

# **TITLE 391 CHAPTER 3**

## **Regulations Governing Licensure of Child Care Centers**

**Effective: May 20, 2013**

Department of Health & Human Services

**DHHS**

N E B R A S K A

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TITLE 391 CHILDREN'S SERVICES LICENSING

CHAPTER 3 CHILD CARE CENTERS

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TITLE 391 CHILDREN'S SERVICES LICENSING

CHAPTER 3 CHILD CARE CENTERS

3-001 SCOPE AND AUTHORITY: These regulations will become operative three months after their effective date. These regulations govern the licensing of Child Care Centers by the Department of Health and Human Services. Statutory authority for these regulations is in:

1. The Child Care Licensing Act (Neb. Rev. Stat. §§ 71-1908 to 71-1923);
2. The Child Protection Act (Neb. Rev. Stat. §§ 28-710 to 28-727);
3. The Clean Indoor Air Act (Neb. Rev. Stat. §§ 71-5716 to 71-5734);
4. The Quality Child Care Act (Neb. Rev. Stat. §§ 43-2601 to 43-2625);
5. The Sex Offender Registration Act (Neb. Rev. Stat. §§ 29-4001 to 29-4014); and
6. Neb. Rev. Stat. §§ 4-108 to 4-114.

The Child Care Licensing Act requires the Department to develop regulations establishing standards for the physical well-being, safety, and protection of children in programs licensed under the Act. The purposes of the Act are to provide statewide licensure standards for persons providing child care programs and to provide the Department with authority to coordinate the enforcement of standards on licensees. The standards ensure that a program is providing proper care for and treatment of the children served, and that the care and treatment are consistent with the children's physical well-being, safety, and protection.

The Child Protection Act authorizes the Department to use information in the state child abuse/neglect central register for purposes of licensing providers of child care programs, and the Clean Indoor Air Act addresses smoking in licensed child care programs.

The Quality Child Care Act requires the Department to develop regulations for mandatory training requirements for child care providers designed to meet the health, safety, and developmental needs of children and tailored to the needs of licensed providers. The Act states that the Legislature's intent is to encourage high-quality, affordable, and accessible child care services that are educationally and developmentally appropriate.

The Sex Offender Registration Act authorizes the disclosure of information to providers who serve children for the purpose of conducting confidential background checks for employment.

3-002 DEFINITIONS

Accredited school means a public school district or a nonpublic school or group of nonpublic schools under a governing body organized to provide education in elementary, middle, secondary, and/or high school grades accredited pursuant to 92 NAC 10.

Adequate and appropriate supervision includes:

1. Knowing the whereabouts and being within sight or sound of all children at all times;
2. Being awake, alert, attentive, and responsive to the needs of all children, and
3. Protecting or removing children from harm.

Agency representative means an individual employed by or under contract with the Nebraska Department of Health and Human Services, the State Fire Marshal, or their designated agents.

Ages of Children:

1. Infant means a child age 6 weeks to 18 months;
2. Toddler means a child age 18 months to 3 years;
3. Preschooler means a child age 3 or older who has not attended kindergarten; and
4. School-ager means a child who attends kindergarten or above.

Approved school means a nonpublic school or group of nonpublic schools under a governing body organized to provide education in elementary and/or secondary grades approved pursuant to Title 92 NAC 14.

Certificated teacher means a teacher who holds a valid Teaching Certificate issued by the Nebraska Department of Education.

Child care means the care and supervision of children in lieu of parental care and supervision and includes programs. (See definition of program.)

Child care center means a child care program licensed to provide child care for 13 or more children.

Department means the Nebraska Department of Health and Human Services.

Designee means an individual given responsibility to act on another's behalf.

Director means the individual who is responsible for the daily operation of the child care center, including compliance with all regulations, when that individual is not the licensee, as provided in 391 NAC 3-006.01(4) and 391 NAC 3-006.02.

Parent training/education means parents participate in activities supervised by staff to improve knowledge of child development and developmentally appropriate interactions with children.

Physical hold means applying minimal physical force by placing the arms around a child to restrict the child's movement.

Premises means the home or facility, including areas of the home or facility not used for child care/preschool, all attached and all outbuildings, and all areas included within the lot boundaries.

Preschool means a part-day early childhood program for children age three or older which provides primarily education services where children do not nap and are not served a meal.

Program means the provision of services in lieu of parental supervision:

1. For children under 13 years of age;
2. For compensation, either directly or indirectly; and
3. On the average of less than 12 hours per day, but more than two hours per week.

Program includes any employer-sponsored child care, family child care home, child care center, school-age child care program, school-age services under Neb. Rev. Stat. § 79-1104, or preschool or nursery school.

Proper hand washing means washing and scrubbing the hands for at least 20 seconds with soap and warm running water, rinsing well under running water, and drying with a paper towel, air dryer, or clean towel.

Restraint means the use of manual restraints (direct application of physical force) or mechanical restraints (straps, belts, towels, blankets, tape) or other means to subdue a child or otherwise limit a child's freedom of movement. Restraint does not refer to physical holds or braces or other devices used to assist, obtain, and maintain normal body function.

Room means an area with four walls flush from the floor to the ceiling and at least one passageway or doorway. A partition is considered a wall if the partition is at least four feet high and is flush to the floor and to the other walls.

Special needs means a child has a requirement for extra care because of an acute or chronic physical or mental condition. Acute special needs include temporary conditions that require special medical attention and isolation from other children, e.g., recovery from surgery, etc. Chronic special needs include long-standing medical or behavioral problems that require medical, behavioral, or other services at all times, e.g., medically fragile, attention deficit, etc. To be considered a child with a special need, the child must have one or more of the following conditions which are not related to chronological age:

1. Emotional impairment: including behavioral impairment, requiring special equipment or assistance;

3-003 LICENSING REQUIREMENTS AND PROCEDURES: Any person intending to establish, operate, or maintain a child care center, unless exempt and not seeking voluntary licensure as provided in 391 NAC 3-001 and 391 NAC 3-002, must first obtain a license from the Department. An applicant must show that the child care program meets all licensing requirements contained in these regulations, 391 NAC 3.

3-003.01 Provisional License: Provisional licenses are issued to all newly licensed child care center programs. Provisional licenses are effective for one year.

3-003.01A Application Requirements: An applicant for a provisional child care center license must submit:

1. A complete, accurate, written and signed application and disclosure of ownership on a form provided by the Department, which contains all information required and authorized by the Child Care Licensing Act;
2. For the purpose of complying with Neb. Rev. Stat. §§ 4-108 to 4-114, if an individual or an individual in a partnership, an attestation that s/he is a U.S. citizen or a qualified alien lawfully present in the U.S. The applicant must provide his/her immigration status and alien number, and agree to provide a copy of his/her USCIS documentation upon request;
3. Consent for central registry checks and authorization for release of information for the applicant, all staff and volunteers age 13 or older, and all household members age 13 or older if the center is to be located in a private residence;
4. Documentation of criminal history record checks for the applicant if an individual or an individual in a partnership, all staff and volunteers age 19 or older, all household members age 19 or older if the center is to be located in a private residence, and for the individual who will be the director of the center if the applicant is a limited liability company, a corporation, or a governmental unit (see 3-006.03A);
5. A Report of Law Enforcement Contact for the applicant, or for the individual who will be the director of the center if the applicant is a limited liability company, a corporation, or a governmental unit, all staff and volunteers age 19 or older, and household members age 19 or older if the center is to be located in a private residence (see 3-006.03C);
6. A Health Information Report for the director on a form provided by the Department (see 3-006.03F);
7. Documentation of director qualifications (see 3-006.04);
8. A sketch, diagram, or blueprint of the facility showing the dimensions, arrangement of rooms to be used by the children, and outdoor play area;
9. Copies of zoning approval from the relevant jurisdiction;



3-003.02A Application Requirements: An applicant for an operating child care center license must submit:

1. A complete, accurate, written and signed application and disclosure of ownership on a form provided by the Department, which contains all information required and authorized by the Child Care Licensing Act;
2. For the purpose of complying with Neb. Rev. Stat. §§ 4-108 to 4-114, if an individual or an individual in a partnership, an attestation that s/he is a U.S. citizen or a qualified alien lawfully present in the U.S. The applicant must provide his/her immigration status and alien number, and agree to provide a copy of his/her USCIS documentation upon request;
3. A Report of Law Enforcement Contact for the applicant, all staff and volunteers age 19 or older, and all household members age 19 or older if the center is located in a private residence (see 3-006.03B);
4. Verification of director qualifications; (see 3-006.14A); and
5. The required licensure fee (see 3-004.08).

3-003.02B Denial of an Operating License: See 3-008 for grounds on which the Department may deny an operating license.

3-003.03 Change of Ownership: Child care licenses are not transferable or assignable. A change of ownership terminates the license. The new owner must apply for a license.

3-003.03A Change of ownership includes the sale or transfer of the ownership or control of a child care center to a person other than the current licensee.

Change of ownership does not include a change of name or location of the child care center.

3-003.03B Requirements of New Owner: If there is a change of ownership and the child care center remains on the same premises, the new owner must apply for a provisional license as required in 3-003.01A, except that:

1. Criminal history record checks, Reports of Law Enforcement Contact, and Health Information Reports are required only for new employees who have not already submitted or completed these documents; and
2. A sketch, diagram, or blueprint of the facility, a written description of services, and a sample daily schedule are required only when the new owner changes the use of the facility and/or changes the description of services or the daily schedule.

3-003.03C Mergers: If there is a change of ownership based on the merger of a parent and subsidiary company, affiliated businesses, or governmental units, and the child care center remains on the same premises, the new owner must submit:

3-003.05A1 Determining Need for a Licensing Agreement: The Department may request a written licensing agreement if:

1. The licensee is unable to comply with all licensure requirements and standards or has a history of noncompliance; and
2. The effect of noncompliance with any rule or regulations does not present an unreasonable risk to the health, safety, or well-being of children or staff.

3-003.05A2 The Licensing Agreement must:

1. Identify the length of time the Department has determined the agreement will be in effect;
2. Identify regulation violation(s);
3. Identify conditions agreed to by the licensee or director to correct any identified issue and to maintain compliance with licensing regulations;
4. Be signed by the licensee or designee, with permission of the licensee; and
5. Be witnessed by a notary public, Department staff, or non-relative of the licensee.

3-003.05B Corrective Action Status: The Department may place a provisional or operating license on corrective action status for up to six months if:

1. The licensee is unable to comply with all licensure requirements and standards or has a history of noncompliance;
2. The effect of noncompliance with any rule or regulation does not present an unreasonable risk to the health, safety, or well-being of children or staff; and
3. The licensee has a written plan of correction that has been approved by the Department.

3-003.05B1 The written plan of correction must:

1. Identify the issue(s) of concern;
2. Identify who is responsible for corrections and maintenance of compliance;
3. Include timelines; and
4. Specify the documentation to be provided to the Department.

3-003.05B2 The Department may discipline the license if the written plan of correction is not approved.

3-003.06 Voluntary Surrender of a License: A licensee may voluntarily surrender a license issued under the Child Care Licensing Act at any time, except that the Department

- (2) A fire inspection approval issued by the State Fire Marshal or delegated authority;
  - (3) A sanitation inspection approval issued by the Department or delegated local authority;
  - (4) Copies of zoning approval from the relevant jurisdiction;
  - (5) Planned occupancy date; and
- b. Remaining items must be submitted only if there are changes since the previous application;
2. The Department will conduct an inspection(s) of the proposed location to determine compliance with these regulations before use or occupancy by the applicant; and
  3. The new premises cannot be used for a child care program until a license has been issued by the Department. The license for the initial premises will become null and void when a license for the new premises is issued.

3-004.05 Alternative Compliance: The Department may grant alternative compliance with a regulation under the following conditions:

3-004.05A Written Request: A request for alternative compliance must be submitted to the Department in writing and must include:

1. The regulation for which alternative compliance is being requested;
2. The reason for the alternative compliance request;
3. A description of how the alternative will meet the intent of the regulation; and
4. How the alternative will offer equal protection for all children.

3-004.05B Review and Approval: The Department may request additional information from the applicant or licensee in order to reach a decision to approve or deny the alternative compliance request. To be considered for approval, the proposed alternative must:

1. Be consistent with the overall intent and purposes of the regulation; and
2. Protect the health, rights, safety, and well-being of all children in care.

3-004.05C Terms of Alternative Compliance: An alternative compliance may be granted:

1. For a period of time that ends when the conditions of the approval no longer exist; and
2. To permit the applicant or licensee time to come into compliance.

3-004.05D Requirements Not Qualifying for Alternative Compliance: Alternative compliance will not be granted for the requirements on:

1. Capacity/Ratio;

7. Type of license;
8. Relevant license information (for example, licensed capacity, hours and days of operation, ages of children served, license effective dates);
9. Copies of inspection reports;
10. Fire safety inspection reports and correspondence;
11. Sanitation inspection reports and correspondence;
12. Licensing agreements;
13. Provisional license extension notices;
14. Corrective action status notices;
15. Discipline notices;
16. Corrective action plans;
17. Written transcripts of administrative hearings;
18. Emergency orders; and
19. All final orders.

3-004.07A The Department will not release the following information to the public:

1. Names, addresses, and telephone numbers of complainants;
2. Names, addresses, and telephone numbers of enrolled children and their parents/guardians;
3. Social Security or Federal Tax Identification numbers;
4. Health Information Reports and any physical or behavioral health information on the licensee and staff;
5. Reports of Law Enforcement Contact by the licensee, staff, and household members;
6. Law enforcement reports;
7. Child welfare reports or records, including the state child abuse/neglect central register under Neb. Rev. Stat. § 28-718;
8. Adult protective services (APS) reports or records, including the APS central registry under Neb. Rev. Stat. § 28-376;
9. Nebraska State Patrol Sex Offender Registry information not available to the public under the Sex Offender Registration Act; or
10. Internal Department correspondence, notes, and investigation reports.

3-004.08 Fees

1. Initial and annual licensure fees for child care centers are:
  - a. Programs with licensed capacity of 1-29 \$25
  - b. Programs with licensed capacity of 30 and up \$50
2. Initial and annual licensure fees are nonrefundable, except:
  - a. If the Department denies an application for a license or an applicant withdraws their application, and the Department has not completed an inspection before the denial or withdrawal, the Department will return the license fee to the applicant.
3. Fees will be accepted in the form of a check or money order. Cash will not be accepted.

1. The Department will provide a copy of the compliance report to the child care program within ten working days after completion of an inspection.
2. When the Department finds that the applicant or licensee has complied substantially, but has failed to comply fully with all regulations, the applicant or licensee may request an alternative compliance (see 3-004.05).
3. When the Department finds that the applicant or licensee has complied substantially, but has failed to comply fully with all regulations and the failure(s) would not pose an imminent danger of death or serious harm, the Department may:
  - a. Allow the applicant or licensee a period of time to correct all the violations; or
  - b. Initiate negative action or discipline if the applicant or licensee fails to correct all violations within the time frame given by the Department or has a history of violating the same or similar regulations at previous inspections.
4. When the Department finds that the applicant or licensee has failed to meet the regulations, the Department may initiate negative action or discipline or require the applicant or licensee to make all corrections at the time of inspection. If compliance cannot be achieved immediately, the Department may allow a reasonable period of time after the inspection was conducted to make corrections.

3-005.07 Complaint Investigations: The Department will investigate any licensed child care center after receiving an allegation of violation of licensing regulations.

1. The Department will accept complaints from anyone who witnessed a violation or a parent/guardian of a child who witnessed a violation;
2. The Department will accept complaints via telephone, letter, fax, electronically, or in person;
3. The identity of a complainant is not public information.
4. Only if found to be credible by the Department can such an allegation or complaint result in any negative action or discipline.

3-005.08 Complaints of Allegedly Improper Unlicensed Care: The Department will investigate any complaint of a person allegedly providing child care without an appropriate license. The Department will accept complaints from anyone via telephone, letter, fax, or electronically. The identity of a complainant is not public information.

The Department may request enforcement by the Attorney General or the appropriate County Attorney if a person continues to provide a child care program without a license.

3-005.09 Inspections by Other Entities

3-005.09A Fire Inspection: The Department will make a fire inspection referral when:

1. Be responsible for the center's compliance with rules and regulations;
2. Be within the child care area a sufficient number of hours to permit adequate attention to the management of the center;
3. When not in the child care area, designate another staff to act in his/her absence who will be responsible and accountable for management of the center;
4. Provide written personnel policies and policies and procedures specific to:
  - a. Job descriptions and responsibilities; and
  - b. Position qualifications, skills, knowledge, abilities and physical demands of the job;
5. Assess his/her own ability and the ability of all staff to provide care for children with special needs while meeting the needs of other children enrolled;
6. Provide orientation for new staff, including training on child care center regulations;
7. Schedule training and continuing education for all staff and ensure that records are maintained including the date, topic, and length of time for each training entry;
8. Ensure that center staff identify and review incidents, accidents, complaints, and concerns, and monitor patterns and trends in overall operation and take action to alleviate problems;
9. Develop and implement written procedures that require the reporting of any evidence of physical abuse, neglect, or sexual abuse of any child in care at the child care center;
10. Immediately file a report with the Child Abuse-Neglect Hotline (1-800-652-1999) and/or appropriate local law enforcement agency when s/he has reason to believe child abuse, neglect, or sexual abuse may be occurring in the child care center, in the child's home, or elsewhere, or ensure that a report is filed;
11. Not knowingly allow any individual who is a registered sex offender on the premises, except that a parent who is a registered sex offender may be allowed on the premises only to pick up and drop off his/her child;
12. Ensure that the maximum capacity of the child care center is not exceeded at any time;
13. Ensure that staff-to-child ratios are met at all times;
14. Ensure that parents have access to their children at all times that children are in care; and
15. Develop and use written criteria to assess the ability of staff to give or apply medication safely.

### 3-006.03 Background Checks, Health Information, and Employment Limitations

3-006.03A Criminal History Record Checks: The applicant/licensee, if an individual or an individual in a partnership, must complete a pre-employment criminal history record check on him/herself, on each staff member and volunteer age 19 or older, and on each household member age 19 or older if the center is located in a private

3. Felony possession of controlled substance offenses;
4. Felony theft; or
5. Robbery.

The 20-year disqualification begins the date the conviction became final. Any time the individual is incarcerated, either in jail or a state or federal correctional facility, is not included in the calculation of the 20-year period of disqualification. If the individual has more than one conviction, the 20-year disqualification begins the date the most recent conviction became final.

3-006.03A3 Five-Year Disqualification: An individual is disqualified from holding a child care license or working as a staff member or a volunteer in a child care center if s/he has a criminal history that includes conviction in the last five years of:

1. Burglary;
2. Driving under the influence: two or more convictions;
3. Felony bad check writing;
4. Misdemeanor controlled substances offenses;
5. Misdemeanor contributing to the delinquency of a child; or
6. Misdemeanor theft.

The five-year disqualification begins the date the conviction became final. Any time the individual is incarcerated, either in jail or a state or federal correctional facility, is not included in the calculation of the five-year period of disqualification. If the individual has more than one conviction, the five-year disqualification begins the date the most recent conviction became final.

3-006.03A4 An applicant, licensee, staff member, volunteer, or household member, must not have had his/her rights as a parent terminated by a Court because of a finding of abuse or neglect of a child or inability to care for a child.

3-006.03A5 Department Determination: An individual may hold a child care license or work as a staff member or a volunteer in a child care center with a pending complaint or indictment or conviction of other crimes if the Department determines the individual has the present character and fitness to work with children. In making this determination the Department may consider the following factors:

1. The age of the individual at the time of the conduct;
2. The recency of the conduct;
3. The seriousness of the conduct;
4. The factors underlying the conduct;
5. The cumulative effect of the conduct;
6. The evidence of rehabilitation;

2. Be updated any time one of these individuals is arrested, issued a citation other than a minor traffic violation, or charged with or convicted of any felony, misdemeanor, or infraction;
3. List all previous and pending criminal charges and arrests, both felony and misdemeanor, regardless of prosecution;
4. List any record of felony and/or misdemeanor charges and arrests related to crimes against children;
5. List any record of felony and/or misdemeanor convictions;
6. List any current or past parole or probation status, including diversion or court supervision; and
7. List details, dates, county and state of the contact, arrest, charge, conviction, and disposition, if any.

3-006.03D Notification of Law Enforcement Contact: As soon as the licensee/director becomes aware of the occurrence, s/he must notify the Department of any arrest, misdemeanor ticket other than a traffic violation, pending criminal charges, and any felony or misdemeanor convictions of him/herself, staff, volunteers, or household members if the center is located in a private residence. The licensee/director must request a criminal history record check on the individual within five working days. Failure to notify the Department of law enforcement contacts as described may result in disciplinary action.

3-006.03E Investigations and Repeat Registry Checks

1. Any time the licensee/director has reason to believe that a staff member or volunteer is being or has been investigated for abuse, neglect, or sexual abuse of a child or vulnerable adult, the licensee/director must submit the name of that individual to the Department for a check with the child abuse/neglect or adult protective services registry.
2. Any individual who is under investigation for abuse, neglect, or sexual abuse of a child or vulnerable adult must not be left alone with children until the investigation is completed and the findings are determined.

3-006.03F Health Information Report: The applicant, if an individual or an individual in a partnership, must submit a completed Health Information Report on a form provided by the Department for him/herself as part of the initial application. All staff who are responsible for the care and supervision of children for more than 20 hours per week must complete the report within 30 days of hiring. The Health Information Report must be completed annually.

The Health Information Report must include an assessment by a health professional of the individual and any health conditions that could negatively affect his/her ability to care for children. If the information indicates that the individual has, or has had, a health condition that could negatively affect his/her ability to care for children, the Department may request additional information.



3-006.08A Safety Training: The director must complete training developed by the Early Childhood Training Center on Sudden Infant Death Syndrome (SIDS), safe sleep, shaken baby syndrome, and child abuse/neglect and reporting. Any proposed equivalent training must be approved by the Department.

1. In centers licensed on or after the operative date of these regulations, the director must complete the training within three years of the date of provisional licensure and every five years thereafter.
2. In centers licensed before the operative date of these regulations, the director must complete the training within three years of that operative date and every five years thereafter.
3. This training counts toward the annual training requirement.

3-006.08B Child Care Management Training: The director must complete child care management training for child care center directors developed by the Early Childhood Training Center (ECTC). Any proposed equivalent training must be approved by the Department.

1. In centers licensed on or after the operative date of these regulations, the director must complete the training within five years of the date of provisional licensure.
2. In centers licensed before the operative date of these regulations, the director must complete the training within five years of that operative date.
3. This training counts toward the annual training requirement.
4. When the same licensee operates two or more child care centers, the licensee may designate another employee who is responsible for writing policies and procedures, preparing budgets, and other administrative duties to complete Child Care Management Training instead of the director.

3-006.08C Nebraska's Early Learning Guidelines Training: The director must complete training in the seven domains of Nebraska's Early Childhood Learning Guidelines developed by the ECTC. Any proposed equivalent training must be approved by the Department. The domains are: Approaches to Learning, Creative Arts, Health and Physical Development, Language and Literacy Development, Mathematics, Science, and Social and Emotional Development.

1. In centers licensed on or after the operative date of these regulations, the director must complete training in one domain within four years of the date of provisional licensure and one domain annually thereafter.
2. In centers licensed before the operative date of these regulations, the director must complete training in one domain within four years of that operative date and one domain annually thereafter.
3. This training counts toward the annual training requirement.

2. Infection control practices including proper hand washing techniques, personal hygiene, and disposal of infectious material;
3. Information on abuse, neglect and sexual abuse of children and the state's reporting requirements;
4. Child care center regulations;
5. Evacuation plans in the event of fire;
6. Safety plans in the event of a tornado;
7. Emergency preparedness in the event of a natural or man made disaster; and
8. The center's method of interacting with children and discipline policies.

3-006.10B Nutrition and Food Safety Training: When meals are served, all staff responsible for menu planning, food preparation, and food safety must be provided at least four clock hours of training in nutrition and food safety within 30 days of employment and annually thereafter.

3-006.10C Transportation Training: Individuals who transport children on behalf of a child care center must:

1. Receive and maintain a valid certificate of completion of the "Safe Kids Buckle Up" program within 90 days of employment and every five years thereafter. Individuals who transport children who were employed before the operative date of these regulations must receive and maintain a valid certificate of completion for "Safe Kids Buckle Up" within one year and every five years thereafter. Any proposed equivalent training must be approved by the Department.
2. Maintain valid certificates for Cardiopulmonary Resuscitation (CPR) and First Aid Training. Individuals who transport children who were employed before the operative date of these regulations must complete CPR and First Aid Training within one year and maintain valid certificates thereafter.

3-006.10D Annual Training: Each staff member, not including substitutes or volunteers, who provides direct care to children must obtain a minimum of 12 clock hours of training annually. Staff who work 20 hours or less each week must obtain six clock hours of training annually.

3-006.10D1 Training must include but is not limited to the following topics:

1. Safe Environments;
2. Healthy Environments;
3. Learning Environments;
4. Physical Development;
5. Cognitive Learning;
6. Communication;
7. Creative Learning;

8. Self-Esteem;
9. Social Development;
10. Guidance;
11. Family Relationships;
12. Program Management; and
13. Professionalism.

Audio, video, and reading material specific to one or more of these training topics will count toward the annual training requirement only if an Independent Learning Summary is completed on a form provided by the Department. The actual length of audio and video material will be counted, and 50 pages of text will be considered equal to one clock hour of training.

Two hours of CPR and one hour of First Aid will be counted toward the annual training requirement in the year each is taken.

3-006.10D2 Each clock hour spent participating in any of the following types of activities counts toward the annual training requirement:

1. Center-sponsored training;
2. Workshops and conferences;
3. College courses;
4. Non-credit course work; and
5. Adult education courses.

3-006.10E CPR and First Aid Training

1. CPR training must be obtained from an entity that has been approved by the Nebraska Board of Emergency Medical Services. The Department will provide the program with information about approved CPR courses.
2. At least one staff member with current CPR and First Aide training must be on the premises at all times during the hours/days of operation.
3. The CPR card and documentation of First Aid training must be available upon request.

3-006.11 Employee Records Requirements: The licensee must ensure the following employee records are maintained, updated as needed, and made available to the Department upon request. Records must be maintained for at least one year after an employee leaves the center.

3-006.11A Staff: Records for all staff, except substitutes and volunteers, must include:

1. Name;
2. Address and telephone number;

5. Parent or guardian's home address and telephone number;
6. Parent or guardian's employment address and telephone number;
7. Individual(s) to whom the child may be released by the caregiver;
8. Individual(s) who will take responsibility for the child in an emergency when the parent or guardian cannot be reached;
9. Consent to contact a physician in an emergency;
10. Current health status of the child; and
11. List of child's allergies and intolerance to food, insect bites, or stings, or other factors that result in a medical reaction, and clear instructions in the event of an exposure to the factor.

3-006.13 Parent Information Brochure: At the time of enrollment, the licensee must give the parent(s) of each enrolled child a Parent Information Brochure provided by the Department. The licensee must maintain receipts signed and dated by the parent and make the receipts available for review by the Department.

3-006.14 Description of Center Services and Policies: The licensee must ensure that the center has a written description of center services and written policies, and that they are available to the Department. Copies of both must be given to all staff and the parents of all enrolled children, except that the center is not required to give parents the center's personnel policies. The licensee must maintain receipts signed and dated by the staff and parent and make the receipts available for review by the Department.

3-006.14A Description of Services: The center must have a written description of the range of services available. The written description must include:

1. Ages of children served;
2. Days and hours of operation;
3. A description of the center's child development program;
4. Special services provided;
5. A description of any parent training/education offered;
6. What is expected of parents;
7. Name, address, and phone number of the center's owner or authorized representative; and
8. Information provided by the Department that describes how regulations can be accessed, how child care licensing staff can be contacted, and how complaints can be made.

3-006.14B Center Policies: The center must have written policies on:

1. Exclusion of ill children;
2. Conditions for suspending and terminating care;
3. Fees/contract information for parents;
4. Verifying the identification of individuals approved to remove children from the center;
5. Parent grievances, questions, or concerns; and

Age of Children	Number of Children in Care	Number of Staff Required
6 weeks to 18 months	4	1
18 months to 3 years	6	1
3 years	10	1
4 and 5 years	12	1
School-age	15	1

3-006.16 Communicable Diseases: The Department will provide the center with information about communicable diseases to assist the center in carrying out its responsibilities.

3-006.16A Notification to Parents: The licensee/director must notify parents of all enrolled children of any case of any reportable communicable disease on the same day the licensee is informed of or observes the illness, unless otherwise directed by the health authority. The health authority is the local health department for the area. Proper notification includes:

1. Notification to parents of children in attendance;
2. Notification to parents of enrolled children who are not in attendance on that day; and
3. Posting notice of the outbreak in a conspicuous place.

3-006.16B Confidentiality: Names of ill children must not be released to anyone except health authorities, unless parents have given their permission.

3-006.16C Health Authority: The center must follow all directives given to the licensee by the health authority in the event of a communicable disease outbreak.

3-006.17 Children Excluded Due to Illness: The center must have a written policy that identifies the circumstances under which children would be excluded from child care due to illness. To assist in writing the policy, the Department will provide the licensee with materials that include recommendations on:

1. Exclusion based on specific conditions such as fever, diarrhea, vomiting, etc.; and
2. Exclusion based on specific contagious and infectious diseases such as chickenpox, measles, mumps, etc.

The licensee must enforce the center's exclusion policy and make it available to the Department and to the parents of enrolled children.

3-006.18 Immunizations: Within 30 days of a child's enrollment, the licensee/director must obtain a copy of the child's immunization record. Immunization records must be

4. Punching;
5. Shaking;
6. Striking with any object;
7. Use of soap, hot sauce, or other unpleasant food and non-food items;
8. Isolating a child in a locked or closed room or closet;
9. Handling roughly;
10. Biting;
11. Denial of food;
12. Forced napping;
13. Subjecting children to derogatory remarks about the child or the child's family;
14. Abusive or profane language directed at children;
15. Yelling or screaming at children;
16. Threats of physical punishment; or
17. Mechanical restraints.

3-006.20B Child Behavior That Cannot Be Disciplined: Children must not be disciplined for:

1. Toileting accidents;
2. Refusal to take medication; or
3. Refusal to eat.

3-006.20C Use of Time Out: Separation from the group, if used, must be brief and appropriate for the child's age. The time out period must:

1. Take place within a safe, lighted, and well-ventilated area;
2. Occur within direct vision of staff; and
3. Not exceed more than one minute for each year of the child's age. If the time a child spends in time out is extended, it must be carried out as indicated by a behavioral management plan developed and monitored by a licensed or certified professional qualified to identify the special needs of a child, as having a physical, emotional, or social developmental delay or impairment.

3-006.20D Use of Physical Hold: Center staff may restrict a child's movement by the use of a physical hold. A physical hold may be used only:

1. When the child is hurting him/herself, others, or property;
2. When the hold does not prevent the child from breathing or speaking; and
3. Until the child is calm and able to demonstrate reasonable control of his/her behavior.

3-006.20D1 Notification and Documentation: The licensee/director must notify the child's parents within 24 hours of the physical hold when a physical

3-006.22A Toys, Equipment, and Materials: The licensee must provide a sufficient number of age-appropriate toys, equipment, and materials for all children in care. Children below the age of three must not have access to toys or objects that are easily breakable or could create a choking hazard.

3-006.22B Beds, Cribs, and Sleeping Surfaces: The licensee must ensure that sleeping surfaces appropriate to the child's age and level of development are available for each child in care.

1. Acceptable sleeping surfaces for children over 12 months of age are:
  - a. Beds;
  - b. Cots;
  - c. Cribs;
  - d. Playpens;
  - e. Sofas;
  - f. Washable sleeping bags; and
  - g. Waterproof mats, which must be at least one inch thick and at least 45 inches long.
2. The only acceptable sleeping surfaces for children age 12 months and under are cribs and playpens. When used, cribs and playpens must meet the following standards:
  - a. Cribs and playpens must be federally approved;
  - b. Cribs must be equipped with a waterproof crib mattress covered by a fitted sheet. The mattress pad for a playpen must be specifically designed for playpen use and covered by a fitted sheet;
  - c. Cribs and playpens must contain no soft objects, bumper pads, toys, or loose bedding. If a blanket is used, it must be secured or tucked under the crib mattress or the pad of the playpen and reach no higher than the infant's chest; and
  - d. Cribs and playpens must be kept clean, in good repair, and not have any surface covered by lead-based paint.
3. Cribs, playpens, cots, and mats must be separated by at least three feet of space.
4. Cribs, playpens, cots, and mats must be disinfected daily or marked for individual use and disinfected weekly or more often when needed.
5. For evening care, each child must be provided with a cot with a waterproof mattress.
6. The following must not be used as sleeping surfaces:
  - a. The top level of a bunk for children age 5 and under;
  - b. Stackable cribs;
  - c. Waterbeds for children age 3 and under; and
  - d. Cots, cushions, futons, mats, or pillows for infants 12 months and under.

- b. Proper hand washing by the provider and the child is done each time a child is helped with toileting.

3-006.24 Overnight Care: If overnight care is provided, center staff must:

1. If requested by the parent, give the child a shower, tub, or sponge bath in a manner agreed upon between the parent and the center; and
2. Remain awake and alert to the needs of children through the night.

3-006.25 Wading and Swimming Activities: Children must be accompanied, kept safe, and adequately supervised during wading and swimming activities while in care.

3-006.25A Prohibited Water Sources: Children must not be allowed to use the following water sources for wading or swimming activities:

1. Natural bodies of water;
2. Hot tubs, spas or saunas;
3. Livestock tanks; or
4. Decorative ponds.

3-006.25B Wading: If the licensee allows children to participate in wading or other water play activities:

1. Children must be accompanied and directly supervised; and
2. The licensee must ensure that the wading pool is drained and sanitized daily and is inaccessible to children when not in use.

3-006.25C Permission for Non-Center-Supervised Activities Off the Premises: If the licensee does not allow children to participate in swimming activities while in care, but a parent requests that their child leave the premises to go to a swimming pool, the licensee must obtain a written and signed statement from the parent that is kept on file on the premises and available to the Department upon request. The statement must indicate that the child is allowed to leave care and must acknowledge that the licensee is not responsible for supervision.

3-006.25D Permission for Center-Supervised Activities Off the Premises: If the licensee allows children in care to participate in swimming activities under the supervision of center staff but off the center's premises, the licensee must obtain a written, signed, and dated statement from the parent that is updated annually. The statement must be available to the Department upon request, and must indicate the following:

1. The parent gives permission for their child(ren) to leave the center's premises for swimming/wading;
2. The location of the pool where the child is allowed to swim; and
3. Whether the child is allowed to swim in water over his/her head.



3-006.26 Transportation: When transportation is provided for children in care, the licensee must ensure the following conditions are met:

1. No child must ever be left alone in the vehicle;
2. Smoking is prohibited in the vehicle used to transport children;
3. All doors on the vehicle must be locked when the vehicle is in motion;
4. Any individual who transports children must be at least 18 years of age, and must possess a current and valid driver's license for the type of vehicle used to transport children, as verified by the Department of Motor Vehicles;
5. The vehicle used to transport children must be properly registered and insured, and must contain a first aid kit and parent contact information for each child being transported;
6. The number of children transported must not exceed the seating capacity of the vehicle as indicated by the manufacturer;
7. All children transported must be properly secured in the appropriate restraint system as required by Neb. Rev. Stat. §§ 60-6,267 and 60-6,268;
8. All car seats must be federally approved and must be the correct type for the child's age and developmental level;
9. Written permission from parents for the center to transport children must be obtained, kept on file, and made available to the Department;
10. Children must not be transported to any location without the prior knowledge of the parents, except in a medical or other emergency;
11. Children must not be transported to avoid violations of capacity or staff-to-child ratio;
12. Staff-to-child ratio must be maintained whenever children are in care;
13. School-age children only may be transported with no staff in addition to the driver;
14. School-age children only may be transported in buses over 10,000 pounds, unless the bus is equipped with and the children are properly secured in the appropriate restraint system as required by Neb. Rev. Stat. §§ 60-6,267 and 60-6,268; and
15. The center must have a written transportation policy that is given to all staff who transport children and is available to parents and the Department upon request. The transportation policy must describe:
  - a. Restraints and safety equipment;
  - b. Procedures to ensure children are never left alone in a vehicle at any time; and
  - c. Emergency procedures in the event a child becomes ill, the vehicle breaks down or is involved in an accident, or other emergencies.

3-006.27 Medications: The licensee must ensure the following conditions are met when center staff or volunteers give or apply medication.

3-006.27A Giving or Applying Medication: Any staff who gives or applies medication must do so in accordance with the "Five Rights" as set out in the Medication Aide Act. The Five Rights are:

3-006.27F Hand Washing: All individuals must properly wash their hands before giving or applying any medication. If handling any bodily fluids is involved, individuals must properly wash their hands after giving or applying medication.

3-006.27G Storage: All medications must be kept in proper storage. This includes:

1. All prescription and non-prescription medications must be kept in locked storage at all times children are in care;
2. Separate locked storage must be provided for medications requiring refrigeration;
3. All medications must be kept in the original container and stored according to instructions, clearly labeled for the named child, and returned to the parent when no longer needed; and
4. Over-the-counter, non-toxic topical ointments such as lip balm, petroleum jelly, sun block and diaper ointment must be kept out of the reach of children.

3-006.27H Record-Keeping: The licensee/director must maintain a record as to the time and amount of medication given or applied.

3-006.28 Food Service: The licensee must ensure that meals and snacks that are appropriate to the needs of the children in care are served to all children in attendance. Weekly menus must be given to parents upon request. Meals and snacks must:

1. Be appropriate to the age and development of the child;
2. Address children's allergies and food intolerance; and
3. Meet established USDA requirements regarding food groups and serving sizes. Meals and snacks provided by parents must be supplemented if USDA requirements are not met. If the child's meals are not to be supplemented due to dietary concerns, a statement from a physician must be obtained and available indicating it is acceptable for the child to be served a meal that does not meet USDA requirements.

3-006.28A The center must offer at least the following number of meals and snacks, based on how long children are present:

2 ½ to 4 hours	One snack
4 to 8 hours	One snack and one meal
8 to 10 hours	Two snacks and one meal
10 or more hours	Two snacks and two meals

3-006.29 Food Safety: The licensee must ensure that the center complies with the Food Code whenever food is prepared and/or served on the premises of the center. If the center serves food prepared at another location, the licensee must ensure that the individual or organization preparing the food is in compliance with the Food Code. If the center provides infant formula, it must be made from commercially prepared products.

3-006.30E Notification to the Department of Emergencies: The licensee/director must notify the Department within 24 hours or next business day of the following occurrences at the center:

1. The death of a child;
2. Any accident or injury to a child which requires hospitalization or treatment at a medical facility;
3. When a child has been missing, lost, or left unsupervised on or off the premises; and/or
4. An emergency or disaster that results in damage to the Child Care Center or the inability of the licensee/director to comply with regulations.

3-006.30F First Aid Kit: A first aid kit must be available on the premises. It must be inaccessible to children. If any poisons or medications are stored in the kit, it must be kept in locked storage. The kit must contain:

1. Fever thermometer;
2. Soap;
3. Bandages;
4. Sterile gauze pads;
5. First aid tape;
6. Scissors; and
7. Disposable gloves.

3-006.31 Environmental Services: The licensee must ensure that child care is provided in a safe, clean, comfortable environment. Every area and building on the same premises used for child care must comply with these regulations.

3-006.31A Housekeeping and Maintenance: The licensee must ensure that the necessary housekeeping and maintenance are provided to protect the health and safety of children in care. The center and grounds must be kept clean, safe, and in good repair.

1. The center and any building on the premises in or around areas where children are present must be kept free of exposed lead-based paint surfaces that are flaking, peeling, or chipped.
2. Rooms, walls, floors, and ceilings must be kept clean, dry, in good repair, and free of odor resulting from sewage, mold, mildew, or other environmental or biological hazards or unsanitary conditions.
3. Heating, ventilation, and lighting in all rooms used for child care must be adequate to protect the health of children.
4. The licensee must equip and maintain the premises to prevent the entrance, harborage, or breeding of rodents, flies and all other insects and vermin. All doors opening to the outside must be self-closing

3-006.32B Alcohol and Controlled Substances

1. If the center is located in a private residence, alcohol as defined by Neb. Rev. Stat. § 53-103 must not be consumed in any area used for child care during the hours of operation.
2. If the center is not located in a private residence, alcohol as defined by Neb. Rev. Stat. § 53-103 must not be present in any area used for child care whenever any child in care is present.
3. The unlawful use or possession of controlled substances, as defined by Neb. Rev. Stat. §§ 28-401 to 28-403 and 28-439, is prohibited. Controlled substances that have not been legally prescribed must not be on the premises.

3-006.32C Animals/Pets: The licensee must ensure that any animal at the center does not negatively affect the children. The licensee must:

1. Have all pets examined annually by a licensed veterinarian and have documentation available;
2. Complete all vaccinations recommended by the licensed veterinarian that include, at a minimum, current rabies vaccinations for dogs, household cats, and ferrets, and have documentation available;
3. Have provisions for pet care necessary to prevent the acquisition and spread of fleas, ticks and other parasites;
4. Ensure that no animals are allowed in the food preparation, food storage, or serving areas during food preparation and serving times; and
5. Comply with any state or local law or ordinance relating to the care and ownership responsibilities of pets or specific breeds identified by those laws or ordinances.

3-006.32D Prohibited Animals: Exotic or unusual animals, or any animal that has bitten or attacked anyone without provocation or has been determined by the local health authority to be dangerous, must not be allowed on the premises during the hours of operation.

3-006.32E Other Environmental Safety Requirements

1. Surfaces must be smooth and free of sharp edges, mold, or dirt, and the environment must be kept free of other conditions which may pose a potential risk.
2. All cleaning agents, medications (both prescription and nonprescription), and poisonous materials must be kept in locked storage at all times children are in care. Separate locked storage must be provided for medications requiring refrigeration.

- potable water supply system. Water that has been used for cooling or for any other purpose must not be returned to the system; and
2. All plumbing conforms to the local plumbing code. Where no plumbing code is in effect, plumbing must conform to national standards as provided in Neb. Rev. Stat. § 18-1915.

3-007.02B Water Supply: The licensee must ensure the center has and maintains an accessible, adequate, safe, and potable supply of water for drinking, food preparation, and hand washing.

1. If water is obtained from a source other than a public water supply system, the water must not contain contaminants that exceed the maximum contaminant levels set for nitrate, or total coliform for public water supply systems in 179 NAC 2-002, and 179 NAC 3 or the lead action level set in 179 NAC 12. The licensee must report to the Department the results of all tests that show the water contains contaminants that exceed a maximum contaminant or action level.
  - a. The water supply must be tested annually and the tests results must be available for review upon request.
  - b. If the water supply does not meet nitrate, total coliform bacteria and lead standards, the licensee must, until the contaminants are lowered to acceptable levels:
    - (1) Obtain water from a source approved by the Department; or
    - (2) Purchase water from a commercial source.
2. Drinking water must be provided by sanitary drinking fountains or individual or disposable cups.
  - a. Drinking fountains must have mouth guards with water issuing under sufficient pressure.
  - b. Sanitary dispensing and disposal units must be provided for paper cups.
3. The licensee must ensure that:
  - a. Running water under pressure is provided;
  - b. Each hot water storage tank is provided with a pressure and temperature relief valve;
  - c. Adequate water heating facilities are provided so that a sufficient amount of hot water for general cleaning as well as washing and sanitizing utensils is available at proper temperatures;
  - d. Water supply to all hand washing and bathing locations is maintained between a minimum of 100 degrees Fahrenheit and a maximum of 120 degrees Fahrenheit; and
  - e. Soap is available for hand washing.

3-007.02C Sewer Requirements: When a municipal sewage system is not available, the licensee must:

material such as sand, dirt, grass, rubber matting, rubber mulch, wood chips, or small-to-medium size gravel.

3-007.04 Toilets and Sinks: The center must have sufficient toilets and sinks available for children's use. A minimum of one operable toilet and one operable sink must be available per 15 children two years of age or older. Toilet rooms must be fully enclosed. A sink must be readily available to each toilet and diaper area. Sanitary dispensing and disposal units must be provided for paper towels and must be installed at heights convenient for the children's use. Toilets and sinks must be:

1. Conveniently located;
2. Clean, operable, and in good repair;
3. Designed to accommodate children with special needs, when applicable; and
4. Of suitable height for children or have a safe stepstool.

3-007.04A If a door to the toilet room opens directly from a food service area, the door must be self-closing and tight-fitting.

3-007.04B The licensee must ensure that no adult or child resumes work or play after using the bathroom without first washing his/her hands.

3-007.05 Fire Safety: The licensee must maintain fire safety approval at all times.

3-007.06 Sanitation: The licensee must maintain sanitation approval at all times.

### 3-008 DENIAL AND DISCIPLINARY ACTIONS

3-008.01 Grounds for Denial or Disciplinary Action: The Department may deny the issuance of or take disciplinary action against a license on any of the following grounds:

1. Failure to meet or violation of any of the requirements of the Child Care Licensing Act or the rules and regulations adopted and promulgated under the Act;
2. Violation of an order of the Department under the Act;
3. Conviction of, or substantial evidence of committing or permitting, aiding or abetting another to commit, any unlawful act, including, but not limited to, unlawful acts committed by an applicant or licensee under the Act, household members who reside at the place where the program is provided, or employees of the applicant or licensee that involve:
  - a. Physical abuse of children or vulnerable adults as defined in Neb. Rev. Stat. § 28-371;
  - b. Endangerment or neglect of children or vulnerable adults;
  - c. Sexual abuse, sexual assault, or sexual misconduct;
  - d. Homicide;

2. The diligence exercised by the program in identifying or correcting the violation;
3. The degree of cooperation exhibited by the licensee in the identification, disclosure, and correction of the violation;
4. Any previous violations committed by the program; and
5. The financial benefit to the program of committing or continuing the violation.

3-008.02B Additional Action: If the licensee fails to correct a violation or to comply with a particular type of disciplinary action, the Department may take additional disciplinary action.

3-008.03 Unpaid Fines: Any fine imposed and unpaid under the Child Care Licensing Act will constitute a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in any proper form of action in the name of the State of Nebraska is the district court of the county in which the program is located. The Department will, within 30 days after receipt, remit fines to the State Treasurer for credit to the permanent school fund.

3-008.04 Department's Emergency Power: Whenever the Department finds that an emergency exists requiring immediate action to protect the physical well-being and safety of a child in the program, the Department may, without notice or hearing, issue an order declaring the existence of such an emergency and requiring that such action be taken as it deems necessary to meet the emergency. The order may include an immediate prohibition on the care of children by the licensee other than children of the licensee. An order under this subsection will be effective immediately. Any person to whom the order is directed must comply immediately, and upon application to the Department, the person will be afforded a hearing as soon as possible and not later than ten days after his or her application for the hearing. On the basis of such hearing, the Department will continue to enforce the order or rescind or modify it.

3-008.05 Re-Application After Revocation: A former licensee whose child care license has been revoked for any cause other than nonpayment of fees is not eligible to reapply for a license for two years. The former licensee must:

1. Apply for a provisional license;
2. Meet the requirements for provisional licensure in 3-003.01; and
3. Demonstrate to the Department's satisfaction the ability and willingness to comply with all licensing regulations.