

922 KAR 2:180. Requirements for registered child care providers in the Child Care Assistance Program.

RELATES TO: KRS 17.165, 17.545(2), 17.990, 189.125, 199.011(3), (4), 199.462, 199.892 - 199.896, 199.898, 199.8982, 199.8994, 214.010, 314.011(5), 527.070(1), 620.020(8), 620.030, 45 C.F.R. 98, 20 U.S.C. 6081-6084, 42 U.S.C. 601-619, 9857-9858q

STATUTORY AUTHORITY: KRS 194A.050(1), 199.8994(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 199.8994(6) requires the cabinet to promulgate administrative regulations to establish minimum health and safety standards, limitations on the maximum number of children in care, training requirements for a child care provider that receives a child care subsidy administered by the cabinet, and criteria for the denial of subsidies if criminal records indicate convictions that impact the safety and security of children in care. This administrative regulation establishes requirements for providers to participate in the Child Care Assistance Program and the application procedures.

Section 1. Definitions.

- (1) "Cabinet" is defined by KRS 199.011(3) and 199.894(1).
- (2) "Child" is defined by KRS 199.011(4).
- (3) "Closed" means the provider is no longer a registered program provider.
- (4) "Conditional approval" means time-limited approval while completing required training.
- (5) "Corporal physical discipline" is defined by KRS 199.896(18).
- (6) "Denied" means the application for program registration is not approved and the applicant will be penalized.
- (7) "Developmentally appropriate" means suitable for the specific age range and abilities of a child.
- (8) "Health professional" means a person actively licensed in Kentucky 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.
- (9) "Parent" is defined by 45 C.F.R. 98.2.
- (10) "Pediatric abusive head trauma" is defined by KRS 620.020(8).
- (11) "Related" means having one (1) of the following relationships with the registered provider:
 - (a) Child;
 - (b) Grandchild;
 - (c) Niece;
 - (d) Nephew;
 - (e) Sibling;
 - (f) Step-child;
 - (g) Child in legal custody of the provider; or
 - (h) Child living with the provider acting in loco parentis.
- (12) "Revoked" means the provider is no longer a registered provider and the provider will be penalized.

(13) "Withdrawn" means the application for program registration is removed from consideration without a penalty.

Section 2. Application Rights and Requirements for Child Care Provider Registration.

(1) An individual shall notify the cabinet or its designee of the individual's intent to apply for child care provider registration:

(a) Directly by:

1. Telephone; or
2. Written statement; or

(b) Indirectly by being designated as the choice for providing unregulated child care by an applicant for benefits under the Child Care Assistance Program (CCAP) in accordance with 922 KAR 2:160.

(2) An individual may apply or reapply for child care provider registration on the same day that the notice of intent to apply in accordance with subsection (1) of this section is made with the cabinet or its designee.

(3) An individual who intends and requests to apply for registration as a child care provider shall not be required to appear in person to complete an application and supporting documentation in accordance with subsections (4) and (5) of this section, but may receive all necessary forms and instructions by mail.

(4) To apply for child care provider registration in CCAP, an individual shall, within thirty (30) calendar days of giving notice of intent to apply pursuant to subsection (1) of this section:

(a) Submit:

1.
 - a. A completed DCC-95, Application for Registered Child Care Provider in Provider's Home; or
 - b. A completed DCC-96, Application for Registered Child Care Provider in Child's Home;
2. Written verification from a health professional that the individual is:
 - a. Free of active tuberculosis; and
 - b. In good general health and able to care for children;
3. A completed DCC-94A, Registered Child Care Provider Information Form;
4. A completed IRS W-9, Request for Taxpayer Identification Number and Certification; and
5. A written evacuation plan in the event of fire, natural disaster, or other threatening situation that may pose a health or safety hazard to a child in care that includes:
 - a. A designated relocation site;
 - b. Evacuation routes;
 - c. Measures for notifying parents of the relocation site and ensuring a child's return to the child's parent; and
 - d. Actions to address the needs of an individual child to include a child with a special need. The cabinet shall post an online template of an evacuation plan that fulfills requirements of this administrative regulation for an individual's free and optional use;

(b) Show proof by photo identification or birth certificate that the individual is eighteen (18) years or older;

(c) Show verification of Social Security number; and

(d) Submit to background checks in accordance with 922 KAR 2:280.

(5)

(a) An applicant may receive conditional approval in accordance with Section 4(2) of this administrative regulation.

(b) Within ninety (90) calendar days of giving notice of intent to apply for registration as a child care provider in CCAP pursuant to subsection (1) of this section, the applicant shall provide verification that the applicant has obtained six (6) hours of training approved by the cabinet or its designee, in the areas of:

1. Health, safety, and sanitation;
2. Recognition of child abuse and neglect, which may include cabinet-approved pediatric abusive head trauma training in accordance with KRS 199.896(16); and
3. Developmentally appropriate child care practice.

(c) An applicant who fails to complete training in accordance with paragraph (b) of this subsection shall be subject to cabinet action in accordance with Section 4(4) of this administrative regulation.

Section 3. Additional Requirements for Registered Providers in Provider's Home.

(1) If a registered child care provider provides child care services in the provider's home, the provider shall:

- (a) Submit written verification from a health professional that each member of the provider's household age eighteen (18) or older is free from tuberculosis;
- (b) Provide written verification that each member of the provider's household who is age eighteen (18) or older has submitted to background checks in accordance with 922 KAR 2:280; and
- (c) Complete and sign the DCC-107A, Registered Provider Home Safety Checklist, with a cabinet representative.

(2) A registered child care provider shall certify that the provider's home and each play area used for child care are safe and have adequate:

- (a) Heat;
- (b) Light; and
- (c) Ventilation.

(3) Each floor of a registered child care provider's home used for child care shall have at least one (1):

- (a) Unblocked exit to the outside;
- (b) Smoke detector;
- (c) Fire extinguisher; and
- (d) Carbon monoxide detector if the home:
 1. Uses fuel burning appliances; or
 2. Has an attached garage.

(4) A registered child care provider's home and areas accessible to children in care shall be free of hazards, and the following items shall be inaccessible to a child in care:

- (a) Cleaning supplies, poisons, paints, and insecticides;
- (b) Knives, scissors, and other sharp objects;
- (c) Power tools, lawn mowers, hand tools, nails, and other similar equipment;
- (d) Matches, cigarettes, vaping devices, lighters, combustibles, and flammable liquids;
- (e) Alcoholic beverages; and
- (f) Medications.

(5) In accordance with KRS 527.070(1), firearms and ammunition shall be stored and locked in locations separate from each other and inaccessible to a child in care.

(6) Electrical outlets not in use shall be covered.

(7) An electric fan, floor furnace, freestanding heater, wood burning stove, or fireplace, shall:

- (a) Be out of the reach of a child; or
- (b) Have a safety guard to protect a child from injury.

(8) A registered child care provider shall use protective gates to block all stairways if a child in care is under age three (3).

- (9) Stairs and steps shall:
 - (a) Be in good repair; and
 - (b) Include railing of comparable length to the stairs or steps.
- (10) A registered child care provider's home shall have:
 - (a) At least one (1) working telephone with a residential line or an active mobile service; and
 - (b) An accessible list of emergency telephone numbers, including the numbers for the:
 - 1. Police;
 - 2. Fire station;
 - 3. Emergency medical care;
 - 4. Poison control center; and
 - 5. Reporting of child abuse and neglect.
- (11) A registered child care provider's home shall have a:
 - (a) Refrigerator in working order that maintains a temperature of forty-five (45) degrees Fahrenheit or below; and
 - (b) Freezer that maintains a temperature of zero degrees Fahrenheit.
- (12) A registered child care provider shall maintain first aid supplies that include:
 - (a) Liquid soap;
 - (b) Band aids;
 - (c) Sterile gauze; and
 - (d) Adhesive tape.
- (13) A registered child care provider shall wash hands with liquid soap and running water:
 - (a) Before and after diapering a child;
 - (b) Before and after food preparation;
 - (c) Before feeding a child;
 - (d) After smoking or vaping; and
 - (e) At other times as necessary to prevent the spread of disease.
- (14) In accordance with KRS 199.896(18), a registered child care provider shall not use corporal physical discipline on a child entrusted to the provider's care.
- (15) Pets or livestock shall be vaccinated and not left alone with a child.
- (16) If transportation is provided by a registered child care provider, the provider shall:
 - (a) Have written permission from a parent or guardian to transport the child;
 - (b) Have a vehicle equipped with seat belts; and
 - (c) Comply with KRS 189.125 regarding child restraint and seating.
- (17)
 - (a) If a registered provider provides child care in the provider's home, the cabinet or its designee shall complete an initial or an annual home inspection of the registered child care provider in accordance with 42 U.S.C. 9858c(c)(2)(K)(i)(IV) and this administrative regulation.
 - (b) If the cabinet or its designee finds that the registered provider is noncompliant with Sections 2(4), 5, 6, or 7(2) of this administrative regulation or this section, the registered provider shall submit a written corrective action plan to the cabinet or its designee within ten (10) calendar days from the cabinet's statement of noncompliance.
 - (c) A corrective action plan shall include:
 - 1. Specific action undertaken to correct a violation;
 - 2. The date action was or shall be completed;
 - 3. Action utilized to assure ongoing compliance;
 - 4. Supplemental documentation requested as a part of the plan; and
 - 5. Signature of the provider and the date of signature.
 - (d) The cabinet or its designee shall review the plan and notify a registered provider within thirty (30) calendar days from receipt of a plan, in writing, of the decision to:

1. Accept the plan;
 2. Not accept the plan; or
 3. Take negative action in accordance with Section 8 of this administrative regulation.
- (e) A notice of unacceptability shall state the specific reasons a plan was not accepted.
- (f) A registered provider notified of an unaccepted plan shall:
1. Submit an amended plan within ten (10) calendar days of notification; or
 2. Be subject to negative action in accordance with Section 8 of this administrative regulation.
- (g) If a registered provider fails to submit an acceptable corrective action plan or does not implement corrective measures in accordance with the corrective action plan, the cabinet shall take negative action in accordance with Section 8 of this administrative regulation.
- (h) The cabinet shall not review or accept more than three (3) corrective action plans from a registered provider in response to the same written statement of deficiency.
- (18) A registered provider's voluntary closure shall not preclude the cabinet's pursuit of negative action.

Section 4. Actions on Applications.

- (1) The cabinet or its designee shall approve, deny, or withdraw an individual's application for registration within thirty (30) calendar days from receipt of the individual's notice of intent to apply made in accordance with Section 2(1) of this administrative regulation.
- (2) The cabinet or its designee may conditionally approve an individual who made a notice and application pursuant to Section 2(1) and (4) of this administrative regulation, to provide child care services to a child for ninety (90) calendar days, if the applicant complies with:
- (a) Sections 2(4), 5, and 6 of this administrative regulation;
 - (b) Section 3 of this administrative regulation, if child care is given in the home of the provider; and
 - (c) 922 KAR 2:280.
- (3) The cabinet or its designee shall approve an individual who made a notice and application pursuant to Section 2(1) and (4) of this administrative regulation as a registered child care provider for one (1) year, if the applicant complies with:
- (a) Sections 2(4) through (5), 5, and 6 of this administrative regulation;
 - (b) Section 3 of this administrative regulation if child care is given in the home of the provider; and
 - (c) 922 KAR 2:280 for:
 1. The applicant; and
 2. Any member of the applicant's household who is age eighteen (18) or older if child care is given in the home of the provider.
- (4) If a conditionally approved provider, as specified in subsection (2) of this section, has not completed the training requirement pursuant to Section 2(5) of this administrative regulation, or if a background check has not been completed in accordance with 922 KAR 2:280, the cabinet or its designee shall:
- (a) Not approve an applicant for payment pursuant to 922 KAR 2:160 past the ninety (90) days of conditional approval; and
 - (b) Deny another:
 1. Period of conditional approval for the same applicant; or
 2. Application from the same applicant unless:
 - a. Training has been completed in accordance with Section 2(5) of this administrative regulation; and

- b. Background checks have been completed in accordance with 922 KAR 2:280.
- (5) The cabinet may confirm training verification provided by an applicant, conditionally approved applicant, or registered child care provider through the cabinet-approved training database maintained in accordance with 922 KAR 2:240.

Section 5. General Requirements for Registered Child Care Providers.

- (1) A registered child care provider shall not:
- (a) Live in the same residence as the child in care;
 - (b) Hold a license to provide child care in accordance with 922 KAR 2:090;
 - (c) Hold certification to provide child care in accordance with 922 KAR 2:100; or
 - (d) Provide care for more than three (3) children unrelated to the provider in accordance with KRS 199.8982(1)(a).
- (2) A registered child care provider shall not provide other home based services, including services, such as:
- (a) A personal care home in accordance with 902 KAR 20:036;
 - (b) A family care home in accordance with 902 KAR 20:041;
 - (c) An adult day care in accordance with 910 KAR 1:160; or
 - (d) Supports for community living in accordance with 907 KAR 1:145 or 907 KAR 12:010.
- (3) A registered child care provider shall:
- (a) Comply with the:
 - 1. Provisions of KRS 199.898; and
 - 2. Provider requirements in accordance with 922 KAR 2:160, Section 13;
 - (b) Allow the cabinet, the cabinet's designee, another agency with regulatory authority, and a parent of a child in care access to the premises where a child receives care during the hours that the child care services are provided; and
 - (c) Report within ten (10) calendar days any change to the provider's:
 - 1. Address;
 - 2. Name;
 - 3. Telephone number;
 - 4. Household members; or
 - 5. Location where the child care is provided.
- (4)
- (a) A registered child care provider who gives care in the provider's home shall comply with the requirements of Section 3(1) of this administrative regulation within thirty (30) calendar days for a:
 - 1. New household member who is eighteen (18) years or older; or
 - 2. Household member who turns age eighteen (18).
 - (b) If a background check in accordance with Section 3(1) and 922 KAR 2:280 is pending on a member of the registered provider's household who is eighteen (18) years or older, the registered child care provider who gives care in the provider's home shall prohibit unsupervised contact between the household member and a child in care.
- (5)
- (a) A registered child care provider shall maintain an attendance sheet in which the daily arrival and departure times of each child are recorded in accordance with 922 KAR 2:160, Section 13.
 - (b) A registered child care provider shall retain attendance sheets completed in accordance with paragraph (a) of this subsection for five (5) years.
- (6)
- (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.
- (7) While providing child care services, a registered provider and another person in the provider's home shall:
 - (a) Be free of the influence of alcohol or a controlled substance, except for use of a controlled substance as prescribed by a physician; and
 - (b) Prohibit smoking or vaping in the presence of a child in care.
- (8) A registered child care provider shall report to the cabinet or designee:
 - (a) Within twenty-four (24) hours from the time of discovery:
 - 1. A communicable disease, which shall also be reported to the local health department pursuant to KRS 214.010;
 - 2. An accident or injury to a child that requires medical care;
 - 3. An incident that results in legal action by or against the registered child care provider that:
 - a. Affects:
 - (i) A child in care;
 - (ii) The registered child care provider; or
 - (iii) An adult residing in the registered child care provider's household if child care services are provided in the provider's home; or
 - b. Includes the provider's discontinuation or disqualification from a governmental assistance program due to fraud, abuse, or criminal conviction related to that program;
 - 4. An incident involving a fire or other emergency, including a vehicular accident while the provider is transporting a child receiving child care services;
 - 5. A report of child abuse or neglect that:
 - a. Has been accepted by the cabinet in accordance with 922 KAR 1:330; and
 - b. Names:
 - (i) The registered child care provider as the alleged perpetrator; or
 - (ii) A member of the registered child care provider's household as alleged perpetrator if child care services are provided in the provider's home; or
 - 6.
 - a. The registered child care provider is disqualified in accordance with 922 KAR 2:280; or
 - b. If child care is given in the provider's home, a member of the registered provider's household who is eighteen (18) years or older meets a disqualifying criterion or background check result in accordance with 922 KAR 2:280;
 - (b) An incident of child abuse or neglect pursuant to KRS 620.030;
 - (c) The death of a child in care within one (1) hour; or
 - (d) The provider's temporary or permanent closure as soon as practicable, which shall also be given to the parent of a child in care.

Section 6. Child Ratios. During hours of operation, a registered child care provider shall not care for more than:

- (1) Three (3) children receiving CCAP per day;
- (2) Six (6) children receiving CCAP per day, if those children are:
 - (a) A part of a sibling group; and
 - (b) Related to the provider; or
- (3) A total of eight (8) children inclusive of the provider's own children.

Section 7. Renewal of Registration.

- (1) The cabinet or its designee shall send a reminder notice to a registered child care provider at least forty-five (45) calendar days prior to the expiration date of the provider's registration issued in accordance with Section 4(3) of this administrative regulation.

(2) To renew child care provider registration prior to the expiration of the registration, a registered child care provider shall:

(a) Meet the requirements specified in:

1. Sections 2(4), 5, and 6 of this administrative regulation; and
2. 922 KAR 2:280;

(b) Complete, and provide verification of, three (3) hours of training in early care and education approved by the cabinet or its designee:

1. To include one and one-half (1 1/2) hours of pediatric abusive head trauma training:

- a. Within first year of employment or operation as a child care provider; and
- b. Completed once during each subsequent five (5) years of employment or operation as a child care provider; and

2. In one (1) or more of the following subjects:

- a. Child growth and development;
- b. Learning environments and nutrition;
- c. Health, safety, and nutrition;
- d. Family and community partnerships;
- e. Child assessment;
- f. Professional development and professionalism; or
- g. Program management and evaluation;

(c) Submit an updated version of the evacuation plan established in Section 2(4)(a)5 of this administrative regulation;

(d) Retain a copy of the updated evacuation plan; and

(e) Provide a copy of the updated evacuation plan to each parent of a child in care.

(3) In addition to the requirements of subsection (2) of this section, a registered provider who gives care in the provider's home shall also comply with the requirements of Section 3 of this administrative regulation.

Section 8. Negative Action for An Applicant or A Registered Child Care Provider.

(1) If a registered child care provider or a member of the provider's household 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 investigation; and

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

(2) The cabinet or its designee shall send written notice of negative action to:

(a) An applicant for registration, if the application is:

1. Withdrawn; or
2. Denied; or

(b) A registered child care provider, if the provider's registration is:

1. Closed; or
2. Revoked.

(3) The notice of negative action shall include the:

- (a) Reason for the negative action; and
- (b) Effective date.

(4) An application for registration shall be denied or a registered provider's registration shall be revoked if:

- (a) Written verification from a health professional confirms a diagnosis of tuberculosis;
- (b) A disqualifying criterion or background check result in accordance with 922 KAR 2:280 is met;

(c) A history of behavior exists that may impact the safety or security of a child in care including:

1. A conviction, an Alford plea, or a guilty plea related to the abuse or neglect of an adult; or

2. Other behavior or condition indicating inability to provide reliable care to a child;

(d) The provider uses or allows the use of any form of corporal physical discipline on a child entrusted to the provider's care;

(e) The cabinet has probable cause to believe there is an immediate threat to the health, safety, or welfare of a child;

(f) The applicant or provider has been discontinued or disqualified from participation in:

1. CCAP, 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;

(g) The applicant or provider knowingly misrepresents or submits false information on a form required by the cabinet; or

(h) During the hours that child care services are provided, the provider refuses access by:

1. A parent of a child in care, the cabinet, the cabinet's designee, or another agency with regulatory authority to:

- a. A child in care; or

- b. The location of the child care; or

2. The cabinet, the cabinet's designee, or another agency with regulatory authority to the provider's records.

(5) If an applicant has had a previous ownership interest in a child-care provider that had a prior certification, license, registration, or permit to operate denied, suspended, revoked, or voluntarily relinquished as a result of an investigation or a pending adverse action in accordance with 922 KAR 2:090, 2:100, 2:120, or this administrative regulation, the cabinet shall grant the applicant registration if:

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

1. Date of the prior denial, suspension, or revocation;

2. Date the certification, license, registration, or permit was voluntarily relinquished as a result of an investigation or a pending adverse action;

3. Last day of legal remedies being exhausted; or

4. Date of the final order from an administrative hearing; and

(b) The applicant complies with:

1. Sections 2, 5, and 6 of this administrative regulation;

2. If care is given in the home of the provider, Section 3 of this administrative regulation; and

3. 922 KAR 2:280;

(c) The applicant completes, and provides verification of, an additional twelve (12) hours of training approved by the cabinet or its designee in early care and education;

(d) The applicant has not had an application, certificate, license, registration, or permit to operate as a child care provider denied, revoked, or voluntarily relinquished for:

1. A disqualifying criterion or background check result in accordance with 922 KAR 2:280; or

2. Discontinuance or disqualification from participation in:

- a. CCAP, including an intentional program violation in accordance with 922 KAR 2:020; or

- b. Another governmental assistance program due to fraud, abuse, or criminal conviction related to that program.

- (6) An application may be withdrawn:
 - (a) If all required documentation for the application process is not received within thirty (30) calendar days in accordance with Section 2(4) of this administrative regulation; or
 - (b) At the request of the applicant.
- (7) A registered child care provider's status may be closed:
 - (a) At the request of the provider; or
 - (b) If the provider fails to comply with requirements in Section 3, 5, 6, or 7(2) of this administrative regulation.
- (8) The voluntary withdrawal, closure, or relinquishment of a provider's registration shall not preclude the cabinet's pursuit of adverse action.

Section 9. Appeal of Negative Action. If the cabinet or its designee denies or withdraws an application for registration, revokes a provider's registration, or closes a provider, the applicant or provider may request an appeal in accordance with 922 KAR 2:260.

Section 10. Incorporation by Reference.

- (1) The following material is incorporated by reference:
 - (a) "DCC-94A, Registered Child Care Provider Information Form", 2018;
 - (b) "DCC-95, Application for Registered Child Care Provider in Provider's Home", 2018;
 - (c) "DCC-96, Application for Registered Child Care Provider in Child's Home", 2018;
 - (d) "DCC-107A, Registered Provider Home Safety Checklist", 2018; and
 - (e) "IRS W-9, Request for Taxpayer Identification Number and Certification", December 2014.
 - (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Community Based Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.
- (28 Ky.R. 504; 908; eff. 9-25-2001; 29 Ky.R. 2193; 2484; eff. 4-11-2003; TAm eff. 10-29-2004; 32 Ky.R. 2383; 33 Ky.R. 443; eff. 9-1-2006; 34 Ky.R. 499; 815; 998; eff. 11-19-2007; 39 Ky.R. 907; 1731; eff. 3-8-2013; 39 Ky.R. 2278; eff. 9-18-2013; 44 Ky.R. 2138; 45 Ky.R. 51; eff. 7-18-2018.)