The plan and the child's progress must be reviewed at least every 60 days, or more frequently as needed, and changes made based on the child's needs, family, caregivers, or other individuals involved in the provision of care and treatment of the child. Documentation of the review must be kept in the child's record.
- (e) The behavior plan must not include prohibited actions defined in section 245K.15 subdivision 4;

**Subd. 7. Separation Time from the Group.** No child may be separated from the group unless the license holder has tried less intrusive methods of guiding the child's behavior which have been ineffective and the behavior of the child threatens the wellbeing of the child or other children in the center. Separation from the group must meet the following requirements:

- (a) The separation time must be limited to the amount of time necessary for the child to gain self-control and rejoin the group;
- (b) The duration of separation of the child must be documented, including beginning and end time of the separation;
- (c) Infants and toddlers must not be separated from the group as a means of behavior guidance;
- (d) The child must be supervised as defined under 245K.01, subdivision 38; and
- (e) Upon the return of the child to the activity, the program staff person must review the reason for the separation and discuss the expected behavior with the child.

## **245K.14 Furnishings, Equipment, Materials and Supplies**

**Subdivision 1. General requirements.** Each center must have the quantity and type of equipment and materials to implement the Child Care Program Plan under section 245K.11 and as required by this subdivision.

- (a) The center must have the equipment and materials as required in subdivisions 4 through 7 for the age categories of children served.
- (b) Equipment and furniture must be durable, in good repair, structurally sound and stable. They must be free of sharp edges, dangerous protrusions, points where extremities of a child could be pinched or crushed, and openings or angles that could trap part of a child.
- (c) License holders and program staff must ensure equipment and furnishings are not hazardous objects as specified in 245K.29, subdivision 14.
- (d) Tables, chairs, and other furniture must be appropriate to the age and size of children who use them.

(e) Equipment must be used in accordance with manufacturer's instructions.

**Subd 2. Equipment definitions.** For the purpose of this subdivision, the following terms have the meanings given them.

(a) "Cognitive development equipment and materials" means equipment and materials designed to enhance components of intellectual development, such as problem-solving abilities, observation skills, group skills, and symbol recognition.

(b) "Dramatic play equipment" or "practical life activity equipment" means equipment, such as dress up clothes, large or miniature play sets, figures, and small and large building blocks that can be used to design a setting or space that stimulates the child's imagination and encourages role playing and the learning of practical life skills. Practical life skills teach children how to take care of the space around them, and can include setting the table, how to water and care for plants, and how to clean the table.

(c) "Gross motor or large muscle equipment" means equipment that is designed to enhance large muscle development and coordination, such as outdoor playground equipment, large boxes, large wheel toys, pull toys, balls, jump ropes, and rocking boats.

(d) "Group" in this subdivision means the maximum group size for the age category under 245K.10.

(e) "Manipulative equipment" means equipment that is designed to enhance fine motor development and coordination, such as pegs and peg boards, puzzles, beads and strings, and interlocking plastic forms.

(f) "Per child" refers to the center's licensed capacity for the given age category.

(g) "Sensory stimulation materials" means equipment, other than pictures, that has different shapes, colors, and textures that are designed to stimulate the child's visual and tactile senses, such as sand and water activity materials, swatches of different textures of cloth, and wooden or plastic items of different shapes and colors.

(h) "Set" means a collection of toys, items, or materials of sufficient quantity to allow for a single child to engage in meaningful play.

**Subd 3. Accessibility of equipment.** The center must make available sufficient early learning materials, equipment, and space to children. The materials and equipment must be accessible to children during hours of operation. If children can move freely around the room and choose materials from a variety of areas, all materials are considered accessible.

(a) Centers are permitted to store materials in locations inaccessible to children, provided that the material which is accessible to children is sufficient for the number of children in attendance on a given day.

(b) The amount of overall equipment kept on-site must be sufficient as detailed in subdivisions 4 through 8 of this subdivision.

**Subd. 4. Required equipment and materials for infants.** The minimum equipment and materials required for a center serving infants are as follows.

(a) Furnishings

- 1) one area rug, carpeted area, or other soft floor covering per classroom;

- 2) a variety of non-folding child size chairs including infant seats and high chairs, one per child, or a minimum of four per group;
- 3) one changing table for every group of 12 infants and succeeding group of 12 or fewer infants;
- 4) one hands-free covered diaper container per changing table;
- 5) one crib and waterproof mattress per child;
- 6) one linear foot of low, open shelving per child and within reach of children; and
- 7) evacuation cribs in sufficient quantity to evacuate the number of infants the program is licensed to serve

(b) Equipment:

- 1) one music source per classroom and music selections appropriate for the music source;
- 2) two single strollers or one multi-capacity stroller or wagon;
- 3) two pieces of infant mobility equipment such as a baby walker or other equipment that promotes the infant's movement;
- 4) one book per child;
- 5) six soft building blocks per group;
- 6) two pieces of manipulative equipment per child such as shape toys and clutch balls;
- 7) one mirror at least 12 inches by 36 inches in size made of Plexiglas or a similar plastic or of safety glass per group;
- 8) Four sensory or tactile stimulation items per group; and
- 9) Play materials representing a diversity of special needs, disabilities, cultural and ethnic groups.

(c) Supplies:

- 1) two sets of blankets and sheets for each crib;
- 2) an adequate amount of disposable paper for the changing table;
- 3) an adequate amount of diapers;
- 4) an adequate amount of facial tissue;
- 5) an adequate amount of single service towels; and
- 6) an adequate amount of liquid hand soap.

Subd. 5. **Required equipment and materials for toddlers.** The minimum equipment and materials required for a center serving toddlers are as follows.

(a) Furnishings:

- 1) one area rug, carpeted area, or other soft floor covering per classroom;

- 2) one non-folding child size chair, including high chairs, per child;
- 3) one changing table for every group of 14 toddlers and succeeding group of 14 or fewer toddlers;
- 4) one hands-free covered diaper container per changing table;
- 5) one cot per child (mats are acceptable for programs operating during the day for less than five hours);
- 6) one linear foot of low, open shelving per child and within reach of children; and
- 7) sufficient seating at child sized tables for the licensed capacity.

(b) Equipment:

- 1) arts and crafts supplies, such as clay or playdough, tempera or finger paints, colored and white paper, paste, collage materials, paint brushes, washable felt type markers, crayons, blunt scissors, and smocks;
- 2) one book per child;
- 3) two sets of large or small building blocks per group;
- 4) three pieces of dramatic play equipment or sets of Montessori Practical Life equipment per group such as a play kitchen, woodworking bench, or doll furnishings;
- 5) materials and accessories required for subitem (4) as needed to carry out the theme of the activity, such as play food, pots and pans, dishes, or Montessori Practical Life exercises;
- 6) one double easel or art making station or area per group;
- 7) three pieces of durable, indoor, large muscle equipment per group;
- 8) three pieces of durable, outdoor, large muscle equipment per group;
- 9) one set of cognitive developmental equipment and materials, such as puzzles and matching games, per child;
- 10) two sets of manipulative equipment per child such as interlocking plastic forms;
- 11) seven music making toys per group;
- 12) one mirror at least 12 inches by 36 inches in size made of Plexiglas or a similar plastic or of safety glass per group;
- 13) one music source per classroom and music selections appropriate for the music source;
- 14) four sensory or tactile stimulation items per group; and
- 15) play materials representing a diversity of special needs, disabilities, cultural and ethnic groups.

(c) Supplies:

- 1) two sets of blankets and sheets for each crib;
- 2) an adequate amount of disposable paper for the changing table;
- 3) an adequate amount of diapers;

- 4) an adequate amount of facial tissue;
- 5) an adequate amount of single service towels; and
- 6) an adequate amount of liquid hand soap.

Subd. 6. **Required equipment and materials for preschoolers.** The minimum equipment and materials required for a center serving preschoolers are as follows:

(a) Furnishings:

- 1) one area rug, carpeted area, or other soft floor covering per classroom;
- 2) one non folding child size chair per child;
- 3) one cot or bed and waterproof mattress per child (mats are acceptable for programs operating during the day for less than five hours). This subitem is not required for preschoolers in programs operating for less than five hours per day if rest is not indicated as part of the center's child care program;
- 4) two square feet of wall or bulletin board display space per child, one-half at child's eye level;
- 5) one partially enclosed space equipped for quiet activity per group;
- 6) one linear foot of low, open shelving per child and within reach of children;
- 7) Sufficient seating at child sized tables for the licensed capacity
- 8) Play materials representing a diversity of special needs, disabilities, cultural and ethnic groups.

(b) Equipment:

- 1) arts and crafts supplies, such as clay or playdough, tempera or finger paints, colored and white paper, paste, collage materials, paint brushes, washable felt type markers, crayons, blunt scissors, and smocks;
- 2) two books per child;
- 3) four sets of large or small building blocks per group;
- 4) five pieces of dramatic play equipment or sets of Montessori Practical Life equipment per group such as a play kitchen, woodworking bench, or doll furnishings;
- 5) materials and accessories required for subitem (4) as needed to carry out the theme of the activity such as play food, pots and pans, dishes, or Montessori Practical Life exercise;
- 6) one double easel or art making station or area per group;
- 7) three pieces of durable, indoor, large muscle equipment per group;
- 8) three pieces of durable, outdoor, large muscle equipment per group;
- 9) one set of cognitive developmental equipment and materials, such as puzzles and matching games, per child;
- 10) two sets of manipulative equipment per child such as interlocking plastic forms or blocks, or puzzles;
- 11) seven music making toys per group;

- 12) pictures at child's eye level, mobiles, and other items as needed to create a pleasant environment and provide sensory stimulation;
- 13) one mirror at least 12 inches by 36 inches in size made of Plexiglas or a similar plastic or of safety glass per group;
- 14) one musical or rhythm instrument per child;
- 15) one music source per classroom and music selections appropriate for the music source;
- 16) four sensory or tactile stimulation items per group

(c) Supplies

- 1) an adequate amount of facial tissue;
- 2) an adequate amount of single service towels; and
- 3) an adequate amount of liquid hand soap.

**Subd. 7. Required Equipment and Materials for School-Age Children.** The minimum equipment and materials required for a center serving school-age children are as follows.

(a) Furnishings:

- 1) one area rug, carpeted area, or other soft floor covering per classroom;
- 2) two square feet of wall or bulletin board display space per child, one-half at child's eye level;
- 3) one non-folding child size chair per child;
- 4) one partially enclosed space equipped for quiet activity per group;
- 5) one linear foot of low, open shelving per child and within reach of children; and
- 6) sufficient seating at child sized tables for the licensed capacity.

(b) Equipment

- 1) arts and crafts supplies, such as clay or playdough, tempera or finger paints, colored and white paper, paste, collage materials, paint brushes, washable felt type markers, crayons, blunt scissors, and smocks;
- 2) two books per child;
- 3) three pieces of dramatic play equipment or sets of Montessori Practical Life equipment per group such as a play kitchen, woodworking bench, or doll furnishings;
- 4) materials and accessories required for subitem (3) as needed to carry out the theme of the activity such as play food, pots and pans, dishes, or Montessori Practical Life exercises;
- 5) three pieces of durable, outdoor, large muscle equipment per group;
- 6) one set of cognitive developmental equipment and materials, such as puzzles and matching games, per child;

- 7) five sets of manipulative equipment per child such as interlocking plastic forms or blocks, or puzzles;
- 8) pictures at child's eye level, mobiles, and other items as needed to create a pleasant environment and provide sensory stimulation;
- 9) five musical or rhythm instrument per group
- 10) one music source per classroom and music selections appropriate for the music source;
- 11) ten pieces of sports or recreational equipment, such as bats, balls, hoops, and jump ropes, per group; and
- 12) play materials representing a diversity of special needs, disabilities, cultural and ethnic groups.

(c) Supplies;

- 1) an adequate amount of facial tissue;
- 2) an adequate amount of single service towels; and
- 3) an adequate amount of liquid hand soap.

## 245K.15 Children with Special Health Care Needs or Disabilities

Subd. 1. **Child with special health care needs or disabilities.** "Child with special health care needs or disabilities" for purposes of this subdivision means a child at least six weeks old but younger than 13 years old who:

(a) has developmental disabilities or is otherwise eligible for case management as specified in parts 9525.0004 to 9525.0036; or

(b) has been identified by the local school district as a child with a disability as specified in Minnesota Statutes, section 125A.02, Subd.1; or

(c) has been determined by a licensed physician, physician assistant, advanced practice registered nurse, licensed psychiatrist, licensed psychologist, or licensed consulting psychologist as having a special health care need or disability relating to physical, social, or emotional development.

Subd. 2. **Report to parent.** The license holder must inform the parent or guardian when there is a developmental concern or potential special health care need of a child that was not previously identified.

Subd. 3. **Inclusion.** All activities must be designed to include all children unless a specific medical contraindication exists or an exclusion is otherwise noted in their individual child care program plan (ICCPP).

(a) Program staff must seek professional guidance and obtain appropriate training in order to include children with special health care needs, such as children with severe disabilities and children with special health care needs such as chronic illnesses, into child care settings.

Subd. 4. **Individual child care program plan (ICCPP).** The ICCPP required under this subdivision must meet the following requirements:

- (a) When a license holder admits a child with a disability or special health care need, or a special need is identified, the license holder must ensure that an ICCPP is developed in a form and manner prescribed by the commissioner to meet the child's individual needs.
- (b) When developing the ICCPP, the license holder must, to the best of their ability, coordinate with the child's primary healthcare provider, the child care health consultant as defined in 245K.01, Subd. 22, any authorized service coordinator, any provider of intervention services, the child's parents/guardians, and a program staff person who directly works with the child. If the license holder is unable to coordinate with any of the individuals in this section, the license holder shall document the attempt to coordinate in the ICCPP.
- (c) The license holder must ensure that all staff who interact with the child are trained on and follow the ICCPP prior to interacting with the child. Documentation of staff training must be kept at the child care center.
- (d) At least yearly the ICCPP must be reviewed with the parent/guardian and updated as needed. The updated ICCPP must be signed and dated by the parent/guardian and the license holder.
- (e) The license holder must update the child's ICCPP as required in section (d) and train each staff person, including staff or a licensed caterer who prepares food and who is responsible for carrying out the ICCPP of the change prior to interacting with the child. Documentation that staff were trained on the change must be kept at the child care center.
- (f) The most recent ICCPP must be available at all times to staff when the child is in care.
- (g) If the child has developmental disabilities or is otherwise eligible for case management as specified in Subd. 1(a), the ICCPP must be coordinated with the child's individual service plan developed under 9525.0004 to 9525.0036.
- (h) If the child has a disability or special health care need as specified in Subd.1(b), the ICCPP must be coordinated with the child's individualized education program developed under Minnesota Statutes, chapter 125A.
- (i) If the child has a disability or special health care need determined under subdivision 1, paragraph (c) , the ICCPP must be coordinated with reports from the licensed physician, physician assistant, advanced practice registered nurse, licensed psychiatrist, licensed psychologist, or licensed consulting psychologist.
- (j) If the child has a special need determined under subdivision 1, paragraph (c) the ICCPP must be evaluated at least annually by the licensed physician, physician assistant, advanced practice registered nurse, licensed psychiatrist, licensed psychologist, or licensed consulting psychologist and with the child's parent to determine if the needs of the child are being met.
- (k) Parents/guardians must provide written consent for the ICCPP before implementation for the child. The ICCPP must be signed and dated by the parent or guardian and the license holder. The ICCPP must be kept in the child's file at the child care center.



**Subd. 5. Allergy Prevention and Response.**

(a) The applicant must develop a written policy on allergy prevention and response. The applicant and license holder must ensure the policy is carried out and provided to parents at the time of enrollment.

(b) Before admitting a child for care the license holder must obtain documentation of any known allergy from the child's parent or legal guardian and the child's source of medical care.

(c) If a child has a known allergy, the license holder must maintain current information about the allergy in the child's record and develop an ICCPP as required in subdivision 4, including the following:

(1) description of the allergy;

(2) specific triggers and avoidance techniques;

(3) symptoms of an allergic reaction;

(4) procedures for responding to an allergic reaction, including medication to be administered in an emergency situation and dosages; and

(5) Health Consultant contact information.

(d) The ICCPP must be readily available to the person in the area where food is prepared and served to the child. If food is prepared off site, the center must notify the caterer of any food allergies of children in their care. Food allergies for all children in care shall be posted prominently in the classroom where staff can view them and wherever food is served.

(e) The license holder must contact the parent of the child or legal guardian immediately after any instance of exposure or allergic reaction.

(f) The license holder must call emergency medical services when epinephrine is administered to a child in the care of the license holder.

**Subd. 6 Temporary physical needs.** If a child has a temporary physical need as identified by their source of medical care, including but not limited to a brace or cast, the license holder must maintain current documentation about the temporary physical need from the child's source of medical care and any necessary accommodations in the child's record. The license holder must ensure staff who work with the child are aware of the child's temporary physical need and follow the identified necessary accommodations.

**Subd. 6. Service contracts.** The license holder must have copies of all service contracts with the center for care or services provided under parts 9525.0004 to 9525.0036 and Minnesota Statutes, chapter 125A, when the care or service is provided to a child while at the center.

**Subd. 7. Additional training.** The license holder must ensure that any training required by the ICCPP for the child is provided.

## 245K.16 Night Care Program

**Subdivision. 1. Applicability.** A license holder providing overnight care must comply with this part as well as with all other requirements under 245K. Night care is provided when children are in attendance anytime between the hours of eleven p.m. and five a.m.

Subd. 2. **Furnishings.** Each child enrolled in a night care program must be provided with a crib or bed, as described below.

(a) A crib which meets the requirements under 245A.146 and two sets of sheets must be provided for each infant and meet the requirements under 245K.14.

(b) An individual age-appropriate bed with two sets of sheets and a blanket or quilt must be provided for each child in all other age categories.

(c) Each bed must have a water-proof mattress or mattress pad that can be cleaned and sanitized in accordance with the requirements under 245K.31.

(d) Sheets, blankets, and quilts must be laundered weekly or more often if soiled. Bedding must be laundered if used by different children.

(e) Separate bedding must be provided and stored separately for each child in care. Bedding and sleeping equipment must be cleaned when soiled or at least once per week in accordance with 245K.31, subdivision 4, paragraph (b), clause (1).

Subd. 3. **Clothing intended for sleeping.** The license holder must ensure that all children are put to bed in clothing for sleeping as designated by parent of the child.

Subd. 4. **Personal care items.** The license holder must ensure that all children have personal items needed to clean up and prepare for sleep. The items must include an individual washcloth, towel, toothbrush, toothpaste, and liquid hand soap.

Subd. 5. **Meals and snacks.** The license holder must ensure that a child who will be present in the center has had or will be provided with an evening meal. A bedtime snack must be available for all children in attendance. Eating times and schedules for the individual child must be consistent with patterns established in consultation with the parent of the child.

Subd. 6. **Staffing.** At least two staff persons, one of whom must qualify as a teacher under 245K.06, must be present in the center at all times during the hours the night program is in operation. When more than 80 percent of the children present are asleep, the remaining staff persons needed to meet the required staff-to-child ratio must have at least the qualifications of a child care aide. Program staff must be awake, dressed, and provide supervision as specified in 245K.01, subdivision 38 and 245K.12 to children who are sleeping.

Subd. 7. **Hygiene assistance.** The license holder must ensure that children have the opportunity to wash up and brush their teeth before bedtime. Program staff must assist children during washing and changing clothes according to developmental needs of the child.

Subd. 8. **Showers and bathtubs.** The license holder must ensure bathtubs and showers are equipped to prevent slipping, if the center provides bathing.

Subd. 9. **Bathing Procedures.** The center must have written permission from the parent prior to allowing the child to bathe and ensure bathtubs and showers are cleaned and sanitized after each use. The tub or showers do not have to be sanitized between uses if the children are siblings and the parent has provided written consent. All children must bathe separately unless the children are siblings and the parent has provided written consent that the children can be bathed together.

Subd. 10. **Privacy.** To ensure privacy, school-age boys and girls must be separated during bedtime washing and changing activities.

Subd. 11. **Sleeping Arrangements:** The center must provide sleeping arrangements so that sleeping children are cared for separately from children who are awake and so that sleeping children are not disturbed by arrivals and departures. Infants must have a sleep area separate from the center's play and activity areas.

Subd. 12. **Bedtime.** A child's bedtime must be scheduled in consultation with the child's parent.

Subd. 13. **Light.** The center must provide adequate lighting indoors in all areas, including bathrooms, hallways, and sleeping rooms to ensure that staff are able to see all children at all times.

Subd. 14. **Outdoor Illumination:** The center must ensure that parking areas, outdoor walkways, and all building entrances are adequately lighted for safety and security.

Subd. 15. **Program emphasis.** A license holder operating a night care program must comply with the child care program standards in 245K.11. However, the child care program plan must emphasize quiet activities.

Subd. 16. **Exceptions.** The outdoor activity area, outdoor activities, and outdoor equipment required by 245K.14 need not be provided for children enrolled in a night care program.

## **245K.17 Drop-In Child Care Programs**

**Subd. 1. Drop-in child care programs.** Except as expressly set forth in this subdivision, drop-in child care programs must be licensed as a drop-in program under 245K.03 Subd. 2 governing child care programs operated in a center.

(a) A drop-in child care program must meet one of the following requirements to qualify for the rule exemptions specified in subdivision 2;

(1) the drop-in child care program operates in a child care center which houses no child care program except the drop-in child care program;

(2) the drop-in child care program operates in the same child care center but not during the same hours as a regularly scheduled ongoing child care program with a stable enrollment; or

(3) the drop-in child care program operates in a child care center at the same time as a regularly scheduled ongoing child care program with a stable enrollment but activities, except for bathroom use and outdoor play, are conducted separately from each other.

### **Subd. 2. Exemptions.**

(a) Drop-in child care programs are exempt from the following requirements:

(1) 245K.10;2) 245K.11, subdivision 1, paragraphs (f) and (g);

(2) 245K.12subdivisions 3 and 5, except for infants and toddlers;

(3) one-half the requirements of part 245K.14, subdivision 5, paragraph (a), clauses (2) and (5); subdivision 6, paragraph (a), clauses (2) and (3), and subdivision 7, paragraph (a), clauses (2) and (3).  
Subd. 3.

### **Subd. 3 Staffing requirements**

(a) A drop-in child care program must have at least two staff persons on site whenever the program is operating, one who is qualified as a director under 245K.05 and one who is qualified as a teacher under 245K.06. There must be a designee onsite in the absence of the director.

(b) If the drop-in child care program has additional staff who are on call as a mandatory condition of their employment, the minimum child-to-staff ratio may be exceeded only for preschool and school-age children, by a maximum of four children, for no more than 20 minutes while additional staff are in transit. If the ratio is exceeded in excess of 20 minutes, the license holder must review the mandatory on call staff procedures and revise as necessary to ensure compliance with this section, including hiring additional on-call staff as needed.

(c) When the total number of children in care at a drop-in child care center reaches a total of 20 children, children that are younger than age 2-1/2 must be cared for in a separate group. This group may contain children up to 60 months old. This group must be cared for in an area that is physically separated from older children.

(d) In drop-in care programs that serve both infants and older children, children up to age 2-1/2 may be supervised by assistant teachers, as long as other staff are present in appropriate ratios.

(e) A drop-in child care program may care for siblings 16 months or older together in any group. For purposes of this subdivision, sibling is defined as sister or brother, half-sister or half-brother, or stepsister or stepbrother.

### **Subd. 4 Staff-to-child ratio requirements in a drop-in program.**

(a) The minimum staff-to-child ratio that a license holder may maintain in a drop-in program is:

(1) for infants ages six weeks through 16 months, one staff person for every four infants;

(2) for toddler children ages 17 months through 33 months, one staff person for every seven children;

(3) for preschool children ages 33 months up to school age one staff person for every ten children; and

(4) for school age children, one staff person for every 15 children.

### **Subd. 5. Staff distribution.**

(a) The minimum staff distribution pattern for a drop-in child care program serving children age 2-1/2 or greater and a school age child care program serving school age children is:

- (1) the first staff member needed to meet the required staff-to-child ratio must be a teacher.
- (2) the second and third staff member must have at least the qualifications of a child care aide.
- (3) the fourth staff member must have at least the qualifications of an assistant teacher.

(b) The pattern in section (a) must be repeated until the number of staff needed to meet the staff-to-child ratio for each age category has been achieved.

(c) The commissioner may grant a variance to any of the requirements in paragraphs (a) and (b) as long as the health and safety of the children served by the program are not affected. The request for a variance must comply with the provisions in section 245A.04, subdivision 9.

## **245K.18 Exclusion of Sick Children**

**Subd.1 Care of sick children.** If the child becomes sick while at the center, the child must be isolated from other children in care and the parent called immediately. When determining if a child is sick and exclusion is necessary, license holders must follow:

- (a) the requirements on reportable diseases in Minnesota Rules, parts 4605.7040, 4605.7070, and 4605.7080, and
- (b) guidelines from the commissioner of health on infectious diseases in child care settings.

**Subd. 2. Notification.** Notices about the reportable and infectious diseases of a child must be given as follows:

- (a) The license holder policies must require a parent to inform the center within 24 hours, exclusive of weekends and holidays, when a child is diagnosed by a child's source of medical or dental care as having a reportable or infectious disease as specified in subdivision 1.
- (b) The license holder must ensure that the commissioner of health is notified of any suspected case of reportable disease as specified in Minnesota Rules, parts 4605.7040, 4605.7050, or 4605.7080, within 24 hours of receiving the parent's or staff report. Documentation of the notification must be kept at the center.
- (c) The license holder must notify the parents of exposed children within 24 hours of when a parent or staff person notifies the center of a reportable disease under subdivision 1, paragraph (a) or lice, scabies, impetigo, ringworm, or chicken pox. The notice must be posted in a clearly visible, accessible place or provided individually to each parent of a child who was exposed.

**Subd. 3: Return to Center.** Children with a reportable or infectious disease as specified in subdivision 1 must be excluded from the center for a length of time as specified in the commissioner of health guidelines on infectious

diseases in child care settings; or once a health care provider has determined that the child can return; or the child can participate in routine activities without more staff supervision than usual.

## **245K.19 Sick Care Program**

**Subdivision 1. Licensure of sick care programs.** If a license holder chooses to care for a sick child, then the license holder must operate a sick care program that complies with the requirements specified by this subdivision and all other applicable sections of 245K and any standards of the commissioner of health governing the group care of children.

### **Subd. 2. Review of admission and health policies and practices.**

(a) At the time of initial license application, after the first six months of initial operation, and at least once each calendar year after that time, a sick care program's admission policy must be reviewed and approved by a licensed physician, physician assistant or advanced practice registered nurse with a specialization in pediatric care.

(b) The review must include consultation with the licensed registered nurse or physician responsible for admissions.

(c) A report of the findings must be sent to the commissioner with the initial application for licensure, and subsequent reports must be placed in the center's administrative record.

(d) The license holder operating a sick care program must ensure that the program's health policies and practices as required under this section are reviewed quarterly by a health consultant. Documentation of the quarterly reviews must be placed in the center's administrative record.

### **Subd. 3. Evaluation of a sick child.**

(a) A license holder who operates a sick care program must provide for the evaluation of the condition of a sick child before admitting the child to the center.

(b) The evaluation must be based on the physical symptoms of the child each day of admission, the probable contagion and risk to the health of others present, the ability of the program to provide the care the child requires, and whether the child can be grouped together with other children in care with contagious or non-contagious illnesses. Documentation of the evaluation must be placed in the child's record.

(c) A physician, physician assistant, advanced practice registered nurse, or pediatric Registered Nurse affiliated with the center must perform the following evaluations before admitting the child to the center:

(1) A preliminary evaluation must be made before the parent brings the child to the center.

(i) The preliminary evaluation must consist of the parent's reporting the child's symptoms to the center's physician, physician assistant or advanced practice registered nurse by phone.

(ii) The physician, physician assistant or advanced practice registered nurse must tell the parent whether the parent may bring the child to the center for further evaluation.

(2) A physician, advanced practice registered nurse, registered nurse, or physician assistant must do a physical assessment of the child and obtain a health history from the parent when the child is brought to the center.

Subd. 6. **Information to parents.** A summary of the sick care program's health care policies and practices and the center's procedures for notification of parents in the event of an emergency must be given to the parent at the time a child is admitted. Multiple admissions do not require this information to be provided at each admission, unless the information has changed.

Subd. 7. **Parent conference exception.** Centers licensed to provide child care exclusively to sick children are not required to provide parent conferences as specified under 245K.20, subdivision 3.

Subd. 8. **Child care program emphasis exception.** A sick care program does not need to meet the child care program plan requirements under 245K.11. However, the child care program plan for the care of sick children must emphasize quiet activities.

Subd. 9. **Group size and age category grouping exceptions.** The maximum group sizes specified under 245K.10, subdivision 1 and the age category grouping restrictions under 245K.10, subdivision 3 are not required except that there must be no more than 16 children in care in a room at the same time.

Subd. 10. **Additional staff-to-child ratios and staff distribution requirements.**

(a) A one to four staff to child ratio must be maintained at all times in a room used to care for sick children.

(b) At least two staff persons must be present in a center operating a sick care program whenever sick children are in care.

(c) The first staff person must be a Registered Nurse. The remaining staff persons must at least meet the qualifications and follow the staff distribution pattern under 245K.10.

Subd. 11. **Limitation on staff assignment.** Staff must not care for well children or prepare food for well children on the same day they care for sick children. Staff caring for sick children must not enter the kitchen used to prepare food for well children.

Subd. 12. **Food preparation.** Food provided by the license holder and prepared at the center must be prepared in a room separate from rooms where sick care is provided and must be delivered to each sick care room in individual servings and in covered containers. Procedures for preparing, handling, and serving food and washing food, utensils, and equipment must comply with the requirements in Chapter 4626.

Subd. 13. **Menus.** Menus for sick children must be modified to meet the individual needs of the child.

Subd. 14. **Additional facility requirements.** A license holder operating a sick care program must provide:

(a) a room or rooms that are exclusively used to care for sick children and that are not used at any time for any other child care purpose; and

(b) toilets and hand sinks that are within or immediately adjacent to the room or rooms used for sick care and are not used by well children in care.

Subd. 15. **Outdoor activity area, activities and equipment exception.** The outdoor activity area, outdoor activities, and outdoor equipment required by 245K.14 for children need not be provided.

Subd. 16. **Cleaning, Sanitizing and Disinfection.** Floors in rooms where sick care is provided and all linens, toileting equipment, sinks, furnishings, objects, and equipment used by sick children must be cleaned and disinfected at least daily and as needed in accordance with the requirements under 245K.31.

Subd. 17. **Sleeping equipment and changes of clothing.** All sleeping equipment used by a sick child must be cleaned and sanitized after each use in accordance with 245K.31, subdivision 4, paragraph (b), clause (3), and each child must be in clean clothing at all times.

Subd. 18. **Sleeping equipment.** Each sick child must be provided appropriate sleeping equipment as follows:

(a) a crib and crib sheets in accordance with the requirements of 245K.36 or cot or bed, depending on the age of the child;

(b) a pillow;

(c) a pillowcase; and

(d) a blanket or quilt.

(e) Bedding provided by the center must be laundered after each use.

## **245K.20 Information for Parents**

Subdivision 1. **Policies provided to parents.** At the time of a child's enrollment, the parent must be provided with written notification of the following:

(a) ages and numbers of children the center is licensed to serve;

(b) hours and days of operation;

(c) child care program options the center is licensed to operate, including a description of the program's educational methods and religious, political, or philosophical basis, if any, and how parents may review the center's child care program plan;

(d) center's policy on parent conferences and notification to a parent of a child's intellectual, physical, social, and emotional development;

(e) center's policy requiring a health care summary and immunization record of a child;



- (f) policies and procedures for the care of children who become sick at the center and parent notification practices for the onset of or exposure to a contagious illness or condition in accordance with section 245K.18 or when there is an emergency or injury requiring medical attention;
- (g) center's policies and procedures for administering first aid and sources of care to be used in case of emergencies;
- (h) center's policies on the administration of medicine;
- (i) procedures for obtaining written parental permission for transportation of children and field trips as required in 245K.33, subdivision 4, paragraph (d);
- (j) procedures for obtaining written parental/guardian consent for research, cameras and social media participation in accordance with 245K.22;
- (k) center's policies on the provision of meals and snacks;
- (l) center's behavior guidance policies and procedures;
- (m) presence of pets;
- (n) center's policy that parents/guardians of enrolled children must be allowed access to their child at any time while the child is in care unless a court order or other legal documentation restricts access in accordance with 245K.21;
- (o) smoking, use of tobacco products, vaping, electronic cigarettes (e-cigarettes), alcohol, and drugs on the premises of the program (both indoor and outdoor licensed program environments), in any vehicles used to transport children. If smoking is permitted in the center during hours that the center is not operating, director must provide written notice to the parent of each child enrolled that smoking occurs at the center outside of center operating hours;
- (p) center's policy on use of technology and screen time in accordance with 245K.11, subdivision 1, paragraph (k);
- (q) telephone number of the Department of Human Services, Division of Licensing;
- (r) information about Licensing Information Lookup;
- (s) center's policy on naps and rest in accordance with 245K.12; and
- (t) the center's Emergency Preparedness Plan in accordance with 245K.23.

Subd. 2. **Parent/Guardian conferences.** The license holder must ensure that the parent of a child is informed of the child's progress. The license holder must ensure that:

- (a) Individual assessments of each child's intellectual, physical, social, and emotional development are completed at least twice a year. Individual assessments for school age children must be completed at least once a year.

(b) Parent conferences are planned and offered to the parents by program staff at least twice a year to review/discuss the child's assessment. Parent conferences for school age children must be planned and offered at least once a year.

(c) Documentation of the child's assessment and that individual parent conferences were planned and offered is maintained in each child's record.

(d) Documentation of the written or email notice of the parent conference invitation must be in the child's record.

**Subd. 3. Daily Reports for Infants, Toddlers and Preschoolers.**

(a) Daily written individualized reports must be provided to the parent of an infant or toddler about the food intake, elimination, sleeping patterns, and general behavior of the child.

## **245K.21 Parent Visitation and Access to Program**

**Subdivision 1: Policy.** The center shall have a parent visitation and access policy as follows:

(a) An enrolled child's parent must be allowed access to their child at any time while the child is in care unless a court order or other legal documentation restricts access.

(b) A copy of the order or other legal documentation referenced in section (a) must be kept in the child's record.

## **245K.22 Consent for Research, Cameras, and Social Media Participation**

**Subdivision.1. Policy.** The center shall have and follow a policy governing the center's use of social media and the use of photos and videos of children in care. The policy shall include:

(a) procedures for obtaining written consent from parents for release of photos and videos of children, for promotional or publicity purposes;

(b) a statement prohibiting staff persons from posting content of children in care or enrolled families on their personal social media account or public digital platform, including photos, videos, or personal identifying information of the children.

**Subd. 2. Participation in Research, Fundraising, or Public Relations Projects**

(a) The license holder must ensure that written permission is obtained from a parent before a child is involved in research, fundraising or public relations projects involving the child while at the center. A separate written permission form must be obtained before each occasion of a research, fundraising, or public relations activity.

(b) The permission form must be maintained in the child's record.

## 245K.23 Emergency and Accident Policies and Records

### Subdivision 1. Emergency preparedness plan

(a) The applicant must develop a written plan for emergencies that require evacuation, relocation, shelter-in-place or lock down, resulting from a fire, blizzard, tornado or other natural disaster, or other threatening situations that may pose a health or safety hazard to a child, such as an intruder or violence at the facility. The applicant and license holder must ensure the emergency plan is carried out. The plan must be written on a form developed by the commissioner and must include:

- 1) procedures for an evacuation, including building evacuation routes and identification of primary and secondary exits;
- 2) procedures for relocation including a designated relocation site;
- 3) procedures for shelter-in-place and lockdown;
- 4) procedures for notifying a child's parent of the evacuation, relocation, shelter-in-place, or lockdown, including procedures for reunification with families;
- 5) accommodations for a child with a disability or a chronic medical condition;
- 6) accommodations for infants and toddlers;
- 7) procedures for storing a child's medically necessary medicine that facilitates easy removal during an evacuation or relocation;
- 8) procedures for continuing operations in the period during and after a crisis; and
- 9) procedures for communicating with local emergency management officials, law enforcement officials, or other appropriate state or local authorities.

(b) The license holder must conduct fire drills every month and tornado drills monthly from April 1 through September 30. Fire and tornado drills must be documented and include the date, time, number of children and staff who were present, and the start and end time of the drill. Documentation must be maintained in the program's administrative records.

(c) The license holder must review and update the emergency plan at least once each calendar year and when changes are made to the plan. Documentation of the yearly review and when changes are made must be maintained in the program's administrative records.

(d) The license holder must ensure the director, program staff persons, substitutes, and unsupervised volunteers are trained on the emergency plan at orientation as specified under section 245K.09, when changes are made to the plan, and at least once each calendar year. Training must be documented and maintained onsite.

(e) The license holder must provide a physical or written copy of the procedures for notifying parents of an evacuation, relocation including the designated relocate site, shelter-in-place, or lockdown, including procedures for reunification with families. A physical or written copy of the emergency plan must be made available to parents upon request.

Subdivision 2. **Emergencies, accidents, incidents, and injuries.**

(a) The applicant must develop written policies and procedures to prevent and respond to emergencies, accidents, incidents, and injuries. The applicant and license holder must ensure that the policies and procedures are carried out. The policies and procedures must include:

- (1) Procedures for administering first aid;
- (2) Safety rules to prevent injuries, burns, poisoning, choking, suffocation, and traffic and pedestrian accidents;
- (3) Procedures for the daily inspection of potential hazards;
- (4) Procedures for fire prevention and procedures to follow in the event of a fire including the phone number of fire department, persons responsible for the evacuation of children and areas for which they are responsible, instruction on how to use a fire extinguisher, and instructions on how to close off the fire area;
- (5) Procedures to follow when a child is missing, including when a school-age child does not arrive at the center when expected after school;
- (6) Procedures to follow if an unauthorized person or a person who is incapacitated or suspected of abuse attempts to pick up a child or if no one comes to pick up a child;
- (7) Sources of emergency medical care;
- (8) Procedures for recording emergencies, accidents, incidents, and injuries involving a child enrolled in the center. The written record must include:
  - (i) name and age of the child involved;
  - (ii) name of staff persons present;
  - (iii) date, time, and place of the emergency, accident, incident, or injury;
  - (iv) type of injury;
  - (v) action taken by staff; and
  - (vi) and to whom the emergency, accident, incident or injury was reported. At a minimum, the emergency, accident, incident, or injury must be reported in writing to the parent, and any other individuals, agencies, and the Department, as applicable.

(b) The license holder must conduct a yearly analysis of emergencies, accidents, incidents, and injuries as documented in accordance with paragraph (a), clause 8. Documentation of the yearly analysis and any modification of the center's policies based on the analysis must be maintained in the program's administrative records.

(c) The license holder must post a facility floor plan in a visible location in each classroom and other areas in the facility where childcare is provided. The posted floor plan in each area must include:

- (1) identification of primary and secondary exits;

- (2) building evacuation routes;
- (3) identification of tornado shelter and other shelter-in-place locations;
- (4) identification of staff persons responsible for the evacuation or sheltering of children;
- (5) name and address of designated relocation site; and
- (6) phone numbers and sources of emergency medical services, poison control center, fire department, and the Department of Human Services – Division of Licensing.

(c) The license holder must ensure the director, program staff persons, substitutes, and unsupervised volunteers are trained on the emergency, accident, incident, and injury policies and procedures at orientation as specified under section 245K.09, when changes are made to the policies and procedures, and at least once each calendar year. Training must be documented and maintained on-site.

## **245K.24 Risk Reduction Plan**

Subdivision 1. **Risk reduction plan.** The license holder must develop a risk reduction plan that identifies the general risks to children served by the child care center in a form and manner prescribed by the commissioner.

(a) The license holder must establish procedures to minimize identified risks, train staff on the procedures, and annually review the procedures.

(b) The risk reduction plan must include an assessment of risk to children the center serves or intends to serve and identify specific risks based on the outcome of the assessment. The assessment of risk must be based on the following:

(1) an assessment of the risks presented by the physical plant where the licensed services are provided, including an evaluation of the following factors: the condition and design of the facility and its outdoor space, bathrooms, storage areas, and accessibility of medications and cleaning products that are harmful to children when children are not supervised and the existence of areas that are difficult to supervise; and

(2) an assessment of the risks presented by the environment for each facility and for each site, including an evaluation of the following factors: the type of grounds and terrain surrounding the building and the proximity to hazards, busy roads, and publicly accessed businesses.

(c) The risk reduction plan must include a statement of measures that will be taken to minimize the risk of harm presented to children for each risk identified in the assessment required under paragraph (b) related to the physical plant and environment. At a minimum, the stated measures must include the development and implementation of specific policies and procedures or reference to existing policies and procedures that minimize the risks identified.

(d) In addition to any program-specific risks identified in paragraph (b), the plan must include development and implementation of specific policies and procedures or refer to existing policies and procedures that minimize the risk of harm or injury to children, including:

- (1) closing children's fingers in doors, including cabinet doors;
- (2) leaving children in the community without supervision;
- (3) children leaving the facility without supervision;
- (4) program staff dislocation of children's elbows by not pulling or lifting children by the hands or wrists, or swinging by the arms;
- (5) burns from hot food or beverages, whether served to children or being consumed by program staff, and the devices used to warm food and beverages;
- (6) injuries from equipment, such as scissors and glue guns;
- (7) sunburn;
- (8) feeding children foods to which they are allergic;
- (9) children falling from changing tables; and
- (10) children accessing dangerous items or chemicals or coming into contact with residue from harmful cleaning products.

(e) When field trips are planned, all field trip sites should be visited by a member of the program staff and all potential hazards identified. A safe walking or transportation route should be identified in advance of the trip. The program must have a policy and procedure for potential hazards such as heavily trafficked areas or difficult terrain such as railroad tracks.

(f) The plan must ensure hazardous objects as defined in 245K.29, subdivision 14 are inaccessible to children.

(g) The plan must include specific policies and procedures to ensure adequate supervision of children at all times as defined in sections 245K.01, subdivision 38 and 245K.11, subdivision 1 with particular emphasis on:

- (1) times when children are transitioned from one area within the facility to another;
- (2) nap-time supervision, including infant crib rooms as specified under section 245K.12, subdivision 4.
- (3) child drop-off and pick-up times, including when children arrive or depart from the center by bus;
- (4) supervision during outdoor play and on community activities, including but not limited to field trips and neighborhood walks;
- (5) supervision of children in hallways;
- (6) supervision of preschool children when using an individual private restroom within the classroom; and
- (7) supervision of school-age children when using the restroom and visiting the child's personal storage space.

**Subd. 2. Yearly review of risk reduction plan.**

- (a) The license holder must review the risk reduction plan each calendar year and document the review.
- (b) When conducting the review, the license holder must consider incidents that have occurred in the center since the last review, including:
  - (1) the assessment factors in the plan;
  - (2) the internal reviews conducted under this section, if any;
  - (3) substantiated maltreatment findings, if any; and
  - (4) incidents that caused injury or harm to a child, if any, that occurred since the last review.
- (5) Within 5 days following any change to the risk reduction plan, the license holder must train program staff on the change and document that the staff were trained on the changes.

**245K.25 Center Administrative Records**

Subdivision 1. **Administrative Records.** The records required by this subdivision must be maintained within the center and be available for inspection at the request of the commissioner. The license holder must ensure that the following are maintained:

- (a) a record of the information given to parents specified in 245K.20;
- (b) the personnel records specified in 245K.26;
- (c) the children's records specified in 245K.27;
- (d) the Health Consultant reviews of the center's health policies and practices as specified in 245K.29, subdivision 2;
- (e) the child care program plan specified in 245K.11;
- (f) the emergencies, accidents, incidents, and injuries records specified in 245K.23, subdivision 2;
- (g) the child separation reports mandated in 245K.13; and
- (h) daily center and classroom attendance records specified in 245K.30.

**Subd. 2. Policies and procedures for program administration required and enforceable.**

- (a) The license holder must comply with specified requirements for policies and procedures in accordance with section 245A.14, subdivision 14.

## 245K.26 Personnel Records

Subdivision 1. **Records On Site.** The license holder must ensure that a current personnel record for each program staff is maintained in a manner prescribed by the commissioner. The personnel record for each staff person must contain:

- (a) the program staff's name, home address, telephone number, date of birth, and emergency contact information;
- (b) the program staff's first date of direct contact and first date of unsupervised direct contact with a child;
- (c) documentation indicating that the program staff meets the requirements of the staff person's job position, and the education and experience requirements specified in 245K.05 through 245K.08;

## 245K.27 Children's Records

Subdivision 1. **Requirements.** Prior to or on the day of enrollment in the center, the license holder must ensure that a record is maintained on site for each child. The record must contain:

- (a) the child's full name, birthdate, and current home address;
- (b) date of enrollment in the program;
- (c) the name, address, and telephone number of the child's parent/guardian;
- (d) the name and telephone number of at least one emergency contact person other than the child's parents to be contacted if a parent cannot be reached in an emergency or when there is an injury requiring medical attention. These emergency contact persons are also authorized to pick the child up from the center;
- (e) the names and telephone numbers of any additional persons authorized by the parent or legal guardian to pick up the child from the center,
- (f) the names, addresses, and telephone numbers of the child's source of medical and dental care to be used in case of an emergency;
- (g) the child's health and immunization information required by 245K.29, subdivisions 3 and 5;
- (h) written authorization for the license holder to act in an emergency, or when a parent/guardian or designee cannot be reached or is delayed;
- (i) the hours and days of the week the child will attend the center;
- (j) for infants and toddlers, a description of the child's eating, sleeping, toileting, and communication habits, and effective methods for comforting the child;
- (k) documentation of any dietary or medical needs of the child;



(l) documentation of any individual child care program needs for the child; and

(m) the date of parent conferences and a summary of the information provided to the parent at the conferences.

Subd. 2. **Disclosure.** The license holder must not disclose a child's record, including video surveillance footage from on-site cameras, to any person other than the child, the child's parent, the child's legal representative, employees of the license holder and the commissioner unless the child's parent has given written consent or as otherwise required by law as specified in 245K.22. This subdivision does not apply to information needed by a first responder in the case of an emergency.

## 245K.28 Reporting Requirements

Subdivision 1. **Maltreatment, abuse, neglect reporting.** The license holder must comply with the reporting requirements for abuse and neglect specified in Chapter 260E Reporting of Maltreatment of Minors.

Subd. 2. **Other reporting.** The license holder must notify the commissioner of the following in a manner prescribed by the commissioner:

(a) within 24 hours of the death or notification of the death of a child enrolled in the center as required under 245A.04 Subd. 16;

(b) within 24 hours of the occurrence or notification of any serious injury to a child in care in the program that required treatment by a physician, dentist, advanced practice registered nurse, or physician assistant ;

(c) immediately of the occurrence of a fire during the hours of operation that requires the service of a fire department;

(d) within 48 hours of when a child is disenrolled from the center for a behavioral reason; and

(e) within 24 hours of the use of any emergency medical service by a child while in care.

## 245K.29 Sanitation and Health

Subdivision 1. **Health policies.** The license holder must develop written health policies approved by the commissioner and must ensure that they are carried out.

Subd. 2. **Health consultation.** The center must have a health consultant who must review the center's health policies and practices specified in items (a) to (c) in person and certify that they are adequate to protect the health of children in care.

(a) The review, including an onsite visit, must be done before initial licensure, submitted with the application for initial licensure and repeated each calendar year after the date of initial licensure.

(b) For programs serving infants, an in-person review must be done initially and monthly thereafter. Every other month, a license holder may substitute a virtual visit for one of the monthly in-person health consultant visits.

Additionally, the license holder must request a review by the health consultant of the center's health policies and practices if there is a proposed change in the center's health policies or practices or an outbreak of contagious reportable illness as specified in Minnesota Rule parts 4605.7040, 4605.7050, and 4605.7080.

(c) The consultant must review and certify:

(1) the first aid and safety policies and procedures required by section 245K.23, subdivision 2;

(2) the diapering procedures and practices specified in subdivision 9 of this section

(3) the sanitation procedures and practices for food catered in or provided by the child's parent in as specified in 245K.32, subdivision 5 and for infants as specified in subdivision 9 of this section.

Subd. 3. **Health information at admission.** Before a child is admitted to a center or within 30 days of admission, the license holder must obtain a report on a current physical examination of the child signed by the child's source of medical care.

Subd. 4. **Reexamination.** For children already admitted to the center, the license holder must obtain an updated report of physical examination signed by the child's source of medical care at least annually for children under 36 months of age, and when a child moves to the school-age program.

Subd. 5. **Immunizations.** Before a child is admitted to a center, the license holder must obtain documentation of current immunization record according to Section 121A.15, a signed notarized statement of parental objection to the immunization, or a medical exemption. The license holder must maintain record of current immunization, or a signed notarized statement of parental objection to the immunization, or a medical exemption throughout the child's enrollment at the center.

Subd. 6. **Administration of medication.** For the purposes of this subdivision, medication has the same meaning as 245K.01, subdivision 28. A license holder who administers medication must ensure the following:

(a) The license holder must get written permission from the child's parent before administering medication.

(b) Nonprescription medication, including but not limited to diapering products, sunscreen lotions, hand sanitizer, lip balm, body lotion, and insect repellents must be administered according to the manufacturer's instructions unless there are written instructions for their use provided by a physician, dentist, advanced practice registered nurse, or physician assistant. For over-the-counter medication that is intended to be ingested and does not include dosage information within the manufacturer's instructions, the license holder must follow written dosage instructions from a medically licensed person.

(c) The license holder must get and follow written instructions from a physician, dentist, advanced practice registered nurse, or physician assistant before administering each prescription. Medication with the child's name and current prescription information on the label constitutes instructions.

(d) All medication must be kept in its original container and have a legible label stating the child's first and last name. The medication must be given only to the child whose name is on the label, unless as described in paragraph (g).

(e) The medication must not be given after an expiration date on the label, and any unused portion must be returned to the child's parent if possible or destroyed.

(f) The license holder must document the administration of any nonprescription medication that is ingested and all prescription medication. The documentation must include the first and last name of the child, name of the medication or prescription number, date, time, dosage, and the printed name and signature or initials of the person who administered the medication. This documentation must be available to the parent and maintained in the child's record.

(g) Sunscreen lotions and insect repellents supplied by the license holder may be used on more than one child and must be labeled for use for all children. A product to control or prevent diaper rash, including premoistened commercial wipes that cannot be dispensed in a manner that prevents cross contamination of the product and container as determined by the health consultant, must be labeled with the child's first and last name and used only for the individual child whose name is written on the label.

(h) All medications, insect repellents, sunscreen lotions, and diaper rash control products must be stored according to directions on the original container and so that they are inaccessible to children.

(i) The use of herbal remedies, folk medicine, and essential oils is prohibited, unless prescribed or recommended by a physician, dentist, advanced practice registered nurse, or physician assistant. If these are administered, they must be administered in compliance with the requirements of this subdivision.

Subd. 7. **Sanitation and cleanliness.** The program must be free from dirt, rubbish, or other contaminants that can be detected by sight, smell, or touch.

Subd. 8. **Toilet facilities.**

(a) Toilets, toilet training chairs, stools, and seats must be cleaned and disinfected with a solution in accordance with the requirements in 245K.31 Subd. 4. (b)(5).

(b) Toilets must be flushed after each use.

(c) Plungers and toilet cleaning devices must be inaccessible to children.

Subd. 9. **Diapers, changing areas, and disposal.** The following sanitary procedures must be used to reduce the spread of communicable disease.

(a) An adequate supply of clean diapers must be available for each child and stored in a clean place.

(b) Diapers must be changed following the diaper changing procedure reviewed and certified by the center's health consultant in accordance with Subd. 2. (c)(2).

(c) The diaper changing procedures reviewed and certified by the center's health consultant must be posted in the diaper changing area.

(d) Children in diapers must be kept clean and dry. Diapers and clothing must be changed immediately or as soon as practicable when wet or soiled. Soiled clothing must be placed in a plastic bag and sent home with the parent daily.

(e) Single service disposable wipes must be used for cleaning a wet or soiled child.

(f) Changing tables and changing pads must be cleaned and disinfected between children.

(g) The diaper changing area and flooring must be a smooth, nonabsorbent surface.

(h) The staff person must maintain a hand on the child at all times during diapering. Children must not be left unattended on the changing table.

(i) Diaper changing areas including, but not limited to, counters, sinks, and floors must be cleaned and disinfected daily or immediately when soiled.

(j) A covered diaper disposal receptacle must be located in the diaper changing area and lined with a disposable plastic bag. Diapers cannot be disposed of in a kitchen disposal area.

(k) Diaper receptacles must be emptied, cleaned, and disinfected daily or more often as needed. Contents of a diaper receptacle must be removed from the licensed space, and replaced with a new liner at least daily or more often if odor is present.

(l) A diaper must be changed only in the diaper changing area. The diaper changing area must be separate from areas used for food storage, food preparation, and eating. The area must have a hand sink equipped with hot and cold running water within three feet of the diaper changing surface.

Subd. 10. **Hand washing: child.** A child's hands must be washed with soap and water, after a diaper change, after use of a toilet or toilet training chair, and immediately before eating a meal or snack.

(a) Program staff must monitor hand washing and assist a child who needs help.

(b) The use of a common basin or a hand sink filled with standing water is prohibited.

(c) Hands must be dried on a single use towel or warm air hand dryer. The use of a common or shared cloth or towel is prohibited.

(d) In sinks accessible to children, the water temperature must not exceed 120 degrees Fahrenheit to prevent children from scalding themselves while washing.

Subd. 11. **Hand washing: program.** Program staff must wash his or her hands with soap and water after changing a child's diaper, after assisting a child on the toilet, after washing the diapering surface, after using toilet facilities, and before handling food or eating. Hands must be dried on a single use towel or warm air hand dryer. The use of a common or shared cloth or towel is prohibited.

Subd. 12. **Toilet articles.** The license holder must provide the following supplies and make them available as needed: toilet paper, liquid hand soap, facial tissues, and single use paper towels or warm air hand dryers.

Subd. 13. **First aid kit.** The license holder must have a first aid kit that is accessible in the center at all times and whenever children are off-site and includes the following:

- (a) adhesive bandages (assorted sizes) and tape;
- (b) sterile compresses;
- (c) elastic bandage wrap;
- (d) scissors;
- (e) an ice bag or cold pack;
- (f) thermometer-digital or tympanic (ear);
- (g) mild liquid soap or handwashing gel;
- (h) bottled water;
- (i) disposable powder-free, latex free gloves;
- (j) mouthpiece for giving CPR; and
- (k) access to First Aid Instructions; Manual or via cell phone/smart device owned by the center.

Subd. 14. **Hazardous objects.**

(a) The license holder and program staff must prevent children from accessing hazardous objects, including but not limited to sharp objects; medication; plastic bags; lighters; matches; poisonous plants; pesticides and all chemicals, including household supplies; and any items that specify that they should be “kept out of reach of children” must be inaccessible to children at all times.

(b) The use of potentially hazardous equipment, materials, and tools must be supervised by program staff.

**Subd. 15 Condition of Equipment and furniture**

(a) The license holder must make sure that equipment, materials, and furnishings, accessible to children both indoors and outdoors, are sturdy, in good condition, safe to use, and used only as intended by the manufacturer. The equipment, materials, and furnishings in the program must meet the safety recommendations of the U.S. Consumer Product Safety Commission and ASTM International.

(b) The license holder and program staff must prevent children from accessing equipment, materials, and furnishings that are unsafe, such as items that:

- (1) are not developmentally appropriate for a child’s age or size (e.g., intended for older children);
- (2) have sharp corners or points;
- (3) have openings that could entrap a child’s body parts (e.g., head or fingers);

- (4) have small parts that may detach and be choking, breathing or swallowing hazards;
- (5) have parts that can pinch, shear, or crush body parts;
- (6) are improperly or loosely anchored to the ground, such as playground equipment;
- (7) are a tripping hazard, such as curled, wrinkled or unsecured rugs, electrical extension cords) or
- (8) are strangulation hazards, such as cords, straps, or strings.

(c) The license holder and program staff must remove or repair equipment, materials, and furnishings that are worn, damaged, or in poor condition, including but not limited to items with:

- (1) loose, rusty, or cracked parts;
- (2) rotted or split wood or plastic pieces that can cause splinters or other injuries;
- (3) protruding nails, bolts, or other components that could cause injury;
- (4) missing or damaged protective caps or plugs; and
- (5) flaking paint or paint that may have lead or other hazardous materials

(d) The license holder and program staff must prevent children from playing with or on:

- (1) outdoor equipment, materials, and furnishings that are too hot or cold to use;
- (2) equipment that is spaced too closely together for safety;
- (3) climbing equipment or swings installed on surfaces that cannot absorb the impact of a fall; and
- (4) herbal remedies, folk medicines or essential oils.

**Subd. 16. Handling and disposal of bodily fluids.**

(a) The licensed child care center must comply with the following procedures for safely handling and disposing of bodily fluids:

- (1) surfaces that come in contact with potentially infectious bodily fluids, including blood and vomit, must be cleaned and disinfected according to 245K.31, subdivision 3;
- (2) blood-contaminated material must be disposed of in a plastic bag with a secure tie;
- (3) sharp items used for a child with special care needs must be disposed of in a "sharps container." The sharps container must be stored out of reach of a child.
- (4) the license holder must have the following bodily fluid disposal supplies in the center: disposable gloves, disposal bags, and eye protection; and

(5) the license holder must ensure that each staff person follows universal precautions to reduce the risk of spreading infectious disease.

Subd. 17. **Animals.** All animals housed within the program must be maintained in good health. The license holder must ensure that:

(a) All animals are properly housed, cared for, licensed and inoculated. All local and state ordinances governing the keeping of animals (exotic or domesticated) must be followed.

(b) Verification of license and compliance with local and state requirements and inoculations, for each pet requiring such license or inoculations, or regulated by local or state government must be on file at the facility.

(c) Parents/guardians are notified prior to their child's enrollment of the presence of animals in the program, and before new animals are housed at the program.

(d) Children handle animals only with adult supervision.

(e) Pet cages/enclosures and fish tanks are located and cleaned away from any food preparation, storage, or serving areas.

(f) All areas accessible to children are free of animal excrement, animal hair or feathers and kept free of offensive or unpleasant animal odors including urine and litter box odors.

(g) The parent/guardian of a child whose skin is broken by an animal bite or scratch are immediately notified of the injury.

(h) The agent of a community health board as authorized under Minnesota Statutes, section 145A.04 is immediately notified whenever a child in care is bitten by an animal.

(i) The program must notify the parents prior to any animals visiting the center. The program must ensure the requirements in sections (a), (b), (d), (e), (f) and (g) are met by the person or group bringing the animal to the center.

Subd. 19. **Pest control.** Effective measures must be taken to protect the center against rodents and insects.

(a) If rodents, insects or other pests are found, a license holder must document steps taken to remove or exterminate them.

(b) The use of chemicals to control weeds, rodents, insects, and other pests shall be implemented only after other means have been used for control, such as the elimination of harborage, removing access to food, and sealing of points of entry. These compounds shall be used according to labeled instructions.

(c) Chemicals for insect and rodent control must not be applied in areas accessible to children when children are present.

(d) Spray treatments including foggers and bombs are prohibited. Baits and traps must be used.

(e) If chemicals are used, the license holder must notify the parents or guardians of enrolled children what pesticide will be applied and where it will be applied no less than forty-eight hours before application, unless in cases of emergency (such as a wasp nest).

(f) Only approved, U.S. Environmental Protection Agency-registered insecticides, rodenticides, and herbicides may be used. Application must strictly follow all label instructions and must be authorized by the director.

**Subd. 20. Tobacco products, vaping, drugs and alcohol use prohibitions**

(a) The possession or use of tobacco products, vaping, electronic cigarettes (e-cigarettes), alcohol, and drugs on the premises of the program during operating hours (both indoor and outdoor licensed program environments), and in any vehicles used by the program is prohibited.

(b) The administrator must post in a noticeable place at the main entrance of the center, a notice stating that smoking is prohibited.

## **245K.30 Attendance Records**

**Subd 1. Daily Center Attendance Records.** The license holder must maintain daily center attendance records that include:

- (a) the date;
- (b) first and last name of each child; and
- (c) the actual times each child is dropped off and picked up from the center.

**Subd 2. Daily Classroom Attendance records.** The license holder must maintain daily classroom attendance records that include:

- (a) the date;
- (b) first and last name of each child; and
- (c) documentation that a name-to-face check was done for each child in the group prior to and following the group moving from one space to another within the center.

For children who are being transitioned into the next age group and are visiting the classroom they will move to, the child's attendance must be tracked within that classroom while they are visiting.

The classroom attendance record must remain with each group at all times throughout the day including outdoor play, emergency evacuations, field trips, and when groups are combined.

## **245K.31 Cleaning, Sanitizing, and Disinfecting**

Subdivision 1. **Definitions.**



- (a) **Cleaning:** Mechanical process of using fragrance-free soap or detergent and water to physically remove dirt, debris, and many germs. It also removes invisible debris that interferes with disinfection.
- (b) **Sanitizing:** Chemical or heating process of reducing the number of disease-causing germs on cleaned surfaces to a safe level.
- (c) **Disinfecting:** Chemical process that uses specific products to destroy harmful germs (except bacterial spores) on cleaned environmental surfaces.
- (d) **High Hazard Body Fluid:** urine, feces, vomitus, blood, and other body fluids with blood present.

Subd. 2. **Sanitizers:** Sanitizers must meet the following requirements:

- (a) License holders must use sanitizers with the signal word "Caution" (rather than "Danger" or "Warning") on the product label and a 0 rating on the Hazardous Materials Identification System (HMIS) health rating scale.
- (b) The chemical must have an Environmental Protection Agency registration number and designation as a food contact surface sanitizer, and used in accordance with labeled instructions, including:
  - (1) concentration;
  - (2) contact time;
  - (3) method; and
  - (4) surfaces.
- (c) the sanitizer must not require the final rinse step.
- (d) Sanitizers must be used on surfaces that commonly come into contact with food, hands, the mouth, eyes, nose, and exposed skin of children and staff.
- (e) Sanitizers must not be used prior to or in place of cleaning compounds which are intended to remove soil from surfaces, such as soap or detergent.
- (f) The frequency of sanitizer use for food contact surfaces must be in accordance with the requirements of Chapter 4626.
- (g) Toys used by preschool and older children must be washed, rinsed, and sanitized at least once a week and whenever visibly soiled.
- (h) Toys that are placed in children's mouths or are otherwise contaminated by body fluids must be washed, rinsed, and sanitized prior to use by another child.
- (i) For sanitizers requiring mixing, test kits must be used to verify the required concentration. Solutions must be tested upon mixing and daily.
- (j) Sanitizers obtained as ready-to-use (i.e., not requiring mixing) solutions and used in accordance with the manufacturer's labeled instructions, do not require the use of test strips.

(k) Nothing in this subdivision prohibits the use of a dishwashing machine, clothes washing machine, or clothes dryer, for sanitization of toys or other program materials.

Subd. 3. **Disinfectants:** Disinfectants must meet the following requirements:

(a) License holders must use disinfectants certified by the EPA's Design for the Environment.

(b) The chemical must be effective against viruses.

(c) The chemical must be used in accordance with labeled instructions, including:

(1) concentration;

(2) contact time;

(3) method; and

(4) surfaces.

(d) Disinfectants must be used on surfaces that are commonly contaminated with high hazard body fluids, such as but not limited to door handles, toilet seat inserts, diaper changing areas and tables, diaper pails, and surfaces that have been in contact with high hazard body fluids.

(e) Disinfectants must not be used prior to or in place of cleaning compounds which are intended to remove soil from surfaces, such as soap or detergent.

(f) Toys, food, or body contact surfaces that become contaminated with high hazard body fluids must be disinfected and then washed, rinsed, and sanitized before returned to use.

(g) Carpeting, rugs, and upholstery that have been contaminated by high hazard body fluids must be cleaned by removing all visible debris and treated through the use of a chemical or steam.

(h) The frequency of disinfectant use must be in accordance with the requirements of this statute or immediately upon clean-up of or contact with high hazard bodily fluids.

(i) Disinfectants, including household bleach, must be mixed and used according to the manufacturer's labeled instructions, including concentration and contact time.

(j) For disinfectants requiring mixing, test kits must be used to verify the required concentration. Solutions must be tested upon mixing and daily.

(k) Disinfectants obtained as ready-to-use solutions and used in accordance with the manufacturer's labeled instructions, do not require the use of test strips.

Subd.4. **Cleaning Frequency:**

(a) The indoor and outdoor space and equipment of the center must be clean.

(b) A license holder must develop and follow a cleaning schedule that includes:

(1) Food preparation areas, tables, high chairs, and food service counters, must be cleaned and sanitized before and after each meal and snack with single use paper towels, one-time use wiping cloths, or microfiber cloths.

(2) Pacifiers must be cleaned and sanitized after each use or may be reused by an individual child if they have been rinsed after each use and stored in a manner that prevents contamination. The pacifier must be cleaned and sanitized daily. If the pacifier is stored in a storage device or container, it must also be cleaned and sanitized daily.

(3) Sleeping equipment must be:

(i) cleaned and sanitized after each use if used by more than one child; or

(ii) cleaned and sanitized weekly or more often as needed if assigned to only one child.

(4) Bedding must be:

(i) laundered and sanitized after each use if used by more than one child; or

(ii) laundered and sanitized weekly or more often as needed if assigned to only one child.

(5) Toileting areas must be cleaned daily.

(i) Toilet training chairs must be emptied, washed with soap and water, and disinfected after each use.

(ii) Toilets and seats must be washed with soap and water and disinfected when soiled or at least daily.

(6) Garbage cans and receptacles must be emptied on a daily basis and cleaned and disinfected as needed.

(7) Floors must be cleaned. Moisture resistant flooring must be cleaned at least once per day or more often as needed.

(8) Large area rugs or installed carpet must be cleaned at least once every six months, or when visible dirt or stains are present, using a carpet shampoo machine, steam cleaner, or other method that minimizes the exposure of children in care to pathogens and allergens.

(9) Small area rugs must be shaken outdoors or vacuumed daily and laundered, as needed.

## **245K.32 Food, Drinking Water and Nutrition**

### **Subd. 1 Food Service License.**

(a) A license holder preparing, handling, and serving food, and washing food, utensils, and equipment on-site must comply with the requirements for food and beverage establishments in Minnesota Rule Chapter 4626, in addition to any applicable local health department requirements.

(b) Meals or snacks may be provided by an off-site licensed catering food service operation.

(c) The center shall maintain on file a copy of the catering food service operation's current license and the contract to provide food for the center.

(d) If the caterer only provides the food and it is the responsibility of the center to serve the food, the center shall follow the requirements for food and beverage establishments in Minnesota Rules Chapter 4626, in addition to any applicable local health department requirements.

Subd. 2. **Food.** The license holder must ensure that meals and snacks are provided. The license holder must supplement food provided by the parent/guardian if it does not meet USDA Child and Adult Care Food Program (CACFP) nutritional requirements.

Subd. 3. **Drinking Water.** The center shall have a safe supply of drinking water in accordance with 245K.35.

(a) Drinking water must be offered and available at frequent intervals to the children and in their own cup, separate bottle or single service drinking cups.

(b) Notwithstanding any law to the contrary, a licensed child care center may provide drinking water to a child in a reusable water bottle or reusable cup if the center develops and ensures implementation of a written policy that at a minimum includes the following procedures:

(1) each day the water bottle or cup is used, the child care center shall clean and sanitize the water bottle or cup using procedures that comply with Minnesota Rules Chapter 4626; or allow the child's parent to bring the water bottle or cup home;

(2) a water bottle or cup shall be assigned to a specific child and labeled with the child's first and last name;

(3) water bottles and cups shall be stored in a manner that reduces the risk of a child using the wrong water bottle or cup; and

(4) a water bottle or cup shall be used only for water.

Subd. 4. **Menus.** The license holder must ensure the following:

(a) When meals and snacks are prepared or provided by the license holder or catered by a licensed caterer, menus must comply with the meal pattern and nutritional requirements contained in the most current edition of the *USDA Child and Adult Care Food Program (CACFP)* standards in the United States Department of Agriculture, Food and Nutrition Service, Code of Federal Regulations, title 7, section 226.20.

(b) The current menus must be posted in a visible place readily accessible to parents/guardians.

(c) Meals and snacks must be provided according to the posted current weekly menu, and spaced no more than four hours apart.

(d) The menus must include the USDA requirements specified for all meals and snacks being served by the center; any substitutions must be noted at the time of the change.

(e) If cycle menus are used, cycles must be a minimum of three weeks.

Subd. 5. **Sanitation.** Procedures for preparing, handling, and serving food, and washing food, utensils, and equipment must comply with the requirements for food and beverage establishments in Minnesota Rules Chapter 4626.

(a) If the food is prepared off site by another facility or if food service is provided according to a contract with a food service provider, the facility or license holder must ensure that food is prepared in compliance with Minnesota Rules Chapter 4626.

(b) The license holder must provide refrigeration for dairy products and other perishable foods, whether supplied by the license holder or supplied by the parent. The refrigeration must have a temperature of 41 degrees Fahrenheit or less.

Subd. 6. **Meals and snacks.**

(a) The number of meals and snacks, and or/breakfast provided to children must be as follows:

(1) a snack for a child in attendance for more than two hours, but fewer than five hours;

(2) one meal and two snacks or two meals and one snack for a child in attendance five to ten hours unless four or more of these hours are spent in sleep;

(3) a minimum of two meals and two snacks for a child in attendance more than ten hours unless four or more of these hours are spent in sleep; and

(4) a minimum of breakfast, two meals and two snacks for a child in attendance more than 14 hours or overnight.

Subd. 7. **Prescribed diet requirements.** Prescribed diets must include a diet order with written instructions from the child's parent/guardian and the child's health consultant. The license holder must meet the following requirements:

(a) Provide for a child's dietary needs prescribed by the child's source of medical care or require the parent to provide the prescribed diet items that are not part of the center's menu plan;

(b) keep the diet order and its duration specified in the child's record;

(c) ensure all staff designated to provide care to the child are trained on the diet order; and

(d) obtain from the parent/guardian written instructions by the child's health consultant for administering a medical food supplement to any child or if an entire food group is eliminated.

Subd. 8. **Food allergy information.** Information about food allergies of the children in the center must follow the requirements in 245K.15, Subd. 5.

Subd. 9. **Infant Food and Feeding Schedule.** The diet and feeding schedule of an infant must be determined by the infant's parent/guardian. The license holder of a center serving infants must:

- (a) obtain written dietary instructions from the parent/guardian of the child which is used to develop the infant's feeding schedule and are updated as needed as the child's feeding needs change;
- (b) have each individual infant's feeding schedule available in the food preparation area;
- (c) offer the child formula or milk and nutritionally adequate solid foods in quantities at specified time intervals as determined by the parent;
- (d) ensure infants are held or fed sitting up for bottled feedings. At no time must a bottle be propped for an infant or fed to an infant in a crib, infant seat or playpen;
- (e) ensure that sanitary procedures and practices are used to prepare, handle, and store formula, milk, breast milk, solid foods, and supplements, including procedures to ensure bottles are matched to the correct infant. Procedures must be reviewed and certified by a health consultant;
- (f) ensure bottles are not warmed or heated in a microwave;
- (g) ensures bottle warming devices are inaccessible to children; and
- (h) label all bottles, breast milk or prepared parent-provided food with the infant's first and last name and date of preparation. All formula must be refrigerated immediately after preparation or upon arrival if the formula is prepared by the parent.

Subd. 10. **Additional Programmatic Requirements**

- (a) Ensure that individual servings or individual packages of food or drink that have been served to a child are discarded or sent home with the child if not consumed during meal or snack time. Food or drink that is individually packaged and the package has not been opened may be stored at the center to be served again or sent home.
- (b) When special diets are requested for cultural or religious reasons, the center must obtain written, dated and signed instructions from the child's parent/guardian unless the special diet is part of a center program.
- (c) The center must serve food that is not a choking hazard, and that is developmentally appropriate in size, amount and texture. Food for infants should be cut into pieces one-quarter inch or smaller, food for toddlers should be cut into pieces one-half inch or smaller to prevent choking
- (d) Program staff must be seated with the children during meal and snack times.

## 245K.33 Transportation and Field Trip Requirements

Subdivision 1. **Requirements.** A license holder who provides transportation or contracts to provide transportation for children must comply with the requirements under this subdivision.

Subd.2. **Driver requirements.** The license holder must ensure that:

- (a) the driver is at least 18 years old;
- (b) the driver holds a current and valid driver's license appropriate to the vehicle used to transport children;
- (c) a copy of each driver's current driver's license must be kept on file at the center;
- (d) the driver is free from the influence of any substance which could impair driving abilities;
- (e) the driver follows seat belt and child passenger restraint system requirements under sections Minnesota Statutes 169.685 and 169.686; and
- (f) parents who are not employed by the center, who use their vehicles for transportation to occasional field trips do not have to meet the requirements of subdivision 2(c). For the purposes of this section, "occasional" means three or fewer times per calendar year.
- (g) The requirements outlined in subdivision 2 do not apply to public transportation drivers or companies contracted by the program.

Subd. 3. **Requirements during transportation.**

- (a) Staff-to-child ratios as specified in 245K.10 must be met when transporting children. The driver of the vehicle is considered a program staff for purpose of meeting ratios, unless the driver is employed by a contractor or third party.
- (b) A two-way communication system and first aid kit must be present in the vehicle during transportation.
- (c) Once children have exited, the vehicle must be checked to ensure that no child has been left in the vehicle.
- (d) Children must not be transported more than one hour per one-way trip.
- (e) When children board or exit the vehicle, the license holder must ensure that each child safely boards and exits the vehicle from the curb side of the street whenever physically possible and out of the path of moving vehicles.
- (f) Drop off or pick up must be conducted in a safe manner with supervision by the program staff responsible for the child.

Subd. 4. **Field Trip Requirements.** The license holder must ensure the following:

- (a) For the purposes of this section, a field trip is defined as any time the center takes children off the property, including routine outings such as walking around the neighborhood.

(b) Staff-to-child ratios must be maintained on all field trips.

(c) Written permission must be obtained from each child's parent before taking a child on a field trip. The written permission form must be obtained before each field trip or on a form that annually summarizes all field trips that will be taken. The permission forms must be kept on file at the center.

(d) The parent's written permission form must include the date and destination of the field trip, times of departure from and return to the facility, and method of transportation which may include walking.

(e) Unscheduled neighborhood walks may be taken, provided the program has obtained advance written parental permission for their general plan for neighborhood walks with the parent in advance.

(f) When walking with children under school age, the destination must not be more than 2,000 feet from the center or transportation must be provided by the license holder. In no case, however, shall school-aged children walk further than one-half mile from the center.

(g) When centers take children on a walk or field trip, except when children are only being transported to and from school or to and from home, the following information and items must be brought along:

(1) Identification containing the center's name, address, and telephone number to contact in the event a child becomes lost must be attached to each child on a walk or field trip, except when children are only being transported to and from school or to and from home.

(2) A first aid kit as required under 245K.29 subdivision 13. on each field trip including on neighborhood walks.

(3) A child's allergy information as required under 245K.15, including the Individual Child Care Program Plan (ICPP).

(4) The name and telephone number of the child's parent, and name and telephone number of at least one emergency contact person if a parent cannot be reached in an emergency or when there is an injury requiring medical attention;

(5) Medication and supplies needed for a child who has a health condition which could need medication, special procedures or precautions during the course of the trip.

(6) A working cellular phone or other means of immediate communication.

**Subd. 5. Vehicle Emergency Exit Procedures.**

(a) For vehicles owned by the license holder which are used to transport children, emergency exiting procedures are to be practiced with the children on a yearly basis.

(b) This practice is to occur during months that the vehicle is used for transporting children and is to take place on the center's premises or another safe location that is protected from traffic and other hazards to ensure the safety of the children involved.



(c) A written record is to be kept of the dates when the emergency exiting procedure was practiced and the staff that were involved.

## **245K.34 Facility**

### **Subdivision 1. Occupancy designation.**

(a) Applicants must comply with the standards specified by the Minnesota State Building Code and any applicable local building ordinances if the application is an initial one.

(b) The commissioner must not grant an initial license until written verification of compliance with the State Building Code and any applicable local building ordinances have been received by the commissioner from the building official with jurisdiction.

(c) On an ongoing basis, the license holder must comply with the Minnesota State Building code and applicable local building ordinances

(d) The commissioner must not approve any change to a license until written verification of compliance with the State Building Code and any applicable local building ordinances has been received by the commissioner from the building official with jurisdiction in the following circumstances:

(1) Prior to the child care facility being remodeled , substantially improved , renovated , or reconstructed, the license holder must verify whether approval from the applicable state or local building officials is needed. If needed, the license holder must obtain written verification of compliance with the State Building Code and any applicable local building ordinances.

### **Subd. 2. Fire inspection.**

(a) The center must be inspected by a fire marshal within 12 months before initial licensure. The commissioner must not grant an initial license until the commissioner has received written approval of compliance with the Minnesota Fire Code from the fire marshal with jurisdiction.

(b) The center must have a fire inspection at least once every three years from the date of the last fire inspection report. The fire inspection must include written approval of compliance with the Minnesota Fire Code from the fire marshal with jurisdiction.

(c) Prior to the use of any areas of the structure not previously inspected and approved for child care use, the center must verify whether approval from the state fire marshal is needed. The fire inspection must include written approval of compliance with the Minnesota Fire Code from the fire marshal with jurisdiction.

**Subd. 3. Reinspection for cause.** If the commissioner has reasonable cause to believe that a potential hazard exists or the license holder is operating out of compliance with applicable codes, the commissioner may request another inspection and written report by a fire marshal, building official, or health authority.

**Subd. 4. Facility floor plan and designated areas.** Indoor and outdoor space to be used for child care must be designated on a facility floor plan.

(a) This space must be exclusively used for child care by the center during the hours of operation.

(b) The initial application for licensure and the center's administrative record must contain a floor plan of the center. Precise scale drawings are not required. The plan must indicate:

(1) the dimensions and location of all areas of the center designated for the provision of child care including planned use of each area; and

(2) the size and location of areas used for outdoor activity.

Subd. 5. **Child's personal storage space.** A center must have storage space for each child's clothing and personal belongings. The space must be at a height appropriate to the age of the child.

Subd. 6. **Space for children who become sick.** Space must be provided in the center for a child who becomes sick at a center not licensed to operate a sick care program under 245K.19.

(a) The space must be separate from activity areas used by other children.

(b) A cot or crib and blanket must be provided as appropriate to the developmental level of the child.

(c) The space must be within sight and hearing of a staff person and supervised by a program staff when occupied by a sick child.

Subd. 7. **Outdoor Learning Environment and Play Space.** An outdoor activity area that complies with the following items must be provided or available in all child care centers except those licensed to exclusively provide sick care as specified under 245K.19, and those providing drop-in care as specified under 245K.17, and those centers operating for less than three hours a day.

(a) A center must have an outdoor activity area of at least 1,500 square feet, and there must be at least 75 square feet of space per child within the outdoor play area at any given time during use.

(b) The outdoor activity area must be enclosed if it is located adjacent to a hazard including but not limited to traffic, rail, water, machinery, unless the area is a public park or playground.

(c) An outdoor activity area used daily by children under school age must be within 2,000 feet of the center or transportation must be provided by the license holder. In no case, however, shall the outdoor activity area be farther than one-half mile from the center.

(d) The area must contain the outdoor large muscle equipment required under 245K.14.

(e) Outdoor play space must have shaded areas provided by trees, buildings or a shade structure. License holders may also install lawn umbrellas that are securely anchored or other structures that provide shade in a safe manner.

(f) The play area must be free of potential hazards including but not limited to; debris, broken glass, toxic materials, machinery, unlocked vehicles, feces, and sewage contaminants.

- (g) The outdoor program space and equipment must be visually inspected prior to each use to ensure outdoor areas and equipment are free of hazards.
- (h) Outdoor equipment, whether stationary or portable, must be safe and designed to meet the developmental needs of all of the age groups of children using the space.
- (i) Outdoor equipment must be assembled, installed and utilized according to manufacturer's guidelines.
- (j) Outdoor play equipment designated for climbing, swinging, balancing and sliding must have a fall zone of protective resilient material on the ground under and around the equipment. The fall zone must meet the guidelines under the Consumer Product Safety Commission.
- (k) The material may be one of the following, but not limited to, washed pea gravel, mulch, sand, wood chips, engineered wood fiber, or rubber mulch manufactured for this purpose.
- (l) Equipment must not be placed directly over concrete, asphalt, blacktop, dirt, rocks, grass or any other hard surface.
- (m) Synthetic surfaces must follow manufacturer's guidelines for depth. The depth of the material must meet the guidelines under the Consumer Product Safety Commission.

Subd. 8. **Indoor space.** The overall licensed capacity of the center and each space used by the children must be limited by the amount of indoor square feet.

- (a) A minimum of 35 square feet of indoor space must be available for each child in attendance.
- (b) Hallways, stairways, closets, utility rooms, restrooms, kitchens, and space occupied by cribs may not be counted as indoor space.
- (c) Twenty-five percent of the space occupied by furniture or equipment used by staff or children may be counted as indoor space.

Subd. 9. **Shielding of hot surfaces.** The following requirements must be met:

- (a) Heating appliances must be installed and maintained in accordance with the manufacturer's instruction and the State Building Code.
- (b) Whenever in use, fireplaces, wood-burning stoves, solid fuel appliances, space heaters, steam radiators, and other potentially hot surfaces, such as steam pipes, must be protected by guards or protective covering to keep hands away to prevent burns and objects away to prevent fires.

Subd. 10. **Electrical outlets.** Except in a center that serves only school-age children, electrical outlets must be tamper proof or shielded when not in use.

Subd. 11. **Water hazards.** Bodies of water within or adjacent to the center must be inaccessible to children. When using a pool or beach, children must be supervised at all times.

Subd. 12. **Room temperature.** An indoor temperature of 68°F to 82°F must be maintained in all rooms used by children.

Subd. 13. **Hazardous areas.** Kitchens, stairs, and other hazardous areas must be inaccessible to children except during periods of supervised use.

Subd. 14. **Fire extinguisher inspection.** Fire extinguishers must be serviced annually by a qualified inspector. The name of the inspector and date of the inspection must be written on a tag attached to the extinguisher.

Subd. 15. **Toilets and hand sinks.** Toilets and hand sinks must be provided as follows:

(a) The center must have at least one hand sink for each 15 children or portion of 15 children specified in the licensed capacity.

(b) The center must have at least one toilet for each 15 children or portion of 15 children, excluding infants, specified in the licensed capacity. Toilet training chairs may be used for toddlers in lieu of a toilet.

(c) Handwashing sinks in centers should be provided within arm's reach of the caregiver/teacher to diaper changing tables and toilets.

(d) Any hand sink required for children, other than infants, must be in the toilet area.

(e) In newly constructed centers or those undergoing major remodeling to the plumbing system, foot or wrist operated sinks must be provided in the diaper changing area.

(f) Hand sinks for children must not be used for custodial work or food preparation, including preparing infant bottles.

(g) Single service towels or air dryers must be available to dry hands and designed for easy use by the children.

(h) Toilets, sinks, faucets, and hand drying devices in the toilet area used by children under school age other than infants must be placed at a height appropriate to the ages of the children.

(i) A sturdy nonslip platform on which children may stand may be used to meet the requirement in item (g) for toddlers and preschoolers.

Subd. 16. **Weapons and Firearms.** The program must have a policy that requires all parents, guardians, and visitors to the program to comply with the following;

(a) Weapons, firearms and ammunition materials must not be on the premises with the exception of (c).

(b) Weapons and firearms include but are not limited to: pellet or BB guns (loaded or unloaded), darts, bows and arrows, cap pistols, stun guns, paint ball guns or any devices that shoot projectiles.

(c) Weapons may be carried by a law enforcement official who can document that his or her jurisdiction requires ready and immediate access to the weapon.

Subd. 17. **Ventilation and Use of Scented Products.**

(a) The source of harmful and unpleasant odors must be removed to the extent possible by removing the source of the odor or by removing odors through cleaning and ventilation.

(b) The use of the following is prohibited:

(1) aerosol sprays;

(2) incense;

(3) moth crystals or moth balls;

(4) toilet/urinal deodorizer blocks;

(5) chemical air fresheners; and

(6) scent-enhanced products (e.g., candles, essential oils, and spray and plug-in air fresheners, etc.)

**Subd. 18. Telephone requirement in licensed child care centers.**

(a) A working telephone which is capable of making outgoing calls and receiving incoming calls must be located within the licensed child care center at all times.

(b) Program staff must have access to a working telephone while providing care and supervision to children in care, even if the care occurs outside of the child care facility.

(c) A license holder may use a center cellular telephone to meet the requirements of this subdivision. Program staff personal cell phones may not be used to meet this requirement.

(d) If a cellular telephone is used to satisfy the requirements of this subdivision, the cellular telephone must be accessible to staff as needed, be stored in a centrally located area when not in use, and be sufficiently charged for use at all times.

**Subd. 19. Use and storage of art and science materials.**

(a) If prepackaged art and science materials are used, the material packaging must be labeled "non-toxic" by the manufacturer, meet ASTM standard D-4236, and be fragrance-free.

(b) The license holder must not use or store carcinogenic materials, including but not limited to toxic organic solvents; aerosol products; and materials with heavy metals such as lead, mercury, or cadmium.

## **245K.35 Environmental Health**

**Subd. 1. Facility**

(a) All license holders and applicants must report to the commissioner when their facility was first built. For applicants, this information must be included with their initial licensure application. For license holders, this information must be submitted upon request of the commissioner.

(b) In order to protect children from lead exposure, license holders must cover any bare soil that is within the outdoor play area with grass, bushes, wood chips, mulch, or sand. License holders are exempt from this requirement if they have documentation showing the concentration of lead in their soil is at a safe level for children, in accordance with Minnesota Department of Health guidance. All soil testing for lead contamination must be conducted by an Environmental Protection Agency-recognized National Lead Laboratory Accreditation Laboratory (NLLAP).

Subd. 2. **Water Supply.** There must be a safe water supply in the child care center.

(a) A license holder must test the water supply to the center according to the requirements found in this subdivision. If the license holder declines to test the center’s water supply they must follow the requirements found in paragraph (e).

(b) Child care centers which obtain water from a municipal public water system must:

- (1) retain a copy of the consumer confidence report from their water supplier.
- (2) test for lead in drinking water and manganese if not tested by their public water system.

(c) Child care centers which obtain water from privately owned wells or sources must test any water used for cooking or drinking by a MN Department of Health certified laboratory to verify safety and that it meets water standards found in paragraph (d).

(d) The water supply tested in paragraphs (b) and (c) must meet the following standards:

Contaminant Name	Guidance Value	Source of Health-Based Guidance Value	Frequency of Testing
Arsenic	10 ppb	U.S. Environmental Protection Agency	Prior to initial licensure and every 5 years thereafter.
Coliform Bacteria	Absent	U.S. Environmental Protection Agency	Prior to initial licensure and each calendar year
Lead	5 ppb	Food and Drug Administration Bottled Water Standard	Prior to initial licensure and every 5 years thereafter.
Manganese	100 ug/L or ppb	MDH Human Health Based Water Guidance Table	Prior to initial licensure and every 5 years thereafter.
Nitrate	10 mg/L or ppm	U.S. Environmental Protection Agency	Prior to initial licensure and each calendar year

(e) If the water test results are at or above the levels found in paragraph (d) or if the license holder declined to test the water supply in the child care center, the license holder must:

(1) Supply bottled or packaged water; or

(2) use water filtration devices that have been certified by the National Science Foundation or American National Standards Institute to remove the contaminant. The water filtration device must be attached directly to water faucets, inserted into the refrigerator water dispenser, or inserted into water pitchers/bottles; or

(3) use a water cooler dispenser; or

(4) close the program to prevent children from using or consuming water; or

(5) retest after attempting to reduce contamination to verify that results are below the levels found in paragraph (d).

(f) All license holders who test their water supply must file a record of the test results with the Minnesota Department of Health.

(g) Retesting and corrective measures may be recommended by the Minnesota Department of Health if results exceed state drinking water standards in (d) or where the supply may be subject to off-site contamination.

(h) License holders must follow MN Statutes 145.9273 Testing for Lead in Drinking Water.

(i) A copy of the most recent water testing results must be kept on the licensed premises.

(j) The license holder must notify all parents of enrolled children that the water test results are at or above health guidance values found in paragraph (d), and steps taken to protect the enrolled children

#### Subd. 4. **Radon Testing.**

(a) **Radon testing.** “radon testing” means the measurement of radon gas levels within the building, and includes both short-term and long-term radon testing.

(b) **Heating Season.** “Heating season” means November 1 through March 31

(c) **Non-Heating season.** “Non-heating season” means April 1 through October 31.

(d) **Short-term testing.** “Short-term testing” means radon tests that are conducted for a minimum of 48 hours.

(e) **Long-term testing.** “Long-term testing” means radon tests that are conducted for a minimum of 90 days.

(f) Child care centers must ensure radon testing is performed prior to initial licensure and once every five calendar years or once every two calendar years if a radon mitigation system is installed.

(1) If a child care center applicant seeks a license outside of the heating season, the applicant must complete a short-term radon test within the same calendar year as initial licensure.

(g) Testing must be performed by the owner or renter, or a radon measurement professional licensed by the Minnesota Department of Health. Owners and renters are defined as the natural person listed in the property title, deed, lease, or equivalent legal document. Testing must:

(1) Be conducted by owners or renters according to manufacturer instructions in rooms that are used for child care on days the program is operating or the heating, ventilation, and air conditioning is operating;  
or

(2) Be conducted by a radon measurement professional and completed according to MN Statute 144.4961 Minnesota Radon Licensing Act.

(h) Test devices must be approved according to the requirements of Minnesota Radon Licensing Act found in section 144.4961. Radon levels must first be checked through short-term testing. Requirements for testing must be followed below.

(1) All short-term testing must be conducted during the heating season. If short-term testing indicates a radon level at or above 4.0 pCi/l, the license holder must:

(i) ensure radon mitigation is completed by a licensed professional, within four months of receiving results; OR

(ii) hire a licensed professional to conduct another short-term test, within one month of receiving results; OR

(iii) initiate long term radon testing within one month of receiving results.

(2) All long-term testing must be conducted in consecutive months where at least half of the test is completed during the heating season and other half during the non-heating season. If long-term testing indicates a radon level at or over 4.0 pCi/l, a license holder must ensure radon mitigation is completed within four months of receiving the results.

(i) Radon mitigation must be completed by a radon mitigation professional licensed by the Minnesota Department of Health according to MN Statute 144.4961 Minnesota Radon Licensing Act. After mitigation, the building must be retested within 30 days, to verify radon reduction.

(j) The results of each radon test must be on file at the center and available for review. The license holder must provide the results of the radon test to parents if the radon level is at or above 4.0 pCi/l.

## **245K.36 Crib Safety**

Subdivision 1. **Documentation requirements** for license holders. All license holders must follow the crib safety requirements in 245A.146 Crib Safety Requirements.



## **245K.37 Infant Safe Sleep Requirements**

Subdivision 1. **Infant Safe Sleep.** All license holders must follow the requirements in 245A.1435 Reduction of Risk of Sudden Unexpected Infant Death in Licensed Programs.