

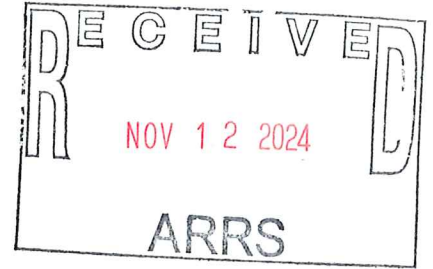
Andy Beshear
Governor



Jamie Link
Secretary, Education and
Labor Cabinet

Dr. Robbie Fletcher
Commissioner of Education

KENTUCKY DEPARTMENT OF EDUCATION
300 Sower Boulevard • Frankfort, Kentucky 40601
Phone: (502) 564-3141 • www.education.ky.gov



November 6, 2024

Senator Stephen West, Co-Chair
Representative Derek Lewis, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Capitol Annex 083
Frankfort, KY 40601

Re: 702 KAR 1:116. Annual in-service training of district board members

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 702 KAR 1:116, the Kentucky Board of Education proposes the attached amendment to 702 KAR 1:116.

Sincerely,

Todd G. Allen

Todd G. Allen
Deputy Commissioner and General Counsel

attachment

Staff-suggested Amendment

**Final version 11/6/2024
EDUCATION AND LABOR CABINET
Kentucky Board of Education
Department of Education**

702 KAR 1:116. Annual in-service training of district board members.

Page 2

Section 1(2)

Line 14

After "training in one", insert "(1)".

Page 4

Section 2(1)(b)7.

Line 3

After "Superintendent", insert "and".
Delete "/".

Page 4

Section 2(1)(b)8.

Line 4

After "Goal setting", insert "and".
Delete "/".

Page 4

Section 2(1)(b)11.

Line 8

After "School law", insert ";".

Andy Beshear
Governor

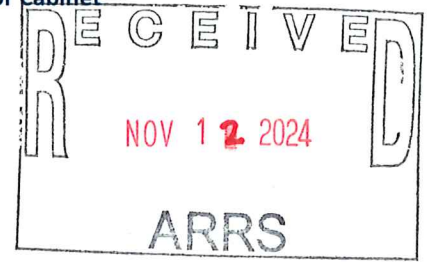


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November 6, 2024

Senator Stephen West, Co-Chair
Representative Derek Lewis, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Capitol Annex 083
Frankfort, KY 40601

Re: 702 KAR 4:090. Property disposal

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 702 KAR 4:090, the Kentucky Board of Education proposes the attached amendment to 702 KAR 4:090.

Sincerely,

Todd G. Allen

Todd G. Allen
Deputy Commissioner and General Counsel

attachment

Subcommittee Substitute
Final version 11/6/2024

EDUCATION AND LABOR CABINET
Kentucky Board of Education
Department of Education
(Amendment)

702 KAR 4:090. Property disposal.

RELATES TO: KRS 45A.425, 156.070, 156.160, 160.160(8), 162.010, 424.170, 2 C.F.R. 200.310, 200.311

STATUTORY AUTHORITY: KRS 156.070, 156.160

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.160 requires the Kentucky Board of Education~~[State Board for Elementary and Secondary Education]~~ to promulgate administrative regulations establishing standards for~~[dealing with]~~ the disposal of real ~~[and personal]~~ property owned by local boards of education. This administrative regulation is necessary to provide for real property disposal, leases, and easements in accordance with an approved educational program. KRS 156.070 **authorizes** ~~[provides that]~~ the Kentucky Board of Education **to** ~~[shall]~~ have the management and control of the common schools.

Section 1. Definitions.~~[Disposition of Real Property.]~~

(1) "District Facilities Plan" or "DFP" means a school district's capital construction plan prepared every four years pursuant to 702 KAR 4:180.

(2) "Facilities Planning and Construction System" or "FACPAC" means the Kentucky Department of Education's web-based application for construction, planning, and real property transactions.

(3) "BG-1" means the form used to initiate and revise a capital construction project or property transaction in FACPAC.

(4) "BG-5" means the form used to closeout a capital construction project or property transaction in FACPAC.

(5) "Fair Market Value" or "FMV" means the value

of a site based on an appraisal performed by a real property appraiser licensed to practice in the Commonwealth of Kentucky under KRS Chapter 324A.

(6) "Survey" means a formal assessment of a real property that is sealed and signed by a professional land surveyor providing an official record of its size, location, and features, including applicable boundaries, easements, title, and any requirements of the purchaser for disposal.~~[School property proposed for disposal shall be surplus to the educational program need of the district as determined by the effective district facility plan. Surplus property includes real property designated as a "Transitional Center" or not listed on the effective district facility plan. Request for approval to dispose of real property shall be submitted in writing to the Kentucky Department of Education. The request shall identify the property by its address and last reported name and include a plan for resolving mortgage liens or other encumbrances. Upon receipt of written contingent approval from the department, the district may start the disposal process using one (1) of the following methods that secures the fair market value for the property and ensures that the district retains no residual interest as owner or lender:~~

~~(a) By public auction;~~

~~(b) By accepting sealed bids; or~~

~~(c) By setting a minimum acceptable price, which is at least the fair market value of the property.~~

~~(2) For property disposal by public auction or sealed bids, the proposed sale shall be advertised in accordance with KRS 424.130(1)(b), and the legal notice shall include the following statement: "The board of education reserves the right to reject any and all bids and final approval by the Kentucky Department of Education is required." Following the conclusion of the auction or receipt of bids, the local board of education shall submit the following to the department for review and final approval:~~

~~(a) The appraisal;~~

~~(b) An affidavit attesting to the publication of legal notice;~~

~~(c) Results of the public auction or sealed bids;~~

~~(d) The proposed sale agreement reviewed and~~

approved by the board's attorney; and

~~(e) The local board order approving the sale contingent on approval by the department.~~

~~(3) For property disposal by setting a minimum acceptable price, the minimum acceptable price shall be the fair market value, which shall be determined by an appraisal from a certified general real property appraiser commissioned by the school district and obtained in connection with the disposal of the property. Following receipt of an acceptable offer to purchase, the local board of education shall submit the following documentation to the department for review and final approval:~~

~~(a) The appraisal;~~

~~(b) The proposed sale agreement reviewed and approved by the board's attorney; and~~

~~(c) The local board order approving the sale contingent on approval by the department.~~

~~(4) Upon receipt of written final approval from the department, the local school district may execute the sale agreement. The district shall provide the department with a copy of the executed agreement within thirty (30) days from the date of execution.]~~

Section 2. Disposition Process[by Easement].

(1) Real property for disposal shall be declared surplus to the educational needs of the district by the local school board. Real property may include a transitional center and property not included in the DFP.

(2) A local board of education requesting approval from the Kentucky Department of Education to dispose of real property by sale, lease, or easement shall submit the request and required documentation electronically through the FACPAC system.

(3) The district shall provide the applicable contingent, final, and closeout documentation by electronic submission in the FACPAC system in a format approved by the department for review.

(4) All documentation required by this administrative regulation shall be reviewed by the local board's legal counsel, and if applicable, the district's insurance carrier and fiscal agent or bond

counsel prior to being presented to the local board of education and submission to the department.

(5) Disposal of property purchased or improved using federal funds that is no longer needed for the originally authorized purpose shall comply with state and federal requirements.

(6) The department shall review and provide the applicable contingent approval, final approval, closeout approval, or disapproval, to the local school district within thirty (30) business days of receipt of a completed documentation.~~[Prior to the execution of a proposed easement upon school property, the agreement shall be reviewed by the local district's board attorney. The reviewed agreement and an appraisal from a certified general real property appraiser commissioned by the school district and obtained in connection with the easement shall be submitted to the local board of education for its consideration. Upon approval, the local school district's written board order shall be forwarded to the department for review and approval. The local board of education shall include assurance that disposal will not affect the integrity or usefulness of property crucial to the educational needs of the district.~~

~~(2) Proposed easement agreements, including utility and access easement agreements, shall include:~~

- ~~(a) The parties to the agreement;~~
- ~~(b) A legal description of the easement;~~
- ~~(c) Documentation regarding receipt of fair market value as determined by an appraisal from a certified general real property appraiser commissioned by the school district and obtained in connection with the disposal of the property or equivalent valuable consideration;~~
- ~~(d) A reversionary clause that reverts the property back to the exclusive unrestricted control of the local board of education when the need for the easement no longer exists; and~~
- ~~(e) A plat by a licensed surveyor indicating the easement boundaries, acreage, and its relationship to the larger property.~~

~~(3) Upon receipt of written final approval from the department, the local school district may execute the agreement. The district shall provide the~~

~~department with a copy of the executed agreement within thirty (30) days from the date of execution.~~

~~(4) Temporary and construction easements shall not require department approval but shall include provisions related to the amount of time in effect, and a requirement that any disturbed areas shall be returned to original condition.]~~

Section 3. Disposition by Sale[~~Lease (District as Lessor/Landlord)~~].

(1) A request for disposal shall be approved by the local board of education and submitted to the department. The request shall include:

(a) Initial, signed BG-1 identifying the **[following]**:

1. Address or general legal property description;
2. Current official reported name through the District and School Collection Repository (DASCR);

and

3. Approximate acreage or area;

(b) **A** declaration assuring that the disposal shall not affect the integrity or usefulness of property crucial to the educational needs of the district; and

(c) **A** plan for resolving mortgage liens or other encumbrances as applicable.

(2) Upon receipt of written contingent approval from the department through an approved initial BG-1, the district may continue the disposal process using one **(1)** of the following methods to secure the fair market value with assurance that the district **shall [will]** not retain any residual interest as owner or lender:

(a) By public auction;

(b) By accepting sealed bids; or

(c) By setting a minimum acceptable price, which is at least the fair market value of the property.

(3) For real property disposal by public auction or sealed bids, the proposed sale shall be advertised in accordance with KRS 424.130(1)(b) which shall include the statement, "The board of education reserves the right to reject any and all bids and final approval by the Kentucky Department of Education is required."

(4) Following the conclusion of the auction or receipt of bids for which fair market value is received, the local board of education shall

approve and submit ~~[the following]~~ to the department for review and consideration for final approval:

(a) A revised BG-1 noting the agreed-upon sale price and any costs incurred;

(b) The appraisal;

(c) A copy of the published legal notice and an affidavit attesting to publication;

(d) The results of the public auction or sealed bids; and[;]

(e) The proposed sale agreement.

(5) The local board shall notify the department **if [in the event]** the auction or receipt of bids failed to attain the required fair market value.

(6) For real property disposal by setting a minimum acceptable price, the local board of education shall approve and submit ~~[the following documentation]~~ to the department for review and final approval:

(a) A revised BG-1 noting the agreed-upon sale price and any costs incurred by the local school district;

(b) The appraisal; and

(c) The proposed sale agreement.

(7) Upon receipt of an approved revised BG-1 from the department, the local school district may execute the sale agreement.

(8) To complete and closeout the disposal process, the local board shall approve and submit **[the following]** to the department:

(a) A copy of the executed sale agreement; and[;]

(b) ~~A signed BG-5. [Prior to the execution of a proposed lease agreement for school property, the proposed lease agreement shall be reviewed by the local district's board attorney and the board's insurance carrier. The proposed lease agreement shall be submitted to the local board of education for its consideration and a written board order forwarded to the department for review and approval. The local board of education shall provide assurance that the disposal will not affect the integrity or the usefulness of the property subject to the educational need of the district.~~

(2) The proposed lease agreement shall include the following provisions:

(a) The parties to the agreement;

- (b) The proposed use and occupation;
 - (c) A description of the leased space including square footage and description of common areas if applicable;
 - (d) Use of site and parking;
 - (e) Term of lease including beginning and ending dates. The term shall include annual renewal and cancellation provisions;
 - (f) Determination of fair market value and how payments are to be made;
 - (g) Insurance requirements of the parties;
 - (h) Identification of the parties' responsibilities for payment of utilities, performance of maintenance, and related supplies;
 - (i) Notice provisions;
 - (j) Provisions for security;
 - (k) Requirements for compliance with established board policies if tenants will be in contact with students; and
 - (l) Any other applicable terms or conditions.
- (3) Upon receipt of written final approval from the department, the local school district may execute the lease agreement. The district shall provide the department with a copy of the executed agreement within thirty (30) days from the date of execution.]

Section 4. Disposition by Sale to a Governmental or Quasi-Governmental Agency[Conflict of Interest].

(1) Districts conducting a disposal with another governmental or quasi-governmental agency under KRS 160.160(8) shall submit **[the following]** to the department within thirty (30) business days after the completion of the transaction for record keeping and data collection:[If a local school board uses a third party to dispose of or lease property, the third party shall not have any financial interest in the transaction or adjacent property beyond a standard commission approved by the school board. If the third party has any financial interest in the transaction or adjacent property beyond a standard commission, the third party shall publicly disclose his or her conflict of interest to the local school board and the conflict shall be spread on the local school board's meeting minutes. The

~~local school board shall provide minutes of any such meeting to the department when requesting approval under any section of this administrative regulation.]~~

~~(a) The initial, signed BG-1 identifying the **[following]:**~~

~~1. Address or general legal description of the property;~~

~~2. Last official reported name through the District and School Collection Repository (DASCR), if applicable; **and**~~

~~3. Approximate acreage or area;~~

~~(b) **A** declaration assuring that the disposal **shall [will]** not affect the integrity or usefulness of property crucial to the educational needs of the district;~~

~~(c) The appraisal; and~~

~~(d) **An** executed copy of the sale agreement.~~

~~(2) Upon receipt of a processed initial BG-1 from the department, the local board of education shall submit **a[;]** signed BG-5.~~

Section 5. Disposition by Easement. (1) Easements shall not conflict with the requirements contained in 702 KAR 4:050 and 702 KAR 4:170.

(2) The local board shall approve and submit **[the following]** to the department for review and approval consideration:

(a) **An** initial, signed BG-1 identifying **the**:

1. Address or general legal property description**[:]**
and

2. Approximate acreage or area.

(b) **A** declaration assuring that the disposal **shall [will]** not affect the integrity or usefulness of property crucial to the educational needs of the district**[:]**

(c) A survey by a professional land surveyor indicating the easement boundaries, size, and its relationship to the larger property;

(d) The appraisal; and**[:]**

(e) A copy of the proposed easement agreement with language that includes:

1. The parties to the agreement;

2. The official address of the district property;

3. The legal description and easement type;

4. A reversionary clause that reverts the property

back to the exclusive unrestricted control of the local board of education when the need for the easement no longer exists; and

5. Receipt of fair market value or equivalent valuable consideration for permanent access and permanent utility easements.

(3) Easements for the exclusive use of the district **shall[do]** not require receipt of fair market value unless the easement is expanded to benefit additional parties beyond the local school district.

(4) Upon receipt of an approved initial BG-1 from the department, the local board may execute the easement agreement.

(5) The local board shall approve and submit to the department **[the following]** to close the disposal process:

(a) A copy of the executed easement agreement; and

(b) **A** signed BG-5.

Section 6. Disposition by Lease (District as Lessor/Landlord). (1) The local board shall approve and submit **[the following]** to the department for review and approval consideration:

(a) **An** initial, signed BG-1 identifying **the**:

1. Address or general legal property description; and

2. Approximate floor area or acreage.

(b) **A** declaration assuring that the disposal **shall [will]** not affect the integrity or usefulness of property crucial to the educational needs of the district;

(c) **An** affirmation that the proposed lease agreement has been reviewed by the local board attorney and district insurer carrier; and

(d) The proposed lease agreement which shall include **[the following]**:

1. The parties to the agreement;

2. The proposed use;

3. A description of the leased space including leased area, use, and common areas as applicable or description of the leased land including use and acreage as applicable;

4. Conditions of site access and parking;

5. Beginning and ending dates, including annual renewal and cancellation provisions;

6. Determination of fair market value and how payments are to be made;
 7. Insurance requirements of the parties;
 8. Identification of the parties' responsibilities for payment of utilities, performance of maintenance, and related supplies;
 9. Notice provisions;
 10. Provisions for security
 11. Requirements for compliance with established board policies if tenants will be in contact with students; and
 12. Other applicable terms or conditions.
- (2) Upon receipt of an approved initial BG-1 from the department, the local board may execute the lease agreement.
- (3) The local board shall approve and submit **[the following]** to the department:
- (a) A copy of the executed lease agreement; and
 - (b) **A** signed BG-5.

Section 7. Waiver Process. (1) A local board may request a waiver of the required submission items by submitting a written request with supporting documentation to the Commissioner of Education or designee who shall approve or disapprove the request within thirty (30) business days.

(2) A disapproved waiver request may be appealed by a local board to the Kentucky Board of Education.

Section 8. Disapproval and Appeals Process. After evaluation of the submitted documentation, **if [should]** the Kentucky Department of Education **disapproves [disapprove]** the proposed disposal, the local board of education may:

- (1) Discontinue the disposal process;
- (2) Provide the department with updated documentation for reconsideration; or
- (3) Appeal to the Kentucky Board of Education.

Section 9. Conflict of Interest. (1) If a local school board uses a third party to dispose of or lease property, the third party shall not have any financial interest in the transaction or adjacent property beyond a standard commission approved by the school board. If the third party has any

financial interest in the transaction or adjacent property beyond a standard commission, the third party shall publicly disclose his or her conflict of interest to the local school board and shall be documented in the local school board's meeting minutes.

(2) The local school board shall provide the minutes of any such meeting to the department when requesting approval under any section of this administrative regulation.

Section 10. Incorporation by References. (1) The following material is incorporated by reference:

(a) "BG-1 Project Application Form", July 2024;
and

(b) "BG-5 Project Closeout Form", July 2024.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Education, 300 Sower Boulevard 4th Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. or this material may be viewed on the Kentucky Department of Education's Web site at <https://www.education.ky.gov/districts/fac/Pages/Construction.aspx>.

CONTACT PERSON: Todd G. Allen, General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601, phone 502-564-4474, fax 502-564-9321, email regcomments@education.ky.gov.

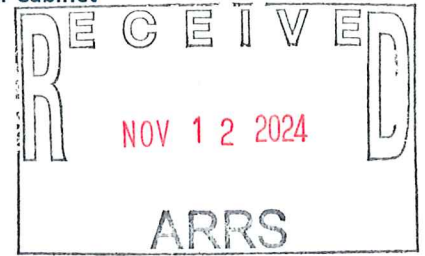
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November 8, 2024

Senator Stephen West, Co-Chair
Representative Derek Lewis, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Capitol Annex 083
Frankfort, KY 40601

Re: 704 KAR 3:305. Minimum requirements for high school graduation.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 704 KAR 3:305, the Kentucky Board of Education proposes the attached amendment to 704 KAR 3:305.

Sincerely,

Todd G. Allen

Todd G. Allen
Deputy Commissioner and General Counsel

attachment

Staff-suggested Amendment

**Final version 11/8/2024
EDUCATION AND LABOR CABINET
Kentucky Board of Education
Department of Education**

704 KAR 3:305. Minimum requirements for high school graduation.

Page 1

Section 1(1)

Line 20

After "services that", insert "shall".
Delete "will".

Page 3

Section 2(3)

Line 11

After "and parents", insert "receive".
Delete "receives".

Page 6

Section 3(1)

Line 10

Before "to receive", delete "In order".

Page 11

Section 4(3)(h)

Line 19

After "established in", insert "subsection (4) of".

Page 12

Section 4(4)(a)

Line 12

After "and shall include", delete "the following".

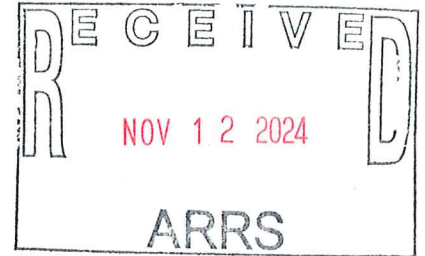
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November 8, 2024

Senator Stephen West, Co-Chair
Representative Derek Lewis, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Capitol Annex 083
Frankfort, KY 40601

Re: 780 KAR 3:072. Attendance, compensatory time, and leave for certified and equivalent service

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 780 KAR 3:072, the Kentucky Board of Education proposes the attached amendment to 780 KAR 3:072.

Sincerely,

Todd G. Allen

Todd G. Allen
Deputy Commissioner and General Counsel

attachment

Staff-suggested Amendment

**Final version 11/8/2024
EDUCATION AND LABOR CABINET
Kentucky Board of Education
Department of Education**

780 KAR 3:072. Attendance, compensatory time, and leave for certified and equivalent service.

Page 3

Section 2(1)(d)

Line 19

After "frozen until", delete "such a time".

Page 6

Section 3(2)(c)

Line 6

After "prorated for employees", insert "who".
Delete "that".

Page 8

Section 3(4)(e)

Line 10

After "by resignation", insert "shall".
Delete "must".

Page 11

Section 4(3)(d)

Line 23

After "Section 5 of this", insert "administrative".

Page 13

Section 4(5)(c)

Line 12

After "ill to work,", insert "the".
Delete "an".

Page 13

Section 4(5)(d)

Line 16

After "supporting evidence", delete "in order".

Page 20

Section 13(1)

Line 3

After "prorated for employees", insert "who".
Delete "that".

Andy Beshear
Governor

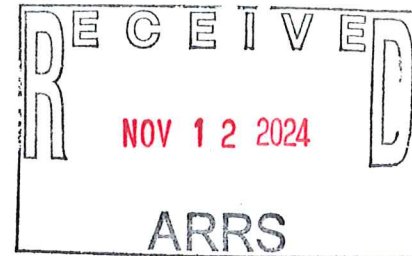


Jamie Link
Secretary, Education and
Labor Cabinet

Dr. Robbie Fletcher
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November 8, 2024

Senator Stephen West, Co-Chair
Representative Derek Lewis, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Capitol Annex 083
Frankfort, KY 40601

Re: 780 KAR 3:080. Extent and duration of school term, use of school days and extended employment.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 780 KAR 3:080, the Kentucky Board of Education proposes the attached amendment to 780 KAR 3:080.

Sincerely,

Todd G. Allen

Todd G. Allen
Deputy Commissioner and General Counsel

attachment

Staff-suggested Amendment

**Final Version 11/8/2024
EDUCATION AND LABOR CABINET
Kentucky Board of Education
Department of Education**

780 KAR 3:080. Extent and duration of school term, use of school days and extended employment.

Page 2

Section 1(4)

Line 6

After "state holiday", delete "in order".

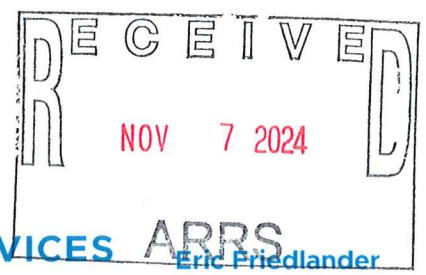
Page 2

Section 1(6)

Line 12

After "the work day", insert "shall".

Delete "will".



Andy Beshear
GOVERNOR

CABINET FOR HEALTH AND FAMILY SERVICES

275 East Main Street, 5W-A
Frankfort, Kentucky 40621
Phone: (502) 564-7042
Fax: (502) 564-7091

Eric Friedlander
SECRETARY

November 6, 2024

Senator Stephen West, Co-Chair
Representative Derek Lewis, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
083, Capitol Annex
Frankfort KY 40601

Re: 922 KAR 1:470

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 922 KAR 1:470, Central registry, the Cabinet for Health and Family Services proposes the attached staff suggested amendment to 922 KAR 1:470. If you have any questions, please contact Rachael Ratliff at Rachael.ratliff@ky.gov.

Sincerely,

Lucie Estill
Staff Assistant
Office of Legislative and Regulatory Affairs

Attachments

Final, 10-30-2024

SUGGESTED SUBSTITUTE

**CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Protection and Permanency**

922 KAR 1:470. Central registry.

RELATES TO: KRS 17.165(6), 61.876, 160.151, 160.380, 194A.380-194A.383, 199.466, 199.896(19), 199.8982(1)(a), 211.684(1)(a), 216.2955, 216B.015, 403.352, 600.020(1), (40), [~~64~~], ~~(62)~~, (63), 620.050, 620.051, 625.050-625.120, 42 U.S.C. 671(a)(20), 5106a(b), 9858f

STATUTORY AUTHORITY: KRS 194A.050(1), 605.130(7), 605.150(1), 620.051(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate the programs and fulfill the responsibilities vested in the cabinet. KRS 605.150(1) authorizes the cabinet to promulgate administrative regulations to implement the provisions of KRS Chapter 605, including KRS 605.130(7), which authorizes the cabinet to perform services necessary for the protection of children. KRS 620.051(2) requires the cabinet to promulgate administrative regulations to establish the central registry and the process for a background check of the cabinet's child abuse and neglect records. This administrative regulation establishes the procedure by which the cabinet shall conduct a child abuse or neglect check using information in the central registry.

Section 1. Definitions.

- (1) "Abused or neglected child" is defined by KRS 600.020(1).
- (2) "Administrative review" means that the status of the individual subject to the central registry check is pending the outcome of an:
 - (a) Investigation or assessment in accordance with 922 KAR 1:330; or
 - (b) Appeal concerning a cabinet substantiated finding of child abuse or neglect.
- (3) "Child fatality" is defined by KRS 211.684(1)(a).
- (4) "Near fatality" is defined by KRS 600.020(40) and 42 U.S.C. 5106a(b)(4)(A).
- (5) "Sexual abuse" is defined by KRS 600.020(~~62~~)[~~64~~].
- (6) "Sexual exploitation" is defined by KRS 600.020(~~62~~)[~~64~~].

Section 2. Central Registry.

- (1) The central registry shall include the name of each individual:
 - (a) Who has been found by the cabinet to have abused or neglected a child on or after October 1, 1998; and
 - (b)
 1. Who waived the right to appeal a substantiated finding of child abuse or neglect in accordance with:
 - a. 922 KAR 1:480;
 - b. 922 KAR 1:320; or
 - c. 922 KAR 1:330, Section 11; or
 2. Whose substantiated incident was upheld upon appeal.
- (2) Each name shall:
 - (a) Remain on the central registry for a period of at least seven (7) years; and
 - (b) Be removed from the central registry after a period of seven (7) years if:
 1. No additional incident of child abuse or neglect has been substantiated by the cabinet since the time of the incident for which the individual's name was placed on the registry; and
 2. Cabinet records indicate that the incident for which the individual's name was placed on the registry did not relate to:
 - a. Sexual abuse or sexual exploitation of a child;

- b. A child fatality related to abuse or neglect;
- c. A near fatality related to abuse or neglect; or
- d. Involuntary termination of parental rights in accordance with KRS 625.050 through 625.120.

(3) This administrative regulation shall not apply to cabinet background checks required by 922 KAR 1:490.

(4) This administrative regulation shall not limit the cabinet's ability to disclose information in accordance with KRS 620.050 and 42 U.S.C. 5106a(b)(2)(B)(viii), (ix), or (x).

Section 3. Procedure for Requesting a Central Registry Check.

(1) If information from the central registry is required or authorized by law, a request for a central registry check may be made by an:

- (a) Individual;
- (b) Organization; or
- (c) Other entity.

(2) The cabinet shall conduct a check of the central registry for each individual who:

(a) Submits a request for a check of the central registry in accordance with subsection (4) of this section; and

(b)

- 1. Applies for initial licensure;
- 2. Is considered for hire, hired by, or volunteers with[,] an entity required by law to obtain information contained in the central registry; or
- 3. Is considered for hire, hired by, or volunteers with[,] an entity that may require a central registry check as a condition for working with children on a regular basis.

(3) An individual who is not required or authorized by law to obtain information contained in the central registry shall not receive a completed check and may instead submit an open records request in accordance with 922 KAR 1:510.

(4) A request for a central registry check shall be made:

(a) By electronically submitting to the cabinet through the Kentucky Online Gateway:

1.

a. A completed DCC-374, Child Care Central Registry Check, for an individual in child care as specified by 42 U.S.C. 9858f, KRS 199.466, or 922 KAR 2:280; or

b. A completed DPP-156, Central Registry Check, for an individual required by a law not specified in clause a. of this subparagraph no later than five (5) working days after:

- (i) The date of employment of an individual required by law to submit to a central registry check; or
- (ii) A volunteer's first day, if the volunteer is required by law to submit to a central registry check; and

2. A nonrefundable fee of ten (10) dollars paid by credit or debit card; or

(b) Through another cabinet system, including the Kentucky National Background Check Program established by 906 KAR 1:190.

(5) A parent or guardian shall be required to consent to the central registry check of an individual who is under the age of eighteen (18).

(6) A state requesting a child abuse or neglect check from the cabinet as required by 42 U.S.C. 671(a)(20) shall follow the procedures described in 922 KAR 1:490, Section 5.

Section 4. Administrative Review.

(1) The cabinet shall indicate on a central registry check if the individual is pending administrative review by the cabinet.

(2) An individual subject to administrative review in accordance with this section may submit a request for the disclosure of records in accordance with 922 KAR 1:510 to be fulfilled once the administrative review process is complete.

Section 5. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "DPP-156, Central Registry Check," ~~8/2024~~[4/2022]; and

(b) "DCC-374, Child Care Central Registry Check," 4/2022.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Cabinet for Health and Family Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. This material may also be viewed on the department's Web site at <https://chfs.ky.gov/agencies/dcbs/Pages/default.aspx>.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-7476; fax 502-564-7091; email CHFSregs@ky.gov.



Andy Beshear
GOVERNOR

CABINET FOR HEALTH AND FAMILY SERVICES

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Eric Friedlander
SECRETARY

November 4, 2024

Senator Stephen West, Co-Chair
Representative Derek Lewis, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
083, Capitol Annex
702 Capitol Ave.
Frankfort KY 40601

Re: 922 KAR 2:090, Child-care center licensure.

Dear Co-Chairs West and Lewis,

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 922 KAR 2:090, the Department for Community Based Services proposes the enclosed suggested substitute.

If you have any questions regarding this matter, please contact Rachael Ratliff at Rachael.Ratliff@ky.gov.

Sincerely,

Office of Legislative and Regulatory Affairs

Final, 9-4-2024

SUGGESTED SUBSTITUTE

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Child Care

922 KAR 2:090. Child-care center licensure.

RELATES TO: KRS Chapter 13B, Chapter 157, 158.030, 199.011(3), (4), (16), [~~199.892,~~]199.894(1), (3), 199.895, 199.896-199.898, [~~214.010,~~]214.036, 314.011(5), [~~600.020(1),~~]620.020(8), 620.030, 45 C.F.R. 98.2, 98.41, 98.43, 42 U.S.C. [~~601-619,~~]9831-9852, 9858c, f, [~~9857-9858f~~]

STATUTORY AUTHORITY: KRS 194A.050(1), 199.896(2), (6)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate programs and fulfill the responsibilities vested in the cabinet, qualify for the receipt of federal funds, and cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. KRS 199.896(2) authorizes the Cabinet for Health and Family Services to promulgate administrative regulations to establish license fees and standards for a child-care center. KRS 199.896(6) requires the cabinet to establish an informal dispute resolution process. This administrative regulation establishes licensure standards for a child-care center and describes the informal dispute resolution process.

Section 1. Definitions.

- (1) "Applicant" means an individual or entity applying to become a licensee or renew status as a licensee.
- (2) "Cabinet" is defined by KRS 199.011(3) and 199.894(1).
- (3) "Child" is defined by KRS 199.011(4).
- (4) "Child care" means care of a child in a center or home that regularly provides full or part-time care, day or night, and includes developmentally appropriate play and learning activities.
- (5) "Child-care center" is defined by KRS 199.894(3).
- (6) "Contract substitute staff member" means a person who temporarily assumes the duties of a regular staff person, meets the requirements established in Section 12 of this administrative regulation, and receives payment from a contract entity rather than the ~~child-care~~[child-care] center.
- (7) "Director" means an individual who meets the education and training requirements established in Section 10 of this administrative regulation.
- (8) "Finding of fraud" means a suspected intentional program violation referred in accordance with 922 KAR 2:020, Section 4(4)(a)1, that is accepted for investigation and substantiated by the cabinet's Office of the Inspector General.
- (9) "Health professional" means a person actively licensed as a:
 - (a) Physician;
 - (b) Physician assistant;
 - (c) Advanced practice registered nurse; or
 - (d) Registered nurse as defined by KRS 314.011(5) under the supervision of a physician or advanced practice registered nurse.
- (10) "Infant" means a child who is less than twelve (12) months of age.
- (11) "Instructional program" means a program operated by a business, educational institution, sole proprietor, or government entity that only serves school-aged children in providing specialized instruction or the continuation of learning outside the time period when school is in session.
- (12) "Licensee" means the owner or operator of a child-care center to include:
 - (a) Sole proprietor;
 - (b) Corporation;
 - (c) Limited liability company;
 - (d) Partnership;

- (e) Association; or
- (f) Organization, such as:
 1. Board of education;
 2. Private school;
 3. Faith-based organization;
 4. Government agency; or
 5. Institution.

(13)[(42)] "Nontraditional hours" means the hours of:

- (a) 7 p.m. through 5 a.m. Monday through Friday; or
- (b) 7 p.m. on Friday until 5 a.m. on Monday.

(14)[(43)] "Parent" is defined by 45 C.F.R. 98.2.

(15)[(44)] "Parental or family participation" means a child-care center's provision of information or inclusion of a child's parent in the child-care center's activities, including:

- (a) Distribution of a newsletter;
- (b) Distribution of a program calendar; or
- (c) A conference between the provider and a parent.

(16)[(45)] "Pediatric abusive head trauma" is defined by KRS 620.020(8).

(17)[(46)] "Premises" means the building and contiguous property in which child care is licensed.

(18)[(47)] "Preschool-age" means a child who is older than a toddler and younger than school-age.

(19)[(48)] "Qualified substitute" means a person who meets the requirements of a staff person established in Section 11 of this administrative regulation.

(20)[(49)] "School-age" means a child who meets the age requirements of KRS 158.030 or who attends kindergarten, elementary, or secondary education.

(21)[(20)] "Secretary" is defined by KRS 199.011(16).

(22) "Staff" means an individual who is employed by the child-care center for compensation and meets the education and training requirements established in Section 11 of this administrative regulation.

(23)[(21)] "Toddler" means a child between the age of twelve (12) and thirty-six (36) months.

(24) "Visitor" means an individual who is on the ~~premises~~premise of the child-care center, but ~~does~~shall not:[;]

- (a) Receive compensation from the child-care center, unless ~~the individual is~~they are performing a skilled craft in which ~~he or she is~~they are certified or trained to perform outside of child care program duties;
- (b) Have~~Be required~~ to meet the requirements of child-care center or contract substitute staff;
- (c) Count towards staff-to-child ratios and group size; and
- (d) Perform child care program duties, unless ~~he or she is~~they are a direct family member participating in an activity or providing assistance for only his or her child or children.

(25) "Volunteer" means:

- (a) An individual who:
 1. Performs hours of service without promise or expectation of receiving compensation;
 2. Performs services freely and without pressure or coercion, direct or implied;
 3. ~~Shall not be considered a volunteer if the individual~~ is ~~not~~ otherwise employed by the child-care center to perform the same type of services as staff; and
 4. ~~Shall~~ Only counts~~count~~ towards staff-to-child ratios and group size ~~if~~when in the presence of a qualified staff member; or
- (b) A student trainee enrolled in high school or a secondary education program earning educational credit.

Section 2. Child-Care Centers. The following child-care centers shall meet the requirements of this administrative regulation:

(1) A Type I child-care center. This child-care center shall be licensed to regularly provide child care services for:

- (a) Four (4) or more children in a nonresidential setting; or
- (b) Thirteen (13) or more children in a designated space separate from the primary residence of a licensee; and

(2) A Type II child-care center. This child-care center shall be the primary residence of the licensee in which child care is regularly provided for seven (7), but not more than twelve (12), children including children related to the licensee.

Section 3. Exempt Child Care Settings. The following child[-]care settings shall be exempt from licensure requirements of this administrative regulation, 922 KAR 2:120, and 922 KAR 2:280:

- (1) Summer camps permitted by the cabinet as youth camps that serve school-age children;
- (2) Kindergarten through grade 12 in private schools while school is in session;
- (3) All programs and preschools regulated by the Kentucky Department of Education governed by KRS Chapter 157;
- (4) Summer programs operated by a religious organization that a child attends no longer than two (2) weeks;
- (5) Child care provided while parents are on the premises, other than the employment and educational site of parents;
- (6) Child care programs operated by the armed services located on an armed forces base;
- (7) Child care provided by educational programs that include parental involvement with the care of the child and the development of parenting skills;
- (8) Facilities operated by a religious organization while religious services are being conducted;
- (9) A child care program providing instructional and educational programs that:
 - (a) Operates for a maximum of twenty (20) hours per week; and
 - (b) A child attends for no more than ten (10) hours per week;
- (10) A child-care center that meets the requirements of KRS 199.896(19) or (20); ~~and~~
- (11) An after-school program, which is:
 - (a) A continuation of the school day during the academic year;
 - (b) Operated and staffed by an accredited private or public school under the purview of the Kentucky Department of Education; and
 - (c) Not participating in the Child Care Assistance Program in accordance with 922 KAR 2:160; and
- (12) An instructional program for school-age children that demonstrates to the cabinet that the requirements established in KRS 199.896(21) have been met.

Section 4. Application.

- (1) An applicant for a license shall submit to the cabinet a completed OIG-DRCC-01, Initial Child-Care Center License Application.
- (2) Approval of an applicant for initial licensure shall result in the issuance of a preliminary license for a probationary period not to exceed six (6) months.
- (3) The issuance of a preliminary license, or the issuance or reapproval of a regular license, shall be governed under the provisions of this section and Sections 6 and 7 of this administrative regulation.
- (4) If the applicant for licensure is a:
 - (a) Corporation or a limited liability company, the application shall include a current certificate of existence or authorization from the Secretary of State; or
 - (b) Partnership, the application shall include:
 1. A written statement from each partner assuring that the partnership is current and viable; and
 2. Proof that each individual is twenty-one (21) years or older by photo identification or birth certificate.
- (5) If the status of a corporation, partnership, or ownership of the child-care center changes, the new entity shall submit a completed OIG-DRCC-01.
- (6) If ownership of a child-care center changes and the cabinet approves preliminary licensure upon inspection of the child-care center under the new ownership, the effective date on the preliminary license shall be the date of the approved inspection under the new ownership.
- (7) The cabinet shall return the OIG-DRCC-01 and accompanying fee to an applicant if the applicant:
 - (a) Has an ownership interest in a facility that is licensed or regulated by the cabinet, and that is subject to a finding of fraud or is involved in an investigation of alleged fraud by:
 1. The cabinet's Office of the Inspector General; or
 2. An agency with investigative authority; and

(b) Is requesting a:

1. Change in ownership; or
2. License for a new facility.

(8) An applicant shall submit to background checks in accordance with 922 KAR 2:280.

(9) A child may include a person eighteen (18) years of age if the person has a special need for which child care is required.

Section 5. Evacuation Plan.

(1) A licensed child-care center shall have a written evacuation plan in the event of a fire, natural disaster, or other threatening situation that may pose a health or safety hazard for a child in care in accordance with KRS 199.895 and 42 U.S.C. 9858c(c)(2)(U).

(2) The cabinet shall post an online template of an evacuation plan that:

- (a) Fulfills requirements of KRS 199.895;
- (b) Is optional for a child-care center's use; and
- (c) Is available to a licensed child-care center without charge.

Section 6. License Issuance.

(1) The cabinet shall monitor a child-care center that operates under a preliminary license issued pursuant to Section 4(2) of this administrative regulation.

(2) Upon completion of the probationary period required in Section 4(2) of this administrative regulation, the cabinet shall:

- (a) Approve regular licensure for a child-care center operating under a preliminary license; or
- (b) If a condition specified in Section 17 of this administrative regulation exists, deny regular licensure.

(3) A preliminary or regular license shall not be issued unless each background check required by 922 KAR 2:280 has been completed on behalf of an applicant for licensure.

(4) Background checks in accordance with 922 KAR 2:280 shall apply to:

- (a) An applicant;
- (b) A director;
- (c) An employee who is present during the time a child is receiving care;
- (d) Any person with supervisory or disciplinary control over a child in care; or
- (e) A person in accordance with 42 U.S.C. 9858f and 45 C.F.R. 98.43.

(5) If an applicant for licensure has had a previous ownership interest in a child-care ~~program~~~~provider~~ that has had a prior certification, license, or registration denied, revoked, or voluntarily relinquished as a result of an investigation or pending adverse action, the cabinet shall grant the applicant a license if:

(a) A seven (7) year period has expired from the:

1. Date of the prior denial or revocation;
2. Date the certification, license, or registration was voluntarily relinquished as a result of an investigation or pending adverse action;
3. Last day of legal remedies being exhausted; or
4. Administrative hearing decision; and

(b) The applicant has:

1. Demonstrated compliance with the provisions of this administrative regulation, 922 KAR 2:120, 922 KAR 2:280, and KRS 199.896;

2. Completed, since the time of the prior denial, revocation, or relinquishment, sixty (60) hours of training in child development and child care practice, approved by the cabinet or its designee; and

3. Not had an application, certification, license, or registration denied, revoked, or voluntarily relinquished as a result of an investigation or pending adverse action:

a. For one (1) of the reasons set forth in:

- (i) KRS 199.896~~[(19)]~~; or
- (ii) 922 KAR 2:280; or

b. Due to a disqualification from:

- (i) The Child Care Assistance Program established by 922 KAR 2:160, including an intentional program violation in accordance with 922 KAR 2:020; or

- (ii) Another governmental assistance program for fraud, abuse, or criminal conviction related to that program.
- (6) If a license is granted after the seven (7) year period specified in subsection (5)(a) of this section, the licensee shall serve a two (2) year probationary period during which the child-care center shall be inspected no less than semi-annually.
- (7) A preliminary or regular license shall specify:
 - (a) A particular premises;
 - (b) A designated licensee;
 - (c) Age category of the children in care;
 - (d) The maximum number of children allowed under center supervision at one (1) time, including a child related to the licensee or an employee, based upon:
 - 1. Available space as determined by the State Fire Marshal's Office in conjunction with the cabinet;
 - 2. Adequacy of program;
 - 3. Equipment; and
 - 4. Staff;
 - (e) If provided, nontraditional hours;
 - (f) If provided, transportation; and
 - (g) A list of services to be provided by the child-care center.
- (8) To qualify for a preliminary license, or maintain a regular license, a child-care center shall:
 - (a) Provide written documentation from the local authority showing compliance with local zoning requirements;
 - (b) Be approved by the Office of the State Fire Marshal or designee;
 - (c) Have an approved water and sewage system in accordance with local, county, and state laws;
 - (d) Provide written proof of liability insurance coverage of at least \$100,000 per occurrence;
 - (e) Comply with provisions of this administrative regulation, 922 KAR 2:120, and 922 KAR 2:280;
 - (f) Cooperate with the cabinet, the cabinet's designee, or another agency with regulatory authority during:
 - 1. An investigation of an alleged complaint, including an allegation of child abuse or neglect pursuant to KRS 620.030; and
 - 2. Unannounced inspections; and
 - (g) Have a director who meets the requirements listed in Section 10 of this administrative regulation.
- (9) A child-care center shall allow the cabinet or its designee, another agency with regulatory authority, and a parent of an enrolled child unannounced access to the child-care center during the hours of operation.
- (10) Denial of access, including any effort to delay, interfere with, or obstruct an effort by a representative of the cabinet or another agency with regulatory authority, to enter the child-care center or deny access to records relevant to the inspection shall result in the cabinet pursuing adverse action in accordance with Section 16, 17, or 18 of this administrative regulation.
- (11) A regular license shall be issued if the center has met the requirements contained in this administrative regulation, 922 KAR 2:120, 922 KAR 2:280, and KRS 199.896(3), (15), (16), (18), (19), and ~~(22)~~~~(24)~~.
- (12) A preliminary or regular license shall not be sold or transferred.
- (13) A child-care center shall not begin operation without a preliminary license to operate from the cabinet.
- (14) A child-care center operating without a preliminary or regular license shall be subject to legal action.
- (15) The voluntary relinquishment of a preliminary or regular license shall not preclude the cabinet's pursuit of adverse action.

Section 7. Fees.

- (1) A nonrefundable initial licensing fee of fifty (50) dollars shall be charged according to KRS 199.896(3).
- (2) A nonrefundable renewal fee of twenty-five (25) dollars shall be charged in accordance with KRS 199.896(3).
- (3) Licensing fees shall be:

- (a) Payable to the Kentucky State Treasurer;
- (b) Attached to the licensure application; and
- (c) Paid by:
 - 1. Cashier's check;
 - 2. Certified check;
 - 3. Business check; or
 - 4. Money order.

Section 8. General.

(1) A licensee shall:

- (a) Be responsible for the operation of the child-care center pursuant to this administrative regulation, 922 KAR 2:120, and 922 KAR 2:280; and
- (b) Protect and **ensure[assure]** the health, safety, and comfort of each child.

(2) Child-care center staff shall be:

- (a) Instructed by the child-care center's director regarding requirements for operation; and
- (b) Provided with a copy of this administrative regulation, 922 KAR 2:120, and 922 KAR 2:280.

(3) A volunteer, visitor, or board member shall comply with the policies and procedures of the child-care center.

(4) Program policies and procedures shall:

- (a) Be in writing; and
- (b) Include:
 - 1. Staff policies;
 - 2. Job descriptions;
 - 3. An organization chart;
 - 4. Chain of command; and
 - 5. Other procedures necessary to ensure implementation of:
 - a. KRS 199.898, Rights for children in child-care programs and their parents, custodians, or guardians - posting and distribution requirements;
 - b. 922 KAR 2:120, Child-care center health and safety standards;
 - c. 922 KAR 2:280, Background checks for child care staff members, reporting requirements, and appeals; and
 - d. This administrative regulation.

(5) An activity of a person living in a child-care center that is a dwelling unit shall not interfere with the child-care center program.

(6) In addition to the posting requirement of KRS 199.898(3), a child-care center shall post the following in a conspicuous place and make available for public inspection:

- (a) The provider's preliminary or regular license;
- (b) Each statement of deficiency and civil penalty notice issued by the cabinet during the current licensure year;
- (c) Each plan of correction submitted by the child-care center to the cabinet during the current licensure year;
- (d) Information on the Kentucky Consumer Product Safety Program and the program's Web site as specified in KRS 199.897;
- (e) A description of services provided by the child-care center, including:
 - 1. Current rates for child care; and
 - 2. Each service charged separately and in addition to the basic rate for child care;
- (f) Minimum staff-to-child ratios and group size established in 922 KAR 2:120; and
- (g) Daily planned program.

(7) If a director, employee, volunteer, or any person with supervisory or disciplinary control over, or having unsupervised contact with a child in care is named as the alleged perpetrator in a child abuse or neglect report accepted by the cabinet in accordance with 922 KAR 1:330, the individual shall be removed from direct contact with a child in care:

- (a) For the duration of the assessment or investigation; and

(b) Pending completion of the administrative appeal process for a cabinet substantiation of child abuse or neglect in accordance with 922 KAR 1:320 or 922 KAR 1:480.

Section 9. Records.

(1) A child-care center shall maintain:

(a) A current immunization certificate for each child in care within thirty (30) days of the child's enrollment, unless an attending physician or the child's parent objects to the immunization of the child pursuant to KRS 214.036;

(b) A written record for each child:

1. Completed and signed by the child's parent;

2. Retained on file on the first day the child attends the child-care center; and

3. To contain:

a. Identifying information about the child, which includes, at a minimum, the child's name, address, and date of birth;

b. Contact information to enable a person in charge to contact the child's:

(i) Parent at the parent's home or place of employment;

(ii) Family physician; and

(iii) Preferred hospital;

c. The name of each person who is designated in writing to pick-up the child;

d. The child's general health status and medical history including, if applicable:

(i) Allergies;

(ii) Restriction on the child's participation in activities with specific instructions from the child's parent or health professional; and

(iii) Permission from the parent for third-party professional services in the child-care center;

e. The name and phone number of each person to be contacted in an emergency involving or impacting the child;

f. Authorization by the parent for the child-care center to seek emergency medical care for the child in the parent's absence; and

g. A permission form for each trip off the premises, and allergy care plan if applicable, signed by the child's parent in accordance with 922 KAR 2:120, Section 14[42];

(c) Daily attendance records documenting the arrival and departure time of each child, including records that are required in accordance with 922 KAR 2:160, Section 14[43], if a child receives services from the child-care center through the Child Care Assistance Program;

(d) A written schedule of staff working hours;

(e) A current personnel file for each child-care center staff person to include:

1. Name, address, date of birth, and date of employment;

2. Proof of educational qualifications;

3. Record of annual performance evaluation;

4. Documentation of compliance with tuberculosis screening in accordance with Section 11(1)(b) of this administrative regulation; and

5. The results of background checks conducted in accordance with 922 KAR 2:280;

(f) A written annual plan for child[-]care staff professional development;

(g) A written evacuation plan in accordance with Section 5 of this administrative regulation;

(h) A written record of quarterly practiced earthquake drills and tornado drills detailing the date, time, and children who participated in accordance with 922 KAR 2:120, Section 3;

(i) A written record of practiced fire drills conducted monthly detailing the date, time, and children who participated in accordance with 922 KAR 2:120, Section 3;

(j) A written plan and diagram outlining the course of action in the event of a natural or manmade disaster, posted in a prominent place;

(k) A written record of reports to the cabinet required in Section 13 of this administrative regulation; and

(l) A written record of transportation services provided in accordance with 922 KAR 2:120, Section 14[42].

(2) A child-care center shall:

- (a) Maintain the confidentiality of a child's record and information concerning a child or the child's parent;
- (b) Maintain all records for five (5) years; and
- (c) Provide the cabinet access and information in the completion of the investigation pursuant to KRS 620.030.

(3) A child-care center shall not falsify records required by this section or a staff member's training record.

Section 10. Director Requirements and Responsibilities.

(1) A director shall:

- (a) Be at least twenty-one (21) years of age;
- (b) Have a high school diploma, a general equivalency diploma (GED), or qualifying documentation from a comparable educational entity;
- (c) Not be employed in a position other than an onsite child care director, or director of multiple facilities, during the hours the child-care center is in operation;
- (d) Ensure:
 1. Compliance with 922 KAR 2:120, 922 KAR 2:280, and this administrative regulation; and
 2. The designation of one (1) adult staff person in charge to carry out the director's duties if the director is not present in the child-care center during operating hours. The director shall be responsible for the actions of the designee during the director's absence;
- (e) Manage the staff in their individual job descriptions;
- (f) **Ensure[Assure]** the development, implementation, and monitoring of child-care center plans, policies, and procedures;
- (g) Supervise staff conduct to ensure implementation of program policies and procedures;
- (h) Post a schedule of daily activities, to include dates and times of activities to be conducted with the children in each classroom;
- (i) Conduct, manage, and document in writing recurring staff meetings;
- (j) Assess each staff person's interaction with children in care and classroom performance through an annual written performance evaluation;
- (k) **Ensure[Assure]** that additional staff are available during cooking and cleaning hours, if necessary, to maintain staff-to-child ratios pursuant to 922 KAR 2:120;
- (l) Notify the parent immediately of an accident or incident requiring medical treatment of a child;
- (m) **Ensure[Assure]** that a person acting as a caregiver of a child in care shall not be left alone with a child, if the licensee has not received the results of the background checks as established in 922 KAR 2:280;
- (n) **Ensure[Assure]** each mandatory record specified in Section 9 of this administrative regulation has not been altered or falsified;
- (o) Coordinate at least one (1) annual activity involving parental or family participation; and
- (p) Not have had previous ownership interest in a child-care program~~[provider]~~ that had its certification, license, or registration denied or revoked.

(2) The director of a Type I child-care center shall meet one (1) of the following educational requirements:

- (a) Master's degree in education or child development field;
- (b) Bachelor's degree in education or child development field;
- (c) Master's degree or a bachelor's degree in a field other than education or child development, including a degree in pastoral care and counseling, plus twelve (12) clock hours of child development training;
- (d) Associate degree in Early Childhood Education and Development;
- (e) Associate degree in a field other than Early Childhood Education and Development, plus twelve (12) clock hours of child development training, and two (2) years of verifiable full-time paid experience working directly with children;
- (f) A Director's Credential in Early Childhood Development and one (1) year of verifiable full-time paid experience working directly with children in:
 1. A school-based program following Department of Education guidelines;

- 2. An early childhood development program, such as Head Start; or
- 3. A licensed or certified child-care program;
- (g) Child development associate plus one (1) year of verifiable paid experience working directly with children in:
 - 1. A school-based program following Department of Education guidelines;
 - 2. An early childhood development program, such as Head Start; or
 - 3. A licensed or certified child-care program; or
- (h) Three (3) years of verifiable full-time paid experience working directly with children in:
 - 1. A school-based program following Department of Education guidelines;
 - 2. An early childhood development program, such as Head Start; or
 - 3. A licensed or certified child-care program.
- (3) The director of a Type II child-care center shall:
 - (a) Meet the requirements in subsection (2) of this section; or
 - (b) Meet two (2) of the following:
 - 1. Have twelve (12) hours of orientation and child development training;
 - 2. Have one (1) year of verifiable full-time paid experience working directly with children in:
 - a. A school-based program following Department of Education guidelines;
 - b. An early childhood development program, such as Head Start; or
 - c. A licensed or certified child-care program; or
 - 3. Obtain six (6) additional hours of training in child day care program administration.

Section 11. Staff Requirements.

- (1) Child-care center staff:
 - (a) Hired after January 1, 2009, who have supervisory power over a minor and are not enrolled in secondary education, shall have a:
 - 1. High school diploma;
 - 2. GED or qualifying documentation from a comparable educational entity; or
 - 3. Commonwealth Child Care Credential as described in 922 KAR 2:250; and
 - (b) Shall provide, prior to employment and every two (2) years thereafter:
 - 1. A statement from a health professional that the individual is free of active tuberculosis; or
 - 2. A copy of negative tuberculin results.
- (2)
 - (a) A child-care center shall not employ a person:
 - 1. With a disqualifying background check result in accordance with 922 KAR 2:280; or
 - 2. Determined by a physician to have a health condition that renders the person unable to care for children.
 - (b) An individual described in Section 6(4) of this administrative regulation shall report to the licensee if the individual:
 - 1. Meets a disqualifying criterion or has a disqualifying background check result as specified in 922 KAR 2:280;
 - 2. Is the subject of a cabinet child abuse or neglect investigation; or
 - 3. Is determined by a physician to have a health condition that renders the person unable to care for children.
- (3) For a child-care center licensed for infant, toddler, or preschool-age children, at least one (1) person on duty and present with the children shall be currently certified by a cabinet-approved training agency in the following skills:
 - (a) Infant and child cardiopulmonary resuscitation; and
 - (b) Infant and child first aid.
- (4) For a child-care center licensed for school-age children, at least one (1) person on duty and present with the children shall be currently certified by a cabinet-approved training agency in the following skills:
 - (a) Adult cardiopulmonary resuscitation; and
 - (b) First aid.
- (5) Cardiopulmonary resuscitation (CPR) and first aid training shall be in addition to the fifteen (15) clock hours requirement in subsection (16) of this section.

- (6) Child-care centers shall have available ***if needed[in case of need]***:
- (a) One (1) qualified substitute staff person for a Type II child-care center; or
 - (b) Two (2) qualified substitute staff persons for a Type I child-care center.
- (7) Each qualified substitute staff person shall:
- (a) Meet the staff requirements of this administrative regulation; and
 - (b) Provide the required documentation to verify compliance with this administrative regulation.
- (8) A qualified substitute who works in more than one (1) licensed child-care center shall provide the required documentation to verify compliance with this administrative regulation at the time of employment with each child-care center.
- (9) If the operator of a Type II child-care center is unable to provide care in accordance with this administrative regulation, 922 KAR 2:280, or 922 KAR 2:120, the Type II child-care center shall:
- (a) Close temporarily until the operator is able to resume compliance; and
 - (b) Immediately notify parents of enrolled children of the temporary closure.
- (10) The minimum number of adult workers in a child-care center shall be sufficient to ensure that:
- (a) Minimum staff-to-child ratios in accordance with 922 KAR 2:120 are followed;
 - (b) Each staff person under eighteen (18) years of age and each student trainee are under the direct supervision of a qualified staff person who meets the requirements of this section; and
 - (c) Unless providing care with a qualified staff person, a person under the age of eighteen (18) shall not be counted as staff for the staff-to-child ratio.
- (11) Except for medication as prescribed by a physician, a controlled substance shall not be permitted on the premises during hours of operation.
- (12) Alcohol shall:
- (a) Not be consumed by any person on the licensed child-care center's premises during hours of operation; and
 - (b) Be kept out of reach and sight of a child in care.
- (13) Each staff person shall remain awake while on duty except as specified in 922 KAR 2:120, Section 2 ~~(12)~~ ~~(11)~~ (f).
- (14) For each adult residing at a Type II child-care center, the results of the following shall be maintained on file at the center:
- (a) Background checks conducted in accordance with 922 KAR 2:280; and
 - (b) A copy of negative tuberculin results or a health professional's statement documenting that the adult is free of tuberculosis. Every two (2) years, the adult shall provide negative tuberculin results or health professional's statement documenting that the adult is free of tuberculosis.
- (15) If a new adult begins residing in a Type II child-care center, the adult shall submit to background and health checks within thirty (30) calendar days of residence within the household.
- (16) In accordance with KRS 199.896(15) and (16), a staff person with supervisory authority over a child shall complete the following:
- (a) Six (6) hours of cabinet-approved orientation completed within the first three (3) months of employment in a child care program covering the following topics:
 - 1. Federal minimum health and safety requirements established in 45 C.F.R. 98.41 related to:
 - a. Prevention and control of infectious diseases, including immunization;
 - b. Prevention of sudden infant death syndrome and use of safe sleeping practices;
 - c. Administration of medication, consistent with standards for parental consent;
 - d. Prevention of and response to emergencies due to food and allergic reactions;
 - e. Building and physical premises safety, including identification of and protection from hazards, bodies of water, and vehicular traffic;
 - f. Prevention of shaken baby syndrome, abusive head trauma, and child maltreatment;
 - g. Emergency preparedness and response planning for emergencies resulting from a natural disaster or a human-caused event;
 - h. Handling and storage of hazardous materials and the appropriate disposal of biological contaminants; and
 - i. Precautions in transporting children;
 - 2. Recognizing and reporting child abuse; and
 - 3. Developmentally appropriate practices;

- (b) Nine (9) hours of cabinet-approved early care and education training within the first year of employment in a child care program, including one and one-half (1 1/2) hours of cabinet-approved pediatric abusive head trauma training; and
- (c) Fifteen (15) hours of cabinet-approved early care and education training completed between July 1 and the following June 30 of each subsequent year of employment in a child care program, including one and one-half (1 1/2) hours of cabinet-approved pediatric abusive head trauma training completed once every five (5) years.
- (17) A staff person's compliance with training requirements of this section shall be verified through the cabinet-designated database maintained pursuant to 922 KAR 2:240.
- (18) A staff person shall not repeat online training courses, including pre-service orientation, unless:
 - (a) Five (5) years have passed since the online training was completed; or
 - (b) **He or she is**[~~They are~~] required to as part of a disciplinary directive by a state agency.
- (19) A staff person shall not accumulate more than fifteen (15) hours of training in a twenty-four (24) hour period.

Section 12. Contract Substitute Staff Member Requirements.

- (1) A contract substitute staff member shall:
 - (a) Comply with the training requirements established in Section 11 of this administrative regulation;
 - (b) Be employed by an outside agency and provide the required documentation to verify the contractual agreement between the licensed child-care center and the outside agency;
 - (c) Provide a hard copy file containing all required staff records to be kept on-site at the licensed child-care center and maintained at the center for five (5) years;
 - (d) Be entered into the cabinet-designated database as a staff member of the outside organization in accordance with 922 KAR 2:240;
 - (e) Be the responsibility of the licensed child-care center while working on-site; and
 - (f) Have supervisory authority over a child only if the requirements of 922 KAR 2:120, 922 KAR 2:280, and this administrative regulation are met.
- (2) Except for an employee of a child-care center program authorized by 42 U.S.C. 9831-9852, an owner or employee of a contract agency possessing a Kentucky Early Care and Education Trainer's Credential shall not train an employee of the same contract agency in order to meet the training requirements established in:
 - (a) KRS 199.896(15) and (16), 922 KAR 2:180, 922 KAR 2:240, 922 KAR 2:250, 922 KAR 2:270, or this administrative regulation; or
 - (b) A child development associate credential.

Section 13. Reports.

- (1) The following shall be reported to the cabinet or designee and other agencies specified in this section within twenty-four (24) hours from the time of discovery:
 - (a) Communicable disease, pursuant to 902 KAR 2:020, which shall also be reported to the local health department [~~pursuant to~~][KRS 214.010];
 - (b) An accident or injury to a child that requires medical care initiated by the child-care center or the child's parent;
 - (c) An incident that results in legal action by or against the child-care center that:
 - 1. Affects a child or staff person; or
 - 2. Includes the center's discontinuation or disqualification from a governmental assistance program due to fraud, abuse, or criminal conviction related to that program;
 - (d) An incident involving fire or other emergency, including a vehicular accident **if**[~~when~~] the center is transporting a child receiving child care services;
 - (e) A report of child abuse or neglect that:
 - 1. Has been accepted by the cabinet in accordance with 922 KAR 1:330; and
 - 2. Names a director, employee, volunteer, or person with supervisory or disciplinary control over, or having unsupervised contact with, a child in care as the alleged perpetrator; or
 - (f) An individual specified in Section 6(4) of this administrative regulation meeting a disqualifying criterion or background check result pursuant to 922 KAR 2:280.

- (2) An incident of child abuse or neglect shall be reported to the cabinet pursuant to KRS 620.030.
- (3) A licensee shall report to the cabinet within one (1) week:
 - (a) Any resignation, termination, or change of director; and
 - (b) The name of the acting director who satisfies the requirements of Section 10 of this administrative regulation.
- (4)
 - (a) Written notification of the following shall be:
 1. Made to the cabinet, in writing, to allow for approval before implementation:
 - a. Change of ownership;
 - b. Change of location;
 - c. Increase in capacity;
 - d. Change in hours of operation;
 - e. Change of services in the following categories:
 - (i) Infant;
 - (ii) Toddler;
 - (iii) Preschool-age;
 - (iv) School-age;
 - (v) Nontraditional hours; or
 - (vi) Transportation; or
 - f. Addition to or reduction of the square footage of a child-care center's premises; and
 2. Signed by each owner listed on the preliminary or regular license.
 - (b) The cabinet or its designee shall not charge a fee for acting upon reported changes.
- (5) The death of a child in care shall be reported to the cabinet within one (1) hour.
- (6) The cabinet and the parent of a child enrolled in a child-care center shall receive notice as soon as practicable, and prior to, a child-care center's temporary or permanent closure.

Section 14. Annual Renewal.

- (1)
 - (a) A regular license shall expire one (1) year from the effective date or last renewal date unless the licensee renews the regular license in accordance with this section and KRS 199.896(3).
 - (b) A preliminary license shall expire six (6) months from the date of issuance.
 - (c) A regular license that expires shall lapse and shall not be subject to appeal.
- (2) A licensee seeking renewal of a regular license shall:
 - (a) Submit one (1) month prior to the anniversary of the regular license's effective date, an OIG-DRCC-06, Child-Care Center License Renewal Form;
 - (b) Meet the requirements specified in Sections 4 through 13 of this administrative regulation; and
 - (c) Pay the nonrefundable renewal fee in accordance with Section 7 of this administrative regulation.
- (3) If requirements of subsection (1) of this section are met, the cabinet shall renew the license in the form of a validation letter.
- (4) An application for renewal shall be denied in accordance with Section 17 of this administrative regulation.

Section 15. Statement of Deficiency and Corrective Action Plans.

- (1) If a child-care center is found not to be in regulatory compliance, the cabinet or its designee shall complete a written statement of deficiency in accordance with KRS 199.896(5).
- (2) Except for a violation posing an immediate threat as handled in accordance with KRS 199.896(5)(c), a child-care center shall submit a written corrective action plan to the cabinet or its designee within fifteen (15) calendar days of the date of the statement of deficiency to eliminate or correct the regulatory violation.
- (3) A corrective action plan shall include:
 - (a) Specific action undertaken to correct a violation;
 - (b) The date action was or shall be completed;
 - (c) Action utilized to ***ensure[assure]*** ongoing compliance;
 - (d) Supplemental documentation requested as a part of the plan; and

- (e) Signature of the licensee or designated representative of the licensee and the date of signature.
- (4) The cabinet or its designee shall review the plan and notify the child-care center within thirty (30) calendar days of receipt of the plan, in writing, of the decision to:
 - (a) Accept the plan;
 - (b) Not accept the plan; or
 - (c) Deny, suspend, or revoke the child-care center's license, in accordance with Section 17 of this administrative regulation.
- (5) A notice of unacceptability shall state the specific reasons the plan is unacceptable.
- (6) A child-care center notified of the unacceptability of its plan shall:
 - (a) Within fifteen (15) calendar days of the notification's date, submit an amended plan; or
 - (b) Have its license revoked or denied for failure to:
 - 1. Submit an acceptable amended plan in accordance with KRS 199.896(4); or
 - 2. Implement the corrective measures identified in the plan of correction.
- (7) The cabinet shall not review or accept more than three (3) corrective action plans from a licensed child-care center in response to the same written statement of deficiency.
- (8) If a licensed child-care center fails to submit an acceptable corrective action plan or does not implement corrective measures in accordance with the corrective action plan, the cabinet shall deny or revoke the center's license.
- (9) The administrative regulatory violation reported on a statement of deficiency that poses an immediate threat to the health, safety, or welfare of a child shall be corrected within five (5) working days from the date of the statement of deficiency in accordance with KRS 199.896(5)(c).

Section 16. Directed Plan of Correction (DPOC). If the cabinet determines that a child-care center is in violation of this administrative regulation, 922 KAR 2:120, or 922 KAR 2:280, based on the severity of the violation, the cabinet:

- (1) Shall enter into an agreement with the provider detailing the requirements for remedying a violation and achieving compliance;
- (2) Shall notify or require the provider to notify a parent of a child who may be affected by the situation for which a DPOC has been imposed;
- (3) Shall increase the frequency of monitoring by cabinet staff;
- (4) May require the provider to participate in additional training; and
- (5) May amend the agreement with the provider if the cabinet identifies an additional violation during the DPOC.

Section 17. Basis for Denial, Suspension, or Revocation.

- (1)
 - (a) The cabinet shall deny, suspend, or revoke a preliminary or regular license in accordance with KRS 199.896 if the applicant for licensure, director, employee, or a person who has supervisory authority over, or unsupervised contact with, a child fails to meet the requirements of this administrative regulation, 922 KAR 2:120, 922 KAR 2:280, or 922 KAR 2:190.
 - (b) A licensee whose regular license is suspended or revoked shall:
 - 1. Receive a new license certificate indicating that the license is under adverse action; and
 - 2. Post the new license certificate in accordance with Section 8(6) of this administrative regulation.
- (2) Emergency action.
 - (a) The cabinet shall take emergency action in accordance with KRS 199.896(4) by issuing an emergency order that suspends a child-care center's license.
 - (b) An emergency order shall:
 - 1. Be served to a licensed child-care center in accordance with KRS 13B.050(2); and
 - 2. Specify the regulatory violation that caused the emergency condition to exist.
 - (c) Upon receipt of an emergency order, a child-care center shall surrender its license to the cabinet.
 - (d) The cabinet or its designee and the child-care center shall make reasonable efforts to:
 - 1. Notify a parent of each child in care of the center's suspension; and
 - 2. Refer a parent for assistance in locating alternate child care arrangements.

- (e) A child-care center required to comply with an emergency order issued in accordance with this subsection may submit a written request for an emergency hearing within twenty (20) calendar days of receipt of the order to determine the propriety of the licensure's suspension in accordance with KRS 199.896(7).
- (f) The cabinet shall conduct an emergency hearing within ten (10) working days of the request for hearing in accordance with KRS 13B.125(3).
- (g)
 - 1. Within five (5) working days of completion of the hearing, the cabinet's hearing officer shall render a written decision affirming, modifying, or revoking the emergency order to suspend licensure.
 - 2. The emergency order shall be affirmed if there is substantial evidence of an immediate threat to public health, safety, or welfare.
- (h) A provider's license shall be revoked if the:
 - 1. Provider does not request a hearing within the timeframes established in paragraph (e) of this subsection; or
 - 2. Condition that resulted in the emergency order is not corrected within thirty (30) calendar days of service of the emergency order.
- (3) Public information shall be provided in accordance with KRS 199.896(10) and (11), and 199.898(2)(d) and (e).
- (4) Unless an applicant for a license meets requirements of Section 6(5) of this administrative regulation, the cabinet shall deny an applicant for a preliminary or regular license if:
 - (a) The applicant has had previous ownership interest in a child-care provider that had its certification, license, or registration denied or revoked;
 - (b) Denial, investigation, or revocation proceedings were initiated, and the licensee voluntarily relinquished the license;
 - (c) An appeal of a denial or revocation is pending;
 - (d) The applicant previously failed to comply with the requirements of KRS 199.896, 922 KAR 2:120, 922 KAR 2:280, 922 KAR 2:190, this administrative regulation, or another administrative regulation effective at the time;
 - (e) An individual with ownership interest in the child-care center has been discontinued or disqualified from participation in:
 - 1. The Child Care Assistance Program established by 922 KAR 2:160, including an intentional program violation in accordance with 922 KAR 2:020; or
 - 2. Another governmental assistance program due to fraud, abuse, or criminal conviction related to that program;
 - (f) The applicant is the parent, spouse, sibling, or child of a previous licensee whose license was denied, revoked, or voluntarily relinquished as described in paragraphs (a) through (d) of this subsection, and the previous licensee will be involved in the child-care center in any capacity;
 - (g) The applicant listed as an officer, director, incorporator, or organizer of a corporation or limited liability company whose child-care center license was denied, revoked, or voluntarily relinquished as described in paragraph (a) through (d) of this subsection within the past seven (7) years;
 - (h) The applicant knowingly misrepresents or submits false information on a form required by the cabinet;
 - (i) The applicant interferes with a cabinet or other agency representative's ability to perform an official duty pursuant to Section 6(8)(f) or 6(9) of this administrative regulation;
 - (j) The applicant's background check reveals that the applicant is disqualified in accordance with 922 KAR 2:280;
 - (k) The applicant has been the subject of more than two (2) directed plans of correction during a three (3) year period; or
 - (l) The applicant has failed to comply with payment provisions in accordance with 922 KAR 2:190.
- (5) A child-care center's license shall be revoked if:
 - (a) A representative of the center interferes with a cabinet or other agency representative's ability to perform an official duty pursuant to Section 6(8)(f) or 6(9) of this administrative regulation;
 - (b) A cabinet representative, a representative from another agency with regulatory authority, or parent is denied access during operating hours to:

1. A child;
 2. The child-care center; or
 3. Child-care center staff;
- (c) The licensee is discontinued or disqualified from participation in:
1. The Child Care Assistance Program as a result of an intentional program violation in accordance with 922 KAR 2:020; or
 2. A governmental assistance program as a result of fraud, abuse, or criminal conviction related to that program;
- (d) The licensee fails to meet a condition of, or violates a requirement of a directed plan of correction pursuant to Section 16 of this administrative regulation;
- (e) The applicant or licensee knowingly misrepresents or submits false information on a form required by the cabinet;
- (f) The licensee is the subject of more than two (2) directed plans of correction during a three (3) year period; or
- (g) The licensee has failed to comply with payment provisions in accordance with 922 KAR 2:190.
- (6) The cabinet or its designee shall suspend the license if:
- (a) A regulatory violation is found to pose an immediate threat to the health, safety, and welfare of the children in care as described in KRS 199.896(4); or
 - (b) The child-care center~~[child-care-center]~~ fails to comply with the approved plan of correction.

Section 18. Civil Penalty. The cabinet shall assess and enforce a civil penalty in accordance with 922 KAR 2:190.

Section 19. Right of Appeal.

- (1) If an application has been denied or a licensee receives notice of suspension, revocation, or civil penalty, the cabinet shall inform the applicant for licensure or licensee by written notification of the right to appeal the notice of adverse action in accordance with KRS Chapter 13B and 199.896(7).
- (2) An adverse action may be appealed by filing form OIG-DRCC-02, Licensed Provider Request for Appeal. The request shall:
 - (a) Be submitted to the secretary of the cabinet or designee within twenty (20) calendar days of the notice of adverse action; and
 - (b) Specify if an applicant for licensure or licensee requests an opportunity to informally dispute the notice of adverse action.
- (3) If an applicant for licensure or a licensee files an OIG-DRCC-02 for a hearing, the cabinet shall:
 - (a) Appoint a hearing officer; and
 - (b) Proceed pursuant to KRS 13B.050.
- (4) If an applicant for licensure or a licensee files a request for a hearing and a request for an informal dispute resolution, the cabinet shall:
 - (a) Abate the formal hearing pending completion of the informal dispute resolution process; and
 - (b) Proceed to informal dispute resolution.

Section 20. Informal Dispute Resolution.

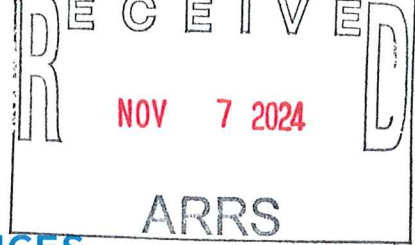
- (1) A request for informal dispute resolution shall:
 - (a) Accompany the request for a hearing;
 - (b) Identify the licensure deficiency in dispute;
 - (c) Specify the reason the applicant for licensure or licensee disagrees with the deficiency; and
 - (d) Include documentation that disputes the deficiency.
- (2) Upon receipt of the written request for informal dispute resolution, the regional program manager or designee shall:
 - (a) Review documentation submitted by the applicant for licensure or licensee; and
 - (b) If requested, schedule an informal dispute resolution meeting with the applicant for licensure or licensee.
- (3) The informal dispute resolution meeting shall be held within ten (10) calendar days of receipt of the request by the cabinet, unless both parties agree in writing to an extension of time.

- (4) The informal dispute resolution meeting shall be conducted by:
 - (a) The regional program manager or designee; and
 - (b) A child care surveyor who did not participate in the survey resulting in the disputed deficiency.
- (5) Within ten (10) calendar days of completion of the informal dispute resolution meeting or request, the regional program manager or designee shall:
 - (a) Issue a decision by written notification to the return address specified in the request for informal dispute resolution;
 - (b) If a change is made to the statement of deficiencies, issue an amended statement of deficiencies; and
 - (c) Specify whether the adverse action has been rescinded.
- (6) An applicant or a licensee may:
 - (a) Accept the determination; or
 - (b) Proceed to a hearing according to KRS 13B.050.
- (7) A request for informal dispute resolution shall not:
 - (a) Limit, modify, or suspend enforcement action against the applicant for licensure or licensee; or
 - (b) Delay submission of a written plan of correction.
- (8) Emergency action taken in accordance with Section 17(2) of this administrative regulation shall conform to the requirements of KRS 199.896(4). The informal dispute resolution process shall not restrict the cabinet's ability to issue an emergency order to stop, prevent, or avoid an immediate threat to public health, safety, or welfare under KRS 13B.125(2) and 199.896(4).

Section 21. Incorporation by Reference.

- (1) The following material is incorporated by reference:
 - (a) "OIG-DRCC-01, Initial Child-Care Center License Application", 8/2018;
 - (b) "OIG-DRCC-02, Licensed Provider Request for Appeal", ~~05/2024~~^{3/2020}; and
 - (c) "OIG-DRCC-06, Child-Care Center License Renewal Form", 8/2018.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of the Inspector General, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. This material may also be viewed on the department's Web site at <https://chfs.ky.gov/agencies/dcbs/Pages/default.aspx>.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-7476; fax 502-564-7091; email CHFSregs@ky.gov.



Andy Beshear
GOVERNOR

CABINET FOR HEALTH AND FAMILY SERVICES

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SECRETARY

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November 6, 2024

Senator Stephen West, Co-Chair
Representative Derek Lewis, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
083, Capitol Annex
Frankfort KY 40601

Re: 922 KAR 2:120

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 922 KAR 2:120, Child-care center health and safety standards, the Cabinet for Health and Family Services proposes the attached amendments to 922 KAR 2:120.

Sincerely,

Lucie Estill
Staff Assistant
Office of Legislative and Regulatory Affairs

Attachments

Final, 9-4-2024

SUGGESTED SUBSTITUTE

**CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Child Care**

922 KAR 2:120. Child-care center health and safety standards.

RELATES TO: KRS Chapter 151, 158.030, Chapter 186, 189.125, 199.011(3), 199.894(1), 199.8951, 199.896(2), (18), (19), 199.8962, [~~199.898,~~]211.350-211.380, Chapter 217, 311.646, 314.011(5), Chapter 318, 527.070(1), 620.030, [~~7 C.F.R. 226.20,~~]16 C.F.R. 1219, 1220, 1221, 45 C.F.R. 98.2, **98.41**, 49 C.F.R. 571.213[~~, 20 U.S.C. 6081-6084, 42 U.S.C. 9857-9858g~~]

STATUTORY AUTHORITY: KRS 194A.050(1), 199.896(2), 199.8962(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the ~~secretary~~[Secretary] of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate programs and fulfill the responsibilities vested in the cabinet, qualify for the receipt of federal funds, and cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. KRS 199.896(2) authorizes the Cabinet for Health and Family Services to promulgate administrative regulations and standards for child-care centers. KRS 199.8962(2) requires the Cabinet for Health and Family Services to promulgate administrative regulations to establish the requirements and procedures for the implementation of standards contained therein. This administrative regulation establishes health and safety standards for child-care centers.

Section 1. Definitions.

- (1) "Cabinet" is defined by KRS 199.011(3) and 199.894(1).
- (2) "Corporal physical discipline" is defined by KRS 199.896(18).
- (3) "Developmentally appropriate" means suitable for the specific age range and abilities of a child.
- (4) "Director" means an individual:
 - (a) Who meets the education and training requirements as specified in 922 KAR 2:090, Section 10;
 - (b) Whose primary full-time job responsibilities are to ensure compliance with 922 KAR 2:090, 922 KAR 2:280, and this administrative regulation; and
 - (c) Who is responsible for directing the program and managing the staff at the child-care center.
- (5) "Health professional" means a person currently licensed as a:
 - (a) Physician;
 - (b) Physician assistant;
 - (c) Advanced practice registered nurse; or
 - (d) Registered nurse as defined by KRS 314.011(5) under the supervision of a physician or advanced practice registered nurse.
- (6) "Infant" means a child who is less than twelve (12) months of age.
- (7) "Licensee" means the owner or operator of a child-care center to include:
 - (a) Sole proprietor;
 - (b) Corporation;
 - (c) Limited liability company;
 - (d) Partnership;
 - (e) Association; or
 - (f) Organization, such as:
 1. Board of education;
 2. Private school;
 3. Faith-based organization;
 4. Government agency; or
 5. Institution.

- (8) "Nontraditional hours" means the hours of:
- (a) 7 p.m. through 5 a.m. Monday through Friday; or
 - (b) 7 p.m. on Friday until 5 a.m. on Monday.
- (9) "Parent" is defined by 45 C.F.R. 98.2.
- (10) "Premises" means the building and contiguous property in which child care is licensed.
- (11) "Preschool-age" means a child who is older than a toddler and younger than school-age.
- (12) "Protective surface" means loose surfacing material not installed over concrete, which includes:
- (a) Wood mulch;
 - (b) Double shredded bark mulch;
 - (c) Uniform wood chips;
 - (d) Fine sand;
 - (e) Coarse sand;
 - (f) Pea gravel, except for areas used by children under three (3) years of age;
 - (g) Certified shock absorbing resilient material; or
 - (h) Other material approved by the cabinet or designee, based on recommendation from a nationally recognized source.
- (13) "Related" means having one (1) of the following relationships with the operator of the child-care center:
- (a) Child;
 - (b) Grandchild;
 - (c) Niece;
 - (d) Nephew;
 - (e) Sibling;
 - (f) Stepchild; or
 - (g) Child in legal custody of the operator.
- (14) "School-age" means a child who meets the age requirements of KRS 158.030 or who attends kindergarten, elementary, or secondary education.
- (15) "Toddler" means a child between the age of twelve (12) months and thirty-six (36) months.
- (16) "Transition" means the changing from one (1) child care arrangement to another.
- (17) "Transition plan" means a document outlining the process to be used in moving a child from one (1) child care arrangement to another.
- (18) "Type I child-care center" means a child-care center licensed to regularly provide child care services for:
- (a) Four (4) or more children in a nonresidential setting; or
 - (b) Thirteen (13) or more children in a residential setting with designated space separate from the primary residence of a licensee.
- (19) "Type II child-care center" means the primary residence of the licensee in which child care is regularly provided for at least seven (7), but not more than twelve (12), children including children related to the licensee.

Section 2. Child Care Services.

- (1) Services established in this administrative regulation shall be maintained during all hours of operation that child care is provided.
- (2) For an operating child-care center, minimum staff-to-child ratios and group size shall be maintained as established in the table established in this subsection.

Age of Children	Ratio	Maximum Group Size*
Infant	1 staff for 5 children	10
Toddler 12 to 24 months	1 staff for 6 children	12
Toddler 24 to 36 months	1 staff for 10 children	20
Preschool-age 3 to 4 years	1 staff for 12 children	24

Preschool-age 4 to 5 years	1 staff for 14 children	28
School-age 5 to 7 years	1 staff for 15 children	30
School-age 7 and older	1 staff for 25 children (for before and after school)	30
	1 staff for 20 children (full day of care)	30
*Maximum Group Size shall be applicable only to Type I child-care centers.		

- (a) In a Type I child-care center, a group size shall:
1. Be separately maintained in a defined area unique to the group; and
 2. Have specific staff assigned to, and responsible for, the group.
- (b) The age of the youngest child in the group shall determine the:
1. Staff-to-child ratio; and
 2. Maximum group size.
- (c) This subsection and subsection (10) of this section shall not apply during traditional school hours to a center:
1. Providing early childhood education to mixed-age groups of children whose ages range from thirty (30) months to six (6) years; and
 2. Accredited by or affiliated with a nationally-recognized education association that has criteria for group size and staff-to-child ratios contrary to the requirements of this subsection.
- (d) If a child related to the director, employee, or person under the supervision of the licensee is receiving care in the center, the child shall be included in the staff-to-child ratio.
- (e) A child-care center shall develop a written procedure to always maintain supervision, ratios, and group size including during:
1. The beginning of the day;
 2. Staff breaks; and
 3. Movement from the classroom to another location.
- (3)
- (a) Each center shall maintain a child-care program that **ensures[assures]** each child shall be:
1. Provided with adequate supervision at all times by a qualified staff person who ensures the child is:
 - a. Within scope of vision and range of voice;[-ør]
 - b. For a school-age child, within scope of vision or range of voice; and
 - c. Accounted for during movement from one (1) location to another using name-to-face recognition by visually identifying each child; and
 2. Protected from abuse and neglect.
- (b) The program shall include:
1. A procedure to ensure compliance with and inform child care staff of the laws of the commonwealth[Commonwealth] pertaining to child abuse or neglect set forth in KRS 620.030; and
 2. Written policy that states that the procedures that were taught at the orientation training shall be implemented by each child-care center staff member.
- (4) The child-care center shall provide a daily planned program:
- (a) Posted in writing in a conspicuous location with each age group and followed;
 - (b) Of activities that are individualized and developmentally appropriate for each child served;
 - (c) That provides experience to promote the individual child's physical, emotional, social, and intellectual growth and well-being; and
 - (d) Unless the child-care center is a before- or after-school program that operates part day or less, that offers a variety of creative activities including:
 1. Art or music;
 2. Math or numbers;
 3. Dramatic play;
 4. Stories and books;
 5. Science or nature;
 6. Block building or stacking;

7. Tactile or sensory activity;
 8. Multi-cultural exposure;
 9. Indoor and outdoor play in which a child makes use of both small and large muscles;
 10. A balance of active and quiet play, including group and individual activity;
 11. An opportunity for a child to:
 - a. Have some free choice of activities;
 - b. If desired, play apart from the group at times; and
 - c. Practice developmentally appropriate self-help procedures in respect to:
 - (i) Clothing;
 - (ii) Toileting;
 - (iii) Hand-washing; and
 - (iv) Eating; and
 12. The use of screen time, electronic viewing, and listening devices if the:
 - a. Material is developmentally appropriate to the child using the equipment;
 - b. Material is not a replacement for active play or a substitute for engagement and interaction with other children and adults;
 - c. Material does not include any violence, adult content viewing, or inappropriate language;
 - d. Child is over twenty-four (24) months of age;
 - e. Viewing or listening is discussed with parents beforehand; and
 - f. Viewing or listening is designed as an educational tool used to help children explore, create, problem solve, interact, and learn with and from one another.
- (5) Screen time shall be:
- (a) Utilized for:
 1. A maximum of thirty (30) minutes per day in a half-day program;
 2. A maximum of sixty (60) minutes per day in a full-day program; or
 3. The time needed for school-age children to complete assigned non-traditional instruction; and
 - (b) Prohibited for a child under twenty-four (24) months of age.
- (6) A child who does not wish to use an electronic device during the planned program shall be offered other appropriate activities.
- (7) Regularity of routines shall be implemented to afford the child familiarity with the daily schedule of activity.
- (8) Sufficient time shall be allowed for an activity so that a child may progress at his or her own developmental rate.
- (9) A child shall not be required to stand or sit for a prolonged period of time:
- (a) During an activity;
 - (b) While waiting for an activity to start; or
 - (c) As discipline.
- (10) If school-age care is provided:
- (a) A separate area or room shall be provided in a Type I child-care center; and
 - (b) Each child shall be provided a snack after school.
- (11) A child shall not be subjected to:
- (a) Corporal physical discipline pursuant to KRS 199.896(18);
 - (b) Loud, profane, threatening, frightening, humiliating, or abusive language; or
 - (c) Discipline that is associated with:
 1. Rest;
 2. Toileting;
 3. Play time; or
 4. Food.
- (12) If nontraditional hours of care are provided:
- (a) Including time spent in school, a child shall not be permitted to spend more than sixteen (16) hours in the child-care center during one (1) twenty-four (24) hour period;
 - (b) At least one (1) staff member shall be assigned responsibility for each sleeping room;
 - (c) A child present for an extended period of time during waking hours shall receive a program of well-balanced and constructive activity that is developmentally appropriate for the child;

(d) A child sleeping three (3) hours or more shall sleep in:

1. Pajamas; or
2. A nightgown;

(e) A child who attends school from the child-care center shall be offered breakfast prior to leaving for school; and

(f) Staff shall:

1. If employed by a Type I child-care center, remain awake while on duty; or
2. If employed by or is the operator of a Type II child-care center, remain awake until every child in care is asleep.

(13)

(a) Care for a child with a special need shall be consistent with the nature of the need as documented by the child's health professional.

(b) A child may include a person eighteen (18) years of age if the person has a special need for which child care is required.

(14) A child-care center shall ensure all staff members ~~take~~**ensure** precautions ~~are taken~~ to prevent shaken baby syndrome, abusive head trauma, and child maltreatment.

Section 3. General Requirements.

(1) Screen time, electronic viewing, and listening devices shall only be used in the center as a part of the child's planned program of activity as established in Section 2(4) and (5) of this administrative regulation.

(2) Activity areas, equipment, and materials shall be arranged so that the child's activity is adequately supervised by staff.

(3) Computer equipment shall be equipped with a monitoring device that limits access by a child to items inappropriate for a child to view or hear.

(4) A child shall:

(a) Be helped with personal care and cleanliness based upon his or her developmental skills;

(b) Except as established in paragraph (c) of this subsection, wash his or her hands with liquid soap and warm running water:

1.
 - a. Upon arrival at the center; or
 - b. Within thirty (30) minutes of arrival for school-age children;
2. Before and after eating or handling food;
3. After toileting or diaper change;
4. After handling animals;
5. After touching an item or an area of the body soiled with body fluids or wastes; and
6. After outdoor or indoor play time; and

(c) Use hand sanitizer or hand-sanitizing wipes if liquid soap and warm running water are not available in accordance with paragraph (b) of this subsection. The child shall wash the child's hands as soon as practicable once liquid soap and warm running water are available.

(5) Staff shall:

(a) Maintain personal cleanliness;

(b) Conform to hygienic practices while on duty;

(c) Except as established in paragraph (d) of this subsection, wash their hands with liquid soap and running water:

1. Upon arrival at the center;
2. After toileting or assisting a child in toileting;
3. Before and after diapering each child;
4. After wiping or blowing a child's or own nose;
5. After handling animals;
6. After caring for a sick child;
7. Before and after feeding a child or eating;
8. Before dispensing medication;
9. After smoking or vaping; and

10. If possible, before administering first aid; and
- (d) Use hand sanitizer or hand-sanitizing wipes if liquid soap and warm running water are not available in accordance with paragraph (c) of this subsection. The staff shall wash the staff's hands as soon as practicable once liquid soap and warm running water are available.
- (6) A staff person suspected of being infected with a communicable disease shall:
- (a) Not perform duties that may[could] allow for the transmission of the disease until the infectious condition can no longer be transmitted; and
- (b) Provide a statement of fitness to return to work from a health professional, if requested.
- (7) The following shall be inaccessible to a child in care:
- (a) Toxic cleaning supplies, poisons, and insecticides;
- (b) Matches, cigarettes, lighters, and flammable liquids; and
- (c) Personal belongings and medications of staff.
- (8) The following shall be inaccessible to a child in care unless under direct supervision and part of planned program of instruction:
- (a) Knives and sharp objects;
- (b) Litter and rubbish;
- (c) Bar soap; and
- (d) Plastic bags not used for personal belongings.
- (9) In accordance with KRS 527.070(1), firearms and ammunition shall be stored separately from each other in a locked area outside of the designated child care area.
- (10) Smoking or vaping shall:
- (a) Be permitted in accordance with local ordinances;
- (b) Be allowed only in outside designated areas; and
- (c) Not be permitted in the presence of a child.
- (11) While bottle feeding a child, the:
- (a) Child shall be held; and
- (b) Bottle or beverage container shall not be:
1. Propped;
 2. Left in the mouth of a sleeping child; or
 3. Heated in a microwave.
- (12) A fire drill shall be:
- (a) Conducted during hours of operation at least monthly; and
- (b) Documented, detailing the date and time.
- (13) An earthquake drill, shelter-in-place drill,~~[or]~~ lockdown drill, and tornado drill shall be:
- (a) Conducted during hours of operation at least quarterly; and
- (b) Documented, detailing the date and time.
- (14) A written plan shall be in place to communicate reunification with families and accommodations in the event of a natural disaster, fire, shelter-in-place, lockdown, or other emergency for:
- (a) Infants and toddlers;
- (b) Children with disabilities; and
- (c) Children with chronic medical conditions.

Section 4. Premises Requirements.

- (1) The premises shall be:
- (a) Suitable for the purpose intended;
- (b) Kept clean and in good repair; and
- (c) Equipped with:
1. A working telephone accessible to a room used by a child; and
 2. A list of emergency numbers posted by the telephone or maintained in the telephone's contact, including numbers for the:
 - a. Police department;
 - b. Fire department;
 - c. Emergency medical care and rescue squad; and
 - d. Poison control center.

- (2) A child-care center shall be in compliance with the codes administered by the Kentucky Fire Marshal and the local zoning laws.
- (3) Fire and emergency exits shall be kept clear of debris.
- (4) A working carbon monoxide detector shall be required in a licensed child-care center that is in a home if the home:
- (a) Uses fuel burning appliances; or
 - (b) Has an attached garage.
- (5) The building shall be constructed to ensure the:
- (a) Building is:
 - 1. Dry;
 - 2. Ventilated; and
 - 3. Well lit, including clean light fixtures that are:
 - a. In good repair in all areas; and
 - b. Shielded or have shatter-proof bulbs installed; and
 - (b) Following are protected:
 - 1. Windows;
 - 2. Doors;
 - 3. Stoves;
 - 4. Heaters;
 - 5. Furnaces;
 - 6. Pipes; and
 - 7. Stairs.
- (6)
- (a) A minimum of thirty-five (35) square feet of indoor space is required per child, exclusive of the:
 - 1. Kitchen;
 - 2. Bathroom;
 - 3. Hallways; and
 - 4. Storage areas; and
 - (b) The final total capacity of the center shall be calculated and approved by the cabinet[Exclusive of the kitchen, bathroom, hallway, and storage area, there shall be a minimum of thirty-five (35) square feet of space per child].
- (7) Measures shall be utilized to control the presence of:
- (a) Rodents;
 - (b) Flies;
 - (c) Roaches; and
 - (d) Other vermin.
- (8) An opening to the outside shall be effectively protected against the entrance of vermin by:
- (a) Self-closing doors;
 - (b) Closed windows;
 - (c) Screening;
 - (d) Controlled air current; or
 - (e) Other effective means.
- (9) Floors, walls, and ceilings shall be smooth, in good repair, and constructed to be easily cleaned.
- (10) The water supply shall be:
- (a) Potable;
 - (b) Protected from contamination;
 - (c) Adequate in quality and volume;
 - (d) Under sufficient pressure to permit unrestricted use; and
 - (e) Obtained from an approved public water supply or a source approved by the local health department.
- (11) Groundwater supplies for a child-care center caring for:
- (a) More than twenty-five (25) children shall comply with requirements of the Energy and Environment Cabinet, Division of Water, established in KRS Chapter 151 and 401 KAR Chapter 8, as applicable;
- or

- (b) Twenty-five (25) children or less shall secure approval from the:
 - 1. Energy and Environment Cabinet; or
 - 2. Local health department.
- (12) Sewage shall be properly disposed by a method approved by the:
 - (a) Energy and Environment Cabinet; or
 - (b) Cabinet.
- (13) All plumbing shall comply with the State Plumbing Code established in KRS Chapter 318.
- (14) Solid waste shall be kept in a suitable receptacle in accordance with local, county, and state law, as governed by KRS 211.350 to 211.380.
- (15) If a portion of the building is used for a purpose other than child care:
 - (a) Necessary provisions shall be made to avoid interference with the child-care program; and
 - (b) A separate restroom shall be provided for use only by those using the building for its child care purpose.
- (16) The temperature of the indoor area of the premises shall be sixty-five (65) to eighty-two (82) degrees Fahrenheit.
- (17) Outdoor activity shall be restricted based upon:
 - (a) Temperature;
 - (b) Weather conditions;
 - (c) Weather alerts, advisories, and warnings issued by the National Weather Service; or
 - (d) Age or temperament of the child.
- (18) A kitchen shall not be required if:
 - (a) The only food served is an afternoon snack to school-age children; and
 - (b) Adequate refrigeration is maintained.
- (19) The Department of Housing, Buildings and Construction, the Kentucky Fire Marshal's Office, and cabinet shall be contacted concerning a planned new building, addition, or major renovation prior to construction.
- (20) An outdoor play area shall have constant and active supervision and shall be:
 - (a) Except for an after-school child-care program, located on the premises of a public or state-accredited nonpublic school, fenced for the safety of the children;
 - (b) A minimum of sixty (60) square feet per child, separate from and in addition to the thirty-five (35) square feet minimum pursuant to subsection (6) of this section;
 - (c) Free from:
 - 1. Litter;
 - 2. Glass;
 - 3. Rubbish; and
 - 4. Flammable materials;
 - (d) Safe from foreseeable hazard;
 - (e) Well drained;
 - (f) Well maintained;
 - (g) In good repair; ~~and~~
 - (h) Visible to staff at all times; and
 - (i) Protected by physical or natural barriers from:
 - 1. Traffic;
 - 2. Gullies; and
 - 3. Other hazards.
- (21) A protective surface shall:
 - (a) Be provided for outdoor play equipment used to:
 - 1. Climb;
 - 2. Swing; and
 - 3. Slide; and
 - (b) Have a fall zone equal to the height of the equipment.
- (22) If a child-care center does not have access to an outdoor play area, an indoor space shall:
 - (a) Be used as a play area;

- (b) Have a minimum of sixty (60) square feet per child, separate from and in addition to the thirty-five (35) square feet minimum pursuant to subsection (6) of this section;
- (c) Include equipment for gross motor skills; and
- (d) Have a protective surface of at least two (2) inches thick around equipment intended for climbing.

(23) While attending, a child shall:

- (a) Have moderate to vigorous activity each day, including active play that:
 - 1. Includes outdoor play unless unavailable pursuant to subsections (17) or (22) of this section;
 - 2. Shall occur for a minimum of:
 - a. Thirty (30) minutes per day in a half-day program; or
 - b. Sixty (60) minutes per day in a full-day program; and
 - 3. May be broken into smaller increments of time throughout a day; and
- (b) Not be punished or rewarded in regards to play time.

(24) Fences shall be:

- (a) Constructed of safe material;
- (b) Stable; and
- (c) In good condition.

(25) Supports for climbing apparatus and large equipment shall be securely fastened to the ground.

(26) Crawl spaces, such as tunnels, shall be short and wide enough to permit access by adults.

(27) A sandbox shall be:

- (a) Constructed to allow for drainage;
- (b) Covered while not in use;
- (c) Kept clean; and
- (d) Checked for vermin prior to use.

(28) (a) Pursuant to 45 C.F.R. 98.41, constant and active supervision shall be maintained around any body of water.

(b) The body of water[and] shall be:

- 1. Inaccessible by secured physical or natural barriers of adequate height; and
- 2. Appropriately secured.

(29) Bodies of water that shall not be utilized include:

- (a) Portable wading pools;
- (b) Natural bodies of water; and
- (c) Unfiltered, nondisinfected containers.

~~(30)~~[(29)] A child-care center shall have enough toys, play apparatus, and developmentally appropriate materials to provide each child with a variety of activities during the day, as specified in Section 2 of this administrative regulation.

~~(31)~~[(30)] Storage space shall be provided:

- (a) In the form of:
 - 1. Shelves; or
 - 2. Other storage device accessible to the children; and
- (b) In sufficient quantity for each child's personal belongings.

~~(32)~~[(31)] Supplies shall be stored so that the adult can reach them without leaving a child unattended.

Section 5. Infant and Toddler Play Requirements.

(1) Indoor areas for infants and toddlers under twenty-four (24) months of age shall:

- (a) Be separate from an area used by an older child;
- (b) Not be an exit or entrance; and
- (c) Have adequate crawling space for an infant or toddler away from general traffic patterns of the center.

(2) While awake, an infant shall have short periods of supervised tummy time throughout each day.

(3) Except in accordance with subsection (4) of this section or Section 2(2)(c) of this administrative regulation, an infant or toddler under twenty-four (24) months of age shall not participate in an activity with an older child for more than one (1) hour per day.

(4) If a toddler is developmentally appropriate for a transition to a preschool age group, a toddler may participate in an activity with an older child for more than one (1) hour per day if:

- (a) Space for the toddler is available in the preschool-age group;
 - (b) The staff-to-child ratios and group sizes are maintained based on the age of the youngest child;
 - (c) The center has a procedure for listing a transitioning toddler on attendance records, including a specific day and time the toddler is with either age group; and
 - (d) The ~~child-care~~~~[child-care]~~ center has obtained the signature and approval of the toddler's parent on the toddler's transition plan.
- (5) If a child-care center provides an outdoor play area for an infant or toddler under twenty-four (24) months of age, the outdoor area shall be:
- (a) Shaded; and
 - (b) In a separate area or scheduled at a different time than an older child.
- (6) Playpens and play yards shall:
- (a) Meet federal standards as issued by the Consumer Product Safety Commission, including 16 C.F.R. 1221;
 - (b) Be manufactured for commercial use; and
 - (c) Not be used for sleeping or napping.

Section 6. Sleeping and Napping Requirements.

- (1) An infant shall sleep or nap on the infant's back unless the infant's health professional signs a waiver that states the infant requires an alternate sleeping position.
- (2) Rest time shall be provided for each child who is not school-age and who is in care for more than four (4) hours.
- (3) Rest time shall occur in an adequate space according to the child's age as follows:
- (a) For an infant:
 - 1. An individual non-tiered crib that meets Consumer Product Safety Commission standards established in 16 C.F.R. 1219-1220;
 - 2. A firm crib mattress in good repair with a clean tight-fitted sheet that shall be changed:
 - a. Weekly; or
 - b. Immediately if it is soiled or wet;
 - 3. No bedding other than a clean tight-fitted sheet; and
 - 4. No toys or other items except the infant's pacifier; or
 - (b) For a toddler or preschool-age child:
 - 1. An individual bed, a two (2) inch thick waterproof mat, or cot in good repair; and
 - 2. Bedding that is in good repair and is changed:
 - a. Weekly; or
 - b. Immediately if it is soiled or wet.
- (4) Rest time shall not exceed two (2) hours for a preschool-age child unless the child is attending the child-care center during nontraditional hours.
- (5) A child who does not sleep shall be permitted to play quietly and shall be visually supervised.
- (6) Cots, equipment, and furnishings used for sleeping and napping shall be spaced twelve (12) inches apart to allow free and safe movement by a person.
- (7) If cots or mats are used, floors shall be free from:
- (a) Drafts;
 - (b) Liquid substances;
 - (c) Dirt; and
 - (d) Dampness.
- (8)
- (a) Cots or mats not labeled for individual use by a child shall be cleaned after each use.
 - (b) Cots or mats labeled for individual use by a child shall be:
 - 1. Cleaned at least weekly; and
 - 2. Disinfected immediately if it is soiled or wet.
- (9) Individual bedding shall be stored in a sanitary manner.

Section 7. First Aid and Medicine.

- (1) First aid supplies shall:

- (a) Be available to provide prompt and proper first aid treatment;
- (b) Be stored out of reach of a child;
- (c) Be periodically inventoried to ensure the supplies have not expired;
- (d) If reusable, be:
 - 1. Sanitized; and
 - 2. Maintained in a sanitary manner; and
- (e) Include:
 - 1. Liquid soap;
 - 2. Adhesive bandages;
 - 3. Sterile gauze;
 - 4. Medical tape;
 - 5. Scissors;
 - 6. A thermometer;
 - 7. Flashlight;
 - 8. Cold pack;
 - 9. First aid book;
 - 10. Disposable gloves; and
 - 11. A cardiopulmonary resuscitation mouthpiece protector.
- (2) A child showing signs of an illness or condition that may[~~could~~] be communicable shall not be admitted to the regular child-care program.
- (3) If a child becomes ill while at the child-care center:
 - (a) The child shall be placed in a supervised area isolated from the rest of the children;
 - (b) The parent shall be contacted immediately;[~~and~~]
 - (c) Arrangements shall be made to remove the child from the child-care center as soon as practicable;
 - (d) Biological contaminants, such as bodily fluids, blood, or excretions, shall be handled with disposable gloves as required by 45 C.F.R. 98.41;
 - (e) Contaminated clothing or other absorbent materials shall be placed in a sealed plastic container or bag labeled with the child's name and returned to the parent; and
 - (f) Soiled surfaces shall be cleaned and disinfected.
- (4) Prescription and nonprescription medication shall be administered to a child in care:
 - (a)
 - 1. With a written request of the child's parent or the child's prescribing health professional; and
 - 2. According to the directions or instructions on the medication's label; or
 - (b) For epinephrine, in accordance with KRS 199.8951 and 311.646.
- (5) The child-care center shall keep a written record of the administration of medication, including:
 - (a) Time of each dosage;
 - (b) Date;
 - (c) Amount;
 - (d) Name of staff person giving the medication;
 - (e) Name of the child; and
 - (f) Name of the medication.
- (6) Medication, including refrigerated medication, shall be:
 - (a) Stored in a separate and locked place, out of the reach of a child unless the medication is:
 - 1. A first aid supply and is maintained in accordance with subsection (1) of this section;
 - 2. Diaper cream, sunscreen, or toothpaste. Diaper cream, sunscreen, or toothpaste shall be inaccessible to a child;
 - 3. An epinephrine auto-injector. A licensed child-care center shall comply with KRS 199.8951 and 311.646, including:
 - a. An epinephrine auto-injector shall be inaccessible to a child;
 - b. A child-care center shall have at least one (1) person onsite who has received training on the administration of an epinephrine auto-injector if the child-care center maintains an epinephrine auto-injector;
 - c. A child-care center shall seek emergency medical care for a child if an auto-injector is administered to the child; and

- d. A child-care center shall report to the child's parent and the cabinet in accordance with 922 KAR 2:090, Section 13(1)(b), if an epinephrine auto-injector is administered to a child; or
- 4. An emergency or rescue medication for a child in care, such as medication to respond to diabetic or asthmatic condition, as prescribed by the child's physician. Emergency or rescue medication shall be inaccessible to a child in care;
 - (b) Kept in the original bottle; and
 - (c) Properly labeled.
- (7) Medication shall not be given to a child if the medication's expiration date has passed.
- (8) Each center shall ensure that every staff member has received training on first aid and cardiopulmonary resuscitation (CPR).
- (9) Pursuant to 45 C.F.R. 98.41, waste and biological contaminants, such as bodily fluids, blood, or excretions, shall be:
 - (a) Disposed of in a manner that prevents exposure to children;
 - (b) Inaccessible to children; and
 - (c) In a covered plastic-lined receptacle with a close-fitting lid.
- (10) The child-care center shall ensure each child's food or other allergies and allergy care plan are posted prominently where food is served with the permission of the parent or guardian, including:
 - (a) Instructions regarding the allergy, including identifying symptoms;
 - (b) Steps taken to avoid and prevent the allergen; and
 - (c) A plan of treatment in the event of an allergic reaction, including medication and doses, and that all epinephrine pens shall be administered in accordance with subsection (6)(a)3. of this section.

Section 8. Kitchen Requirements.

- (1) The kitchen shall:
 - (a) Be clean;
 - (b) Be equipped for proper food:
 - 1. Preservation;
 - 2. Storage;
 - 3. Preparation; and
 - 4. Service;
 - (c) Be adequately ventilated~~[to the outside air]~~; and
 - (d) Except in a Type II child-care center **if[when]** a meal is not being prepared, not be used for the activity of a child.
- (2) A child-care center required to have a food service permit shall be in compliance with 902 KAR 45:005 and this administrative regulation.
- (3) Convenient and suitable sanitized utensils shall be:
 - (a) Provided; and
 - (b) Used to minimize handling of food during preparation.
- (4) A cold-storage facility used for storage of perishable food in a nonfrozen state shall:
 - (a) Have an indicating thermometer or other appropriate temperature measuring device;
 - (b) Be in a safe environment for preservation; and
 - (c) Be forty (40) degrees Fahrenheit or below.
- (5) Frozen food shall be:
 - (a) Kept at a temperature of zero degrees Fahrenheit or below; and
 - (b) Thawed:
 - 1. At refrigerator temperatures;
 - 2. Under cool, potable running water;
 - 3. As part of the cooking process; or
 - 4. By another method in accordance with the Department for Public Health's food safety standards and permits, established in KRS Chapter 217.
- (6) Equipment, utensils, and surfaces contacting food shall be:
 - (a) Smooth;
 - (b) Free of breaks, open seams, cracks, and chips;
 - (c) Accessible for cleaning; and

- (d) Nontoxic.
- (7) The following shall be clean and sanitary:
 - (a) Eating and drinking utensils;
 - (b) Kitchenware;
 - (c) Food contact surfaces of equipment;
 - (d) Food storage utensils;
 - (e) Food storage containers;
 - (f) Cooking surfaces of equipment; and
 - (g) Nonfood contact surfaces of equipment.
- (8) A single-service item shall be:
 - (a) Stored;
 - (b) Handled and dispensed in a sanitary manner; and
 - (c) Used only once.
- (9) Bottles shall be:
 - (a) Individually labeled;
 - (b) Promptly refrigerated;
 - (c) Covered while not in use; and
 - (d) Consumed within one (1) hour of being heated or removed from the refrigerator.

Section 9. Food and Drink Requirements for All Child-Care Centers.

- (1) Food shall be:
 - (a) Clean;
 - (b) Free from:
 - 1. Spoilage;
 - 2. Adulteration; and
 - 3. Misbranding;
 - (c) Safe for human consumption;
 - (d) Withheld from service or discarded if the food is hermetically sealed, nonacidic, or low-acidic food that has been processed in a place other than a commercial food-processing establishment;
 - (e) Obtained from a source that is in compliance with the Department for Public Health's food safety standards and permits, established in KRS Chapter 217;
 - (f) Acceptable if from an established commercial food store;
 - (g) Served in a quantity that is developmentally appropriate for the child with additional portions provided upon request of the child; and
 - (h) Protected against contamination from:
 - 1. Dust;
 - 2. Flies;
 - 3. Rodents and other vermin;
 - 4. Unclean utensils and work surfaces;
 - 5. Unnecessary handling;
 - 6. Coughs and sneezes;
 - 7. Cuts in skin;
 - 8. Communicable disease;
 - 9. Flooding;
 - 10. Drainage; and
 - 11. Overhead leakage.
- (2) Food shall not be:
 - (a) Used for reward;
 - (b) Used for discipline;
 - (c) Withheld until all other foods are consumed; or
 - (d) Served while viewing electronic devices.
- (3) A serving of milk shall consist of:
 - (a) Breast milk or iron-fortified formula for a child:
 - 1. Age birth to twelve (12) months; or

2. Beyond twelve (12) months of age as documented by the parent or the child's physician;
- (b) Pasteurized unflavored whole milk for children ages twelve (12) months to twenty-four (24) months; or
- (c) Pasteurized unflavored low fat one (1) percent or fat-free skim milk for children ages twenty-four (24) months to school-age.
- (4) Formula or breast milk provided by the parent shall be prepared and labeled.
- (5) A child-care center may participate in the Child and Adult Care Food Program (CACFP).
- (6) A serving of bread shall only consist of whole or enriched grain.
- (7) Drinking water shall be freely available to a child throughout the day.
- (8) Food shall be stored on:
 - (a) Clean racks;
 - (b) Clean shelves;
 - (c) Other clean surfaces; or
 - (d) If maintained in a sanitary condition, in nonabsorbent labeled containers a minimum of six (6) inches off the floor.
- (9) Fruits and vegetables shall be washed before cooking or serving.
- (10) Children shall not be served food that has been deep-fried on-site.
- (11) Meat salads, poultry salads, and cream-filled pastries shall be:
 - (a) Prepared with utensils that are clean; and
 - (b) Refrigerated unless served immediately.
- (12) An individual portion of food served to a child or adult shall not be served again.
- (13) Wrapped food that is still wholesome and has not been unwrapped may be reserved.
- (14) Meals shall be:
 - (a) Served every two (2) to three (3) hours; and
 - (b) Served to a child:
 1. Seated with sufficient room to manage food and tableware; and
 2. Supplied with individual eating utensils designed for use by a child.
- (15) Drinks served to children shall not have added sugar. Children shall drink water, milk, or 100% juice with meals.
- (16) Juice shall:
 - (a) Not include added sugar;
 - (b) Not be served more than once per day;
 - (c) Not be served to children under the age of twelve (12) months; and
 - (d) Serve as a fruit or vegetable meal component replacement.
- (17) A meat alternative shall include:
 - (a) Tofu;
 - (b) Soy products;
 - (c) Cheese, including cottage or ricotta cheese;
 - (d) Eggs;
 - (e) Cooked dry beans;
 - (f) Peanut butter or soy nut butter;
 - (g) Yogurt, plain or flavored; or
 - (h) Peanuts, soy nuts, tree nuts, or seeds.
- (18) Cheese shall be natural and pasteurized processed cheese. Children shall not be served cheese product, imitation cheese, cheese food, or cheese spread as a meat alternative.
- (19) For food provided by the center, all children in the center shall be offered the same food items unless:
 - (a) A parent provides written authorization to substitute the food with an alternative that meets the same component requirement; or
 - (b) A physician provides written authorization to substitute the food or the food component and includes the food that the child shall not have and the food substitution that the child shall have.
- (20) Children shall be served all daily food components required by Section 10 or 11 of this administrative regulation.

Section 10. Meal Planning Requirements for a Center that Provides Meals.

- (1) Breakfast shall include the following three (3) components:
 - (a) Milk;
 - (b) Bread or grain, which may:
 1. Be exchanged for a meat or meat alternative up to three (3) times per week; and
 2. Include ready-to-eat cereal with six (6) grams of sugar or less per dry ounce; and
 - (c)
 1. Fruit;
 2. Vegetable; or
 3. 100 percent juice.
- (2) A snack shall include two (2) of the following components:
 - (a) Milk;
 - (b) Meat or meat alternative;
 - (c) Bread or grain; or
 - (d)
 1. Fruit;
 2. Vegetable; or
 3. 100 percent juice.
- (3) Lunch, and dinner if served, shall include the following components:
 - (a) Milk;
 - (b) Meat or meat alternative;
 - (c) Bread or grain; and
 - (d)
 1. Two (2) different vegetables; or
 2. One (1) fruit and one (1) vegetable.
- (4) A grain-based dessert shall not replace the bread or grain component of a meal.
- (5) Yogurt served to children shall have twenty-three (23) grams of sugar or less per six (6) ounces.
- (6) The serving size for milk shall be:
 - (a) Four (4) ounces for one (1) or two (2) year old children;
 - (b) Six (6) ounces for three (3) to five (5) year old children; or
 - (c) Eight (8) ounces for school-age children.
- (7) At least one (1) whole grain bread or grain shall be served daily.
- (8) A component shall be considered "whole grain" if:
 - (a) The product is listed by any state agency's Special Supplemental Nutrition Program for Women, Infants, and Children as whole grain;
 - (b) The product is labeled as "whole wheat" and has a Standard of Identity issued by the U.S. Food and Drug Administration (FDA);
 - (c) The product includes one (1) of the FDA-approved whole grain health claims on its packaging, exactly as written;
 - (d) The product meets the whole grain-rich criteria under the National School Lunch Program (NSLP);
 - (e) The product is identified on the package as "whole grain," "whole wheat," or "whole grain-rich"; or
 - (f) Proper documentation from a manufacturer or standardized recipe demonstrates that whole grains are the primary grain ingredient by weight.
- (9) A weekly menu shall be:
 - (a) Prepared;
 - (b) Dated;
 - (c) Posted in advance in a conspicuous place;
 - (d) Kept on file for thirty (30) days; and
 - (e) Amended in writing with any substitutions on the day the meal is served.

Section 11. Meal Planning Requirements for a Center that Does Not Provide Meals.

- (1) A child-care center that does not provide meals shall serve:
 - (a)
 1. Breakfast; or

- 2. A mid-morning snack;
- (b)
 - 1. Lunch; or
 - 2. A mid-afternoon snack; and
- (c) Dinner, if appropriate.
- (2) Breakfast shall include three (3) of the following components:
 - (a) Milk;
 - (b) Bread or grain;
 - (c) Meat or meat alternative; or
 - (d)
 - 1. Fruit;
 - 2. Vegetable; or
 - 3. 100 percent juice.
- (3) A snack shall include two (2) of the following components:
 - (a) Milk;
 - (b) Bread or grain;
 - (c) Meat or meat alternative; or
 - (d)
 - 1. Fruit;
 - 2. Vegetable; or
 - 3. 100 percent juice.
- (4) Lunch, and dinner if served, shall include:
 - (a) Milk;
 - (b) Bread or grain;
 - (c) Meat or meat alternative; and
 - (d)
 - 1. Two (2) different vegetables; or
 - 2. One (1) fruit and one (1) vegetable.

Section 12. Toilet, Diapering, and Toiletry Requirements.

- (1) A child-care center, per building, shall have a minimum of one (1) toilet and one (1) lavatory for each twenty (20) children. Urinals may be substituted for up to one-half (1/2) of the number of toilets required for a male toilet room.
- (2) A toilet room shall:
 - (a)
 - 1. Be provided for each gender; or
 - 2. A plan shall be implemented to use the same toilet room at separate times;
 - (b) Have a supply of toilet paper; and
 - (c) Be cleaned and disinfected daily.
- (3) A sink shall be:
 - (a) Located in or immediately adjacent to toilet rooms;
 - (b) Equipped with hot and cold running water that allows for hand washing;
 - (c) Equipped with hot water at a minimum temperature of ninety (90) degrees Fahrenheit and a maximum of 120 degrees Fahrenheit;
 - (d) Equipped with liquid soap;
 - (e) Equipped with hand-drying blower or single use disposable hand drying material;
 - (f) Equipped with an easily cleanable waste receptacle; and
 - (g) Immediately adjacent to a changing area used for infants and toddlers.
- (4) Each toilet shall:
 - (a) Be kept in clean condition;
 - (b) Be kept in good repair;
 - (c) Be in a lighted room; and
 - (d) Have ventilation to outside air.
- (5) Toilet training shall be coordinated with the child's parent.

- (6) An adequate quantity of freshly laundered or disposable diapers and clean clothing shall be available.
- (7) If a toilet training chair is used, the chair shall be:
 - (a) Used over a surface that is impervious to moisture;
 - (b) Out of reach of other toilets or toilet training chairs;
 - (c) Emptied promptly; and
 - (d) Disinfected after each use.
- (8) Diapers or clothing shall be:
 - (a) Changed ***if/when*** soiled or wet;
 - (b) Stored in a covered container temporarily; and
 - (c) Washed or disposed of at least once a day.
- (9) The proper methods of diapering and hand-washing shall be posted at each diaper changing area.
- (10) ***if/When*** a child is diapered, the child shall:
 - (a) Not be left unattended; and
 - (b) Be placed on a surface that is:
 1. Clean;
 2. Padded;
 3. Free of holes, rips, tears, or other damage;
 4. Nonabsorbent;
 5. Easily cleaned; and
 6. Free of any items not used for diaper changing.
- (11) Unless the child is allergic, individual disposable washcloths shall be used to thoroughly clean the affected area of the child.
- (12) Staff shall disinfect the diapering surface after each child is diapered.
- (13) If staff wears disposable gloves, the gloves shall be changed and disposed after each child is diapered.
- (14) Combs, towels or washcloths, brushes, and toothbrushes used by a child shall be:
 - (a) Individually stored in separate containers; and
 - (b) Plainly labeled with the child's name.
- (15) Toothbrushes shall be:
 - (a) Individually identified;
 - (b) Allowed to air dry; and
 - (c) Protected from contamination.
- (16) Toothpaste used by multiple children shall be dispensed onto an intermediate surface, such as waxed paper, to avoid cross contamination.

Section 13. Toys and Furnishings.

- (1) All toys and furniture contacted by a child shall be:
 - (a) Kept clean and in good repair; and
 - (b) Free of peeling, flaking, or chalking paint.
- (2) Indoor and outdoor equipment shall:
 - (a) Be clean, safe, and in good repair;
 - (b) Meet the physical, developmental needs, and interests of children of different age groups;
 - (c) Be free from sharp points or corners, splinters, protruding nails or bolts, loose or rusty parts, hazardous small parts, lead-based paint, poisonous material, and flaking or chalking paint; and
 - (d) Be designed to guard against entrapment or situations that may cause strangulation.
- (3) Toys shall be:
 - (a) Used according to the manufacturer's safety specifications;
 - (b) Durable; and
 - (c) Without sharp points or edges.
- (4) A toy or another item that is considered a mouth contact surface by a child not toilet trained shall be sanitized daily by:
 - (a)
 1. Scrubbing in warm, soapy water using a brush to reach into crevices;

2. Rinsing in clean water;
 3. Submerging in a sanitizing solution for at least two (2) minutes; and
 4. Air dried; or
- (b) Cleaning in a dishwasher if the toy or other item is dishwasher safe.
- (5) Tables and chairs shall be of suitable size for children.
- (6) Chairs appropriate for staff shall be provided to use while feeding, holding, or playing with a child.

Section 14. Transportation.

- (1) A center shall document compliance with KRS Chapter 186 and 603 KAR 5:072 pertaining to:
- (a) Vehicles;
 - (b) Drivers; and
 - (c) Insurance.
- (2) A center providing or arranging transportation service shall:
- (a) Be licensed and approved by the cabinet or its designee prior to transporting a child;
 - (b) Have a written plan that details the type of transportation, staff schedule, transportation schedule, and transportation route; and
 - (c) Have written policies and procedures, including emergency procedures practiced monthly by staff who transports children.
- (3) Prior to transporting a child, a center providing transportation services of a child shall notify the cabinet or its designee in writing of the:
- (a) Type of transportation offered;
 - (b) Type of vehicle used for transportation;
 - (c) Plan for ensuring staff perform duties relating to transportation properly;
 - (d) Full insurance coverage for each vehicle;
 - (e) Agency policy and procedures relating to an emergency plan for evacuating the vehicle **as required by 45 C.F.R. 98.41**;
 - (f) Contracts, agreements, or documents detailing arrangements with any third party for services; and
 - (g) Safety procedures for:
 1. Transporting a child;
 2. Loading and unloading a child; and
 3. Providing adequate supervision of a child.
- (4) A vehicle used to transport children shall be equipped with:
- (a) A fire extinguisher;
 - (b) First aid supplies as established in Section 7 of this administrative regulation;
 - (c) Emergency reflective triangles; and
 - (d) A device to cut the restraint system, if necessary.
- (5) Transportation provided by licensed public transportation or a school bus shall comply with subsections (1) and (2) of this section.
- (6) A vehicle used to transport children shall comply with the requirements established in paragraphs (a) through (d) of this subsection.
- (a) For a twelve (12) or more passenger vehicle, the child-care center shall maintain a current certification of inspection from the Transportation Cabinet.
 - (b) A vehicle that requires traffic to stop while loading and unloading a child shall be equipped with a system of:
 1. Signal lamps;
 2. Identifying colors; and
 3. Cautionary words.
 - (c) A vehicle shall be equipped with seat belts for each occupant to be individually secured.
 - (d) A vehicle shall not transport children and hazardous materials at the same time.
- (7) The appropriate car safety seat meeting federal and state motor vehicle safety standards in 49 C.F.R. 571.213 and KRS 189.125 shall be used for each child.
- (8) A daily inspection of the vehicle shall be performed prior to the vehicle's use and documented for:
- (a) Tire inflation consistent with tire manufacturer's recommended air pressure;
 - (b) Working lights, signals, mirrors, gauges, and wiper blades;

- (c) Working safety restraints;
 - (d) Adequate fuel level; and
 - (e) Cleanliness and good repair.
- (9)
- (a) The staff-to-child ratios set forth in Section 2(2) of this administrative regulation shall apply to vehicle transport, if not inconsistent with special requirements or exceptions in this section.
 - (b) An individual who is driving with a child in the vehicle shall supervise no more than four (4) children under the age of five (5).
- (10) Each child shall:
- (a) Have a seat;
 - (b) Be individually belted or harnessed in the seat; and
 - (c) Remain seated while the vehicle is in motion.
- (11) A child shall not be left unattended:
- (a) At the site of aftercare delivery; or
 - (b) In a vehicle.
- (12) If the parent or designee is unavailable, a prearranged written plan shall be completed to designate where the child may[can] be picked up.
- (13) A child shall not be picked up or delivered to a location that requires crossing the street or highway unless accompanied by an adult.
- (14) A vehicle transporting a child shall have the headlamps on.
- (15) If a vehicle needs to be refueled, it shall be refueled only while not being used to transport a child. If emergency refueling or repair is necessary during transporting, all children shall be removed and supervised by an adequate number of adults while refueling or repair is occurring.
- (16) If the driver is not in the driver's seat, the:
- (a) Engine shall be turned off;
 - (b) Keys shall be removed; and
 - (c) Emergency brake shall be set.
- (17) Transportation services provided shall:
- (a) Be recorded in writing and include:
 - 1. The first and last name of the child transported; and
 - 2. The time each child gets on and the time each child gets off;
 - (b) Be completed by a staff member other than the driver; and
 - (c) Be kept for five (5) years.
- (18) A driver of a vehicle transporting a child for a center shall:
- (a) Be at least twenty-one (21) years old;
 - (b) Complete:
 - 1. The background checks as described in 922 KAR 2:280; and
 - 2. An annual check of the:
 - a. Kentucky driver history records in accordance with KRS 186.018; or
 - b. Driver history records through the state transportation agency that issued the driver's license;
 - (c) Hold a current driver's license that has not been suspended or revoked during the last five (5) years; and
 - (d) Not caused an accident that resulted in the death of a person.
- (19) Firearms, ammunition, alcohol, or illegal substances shall not be transported in a vehicle transporting children.
- (20)
- (a) Based on the harm, threat, or danger to a child's health, safety, and welfare, the cabinet shall revoke a center's privilege to transport a child or pursue an adverse action in accordance with Section 15, 16, 17, or 18 of 922 KAR 2:090:
 - 1. For a violation of this section; or
 - 2. If the center:
 - a. Fails to report an accident in accordance with 922 KAR 2:090, Section 13; or
 - b. Transports more passengers than the vehicle's seating capacity and safety restraints can accommodate.

(b) Revocation of a center's privilege to provide transportation services in accordance with paragraph (a) of this subsection shall:

1. Apply to each site listed under the licensee; and
2. Remain effective for no less than a twelve (12) month period.

(21) A parent may use the parent's vehicle to transport the parent's child during a field trip.

Section 15. Animals.

(1) An animal shall not be allowed in the presence of a child in care:

(a) Unless:

1. The animal is under the supervision and control of an adult;
2. Written parental consent has been obtained; and
3. The animal is certified as vaccinated against rabies; or

(b) Except in accordance with subsection (3) of this section.

(2) A parent shall be notified in writing if a child has been bitten or scratched by an animal.

(3) An animal that is considered undomesticated, wild, or exotic shall not be allowed at a child-care center unless the animal is:

(a) A part of a planned program activity led by an animal specialist affiliated with a zoo or nature conservatory; and

(b) In accordance with 301 KAR 2:081 and 301 KAR 2:082.

(4) This section shall not apply to wild animals on the outer property of the child-care center that are expected to be found outdoors, such as squirrels and birds, if they are not:

(a) Disturbed; or

(b) Brought indoors.

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