TITLE 391 CHILDREN'S SERVICES LICENSING

CHAPTER 1 FAMILY CHILD CARE HOME I

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TITLE 391 CHILDREN'S SERVICES LICENSING

CHAPTER 1 FAMILY CHILD CARE HOME I

NOTE TO READERS: These draft regulations update and organize the licensing requirements for a Family Child Care Home I (FCCH-I) into one chapter. These regulations are currently in 391 NAC 1-6. New or significantly revised regulations are underlined. Plain text is material that has not been significantly changed from the current regulations, but it may have been reworded or reorganized. Following each section, the related current regulations are shown with strike-through. Current regulations are also at http://www.dhhs.ne.gov/reg/t391.htm

1-001 SCOPE AND AUTHORITY: These regulations will become operative three months after their effective date. These regulations govern the licensing of family child care homes by the Department of Health and Human Services. Statutory authority for these regulations is in:

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

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

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

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

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

Neb. Rev. Stat. §§ 4-108 to 4-114 provide that no state agency or political subdivision of the State of Nebraska may provide public benefits to a person who is not lawfully present in the United States. A child care license is considered a public benefit.

~~1-001 Legal Basis~~

~~1-001.01 State Statute: The Nebraska Department of Health and Human Services is assigned responsibility for licensing child care programs in Nebraska Revised Statutes, Sections 71-1908 through 1918.~~

~~1-002 Agency Organization: The licensing of child care programs is administered within the Department of Health and Human Services.~~
~~Department staff are responsible for the compliance with appropriate statutes, development and implementation of all child care licensing regulations, administration of child care licensing programs, license issuance, protection of provider's rights, fiscal control, public awareness, parent education, and statistical analysis.~~

~~Department staff accept and process the applications of child care/preschool providers and conduct background checks on staff in all child care license types.~~

1-001.01 These regulations apply to Family Child Care Home I's, which are licensed to provide a child care program in the licensee's residence to at least four but not more than eight children, except that a licensee may be approved to serve up to two additional school-age children during non-school hours if no more than two of the other children in care are under 18 months of age.

~~2-001 License Requirement: A license is required when care is provided to four or more children under age 13 at any one time, from families other than that of the provider, for compensation, either direct or indirect. This care must be in lieu of care or supervision normally exercised by parents in their own home.~~

1-001.02 The following are exempt from mandatory licensure, but may be voluntarily licensed:

1. Any person who provides child care:
   a. On an irregular, informal basis and with no established pattern of occurrence;
   b. Without cost to the parents and who receives no form of compensation;
   c. To three or fewer children at any one time, except by a person whose license has been suspended or revoked;
2. Recreation camps as defined in Neb. Rev. Stat. § 71-3101, a recreation facility, center, or program operated by a political or governmental subdivision pursuant to the authority provided in Neb. Rev. Stat. § 13-304;
3. Classes or services provided by a religious organization other than child care, preschools, or nursery schools;

4. A preschool program conducted in a school approved under Neb. Rev. Stat. § 79-318;
5. Programs operated or contracted by a public school district and subject to the rules and regulations of the State Department of Education under Neb. Rev. Stat. § 79-1104;
6. Services provided only to school-age children during the summer and other extended breaks in the school year;
7. Care provided only to children 13 years of age or older;
8. Care provided for less than two hours per week on average;
9. Foster care as defined in Neb. Rev. Stat. § 71-1901;
10. Care provided by grandparents to only their grandchildren;
11. Care provided on federal military installations;
12. Care provided on Indian reservations by Native Americans; or
13. Care provided by non-Native Americans on Indian reservations when tribal authorities have assumed jurisdiction for regulating the care.

~~2-004 Services Exempt from Licensure: The following services are exempt from licensure, but may voluntarily be licensed:~~

1. ~~Facilities providing irregular child care (care provided randomly with no established pattern of occurrence);~~
2. ~~Care provided without cost or any form of compensation;~~
3. ~~Care given to three or fewer children at any one time, except by a person whose license has been suspended or revoked;~~
4. ~~A recreation camp;~~
5. ~~Classes or services provided by a religious organization other than child care, preschools, or nursery schools;~~
6. ~~A preschool program conducted in a school approved pursuant to Nebraska Revised Statutes, Section 79-318;~~
7. ~~Care provided to children 13 years of age or older;~~
8. ~~Care provided by grandparents to their grandchildren;~~
9. ~~Care provided on military installations;~~
10. ~~Care provided on Indian Reservations by Native Americans; and~~
11. ~~Care provided by non-Native Americans on Indian reservations when tribal authorities have assumed the jurisdiction for regulating the care.~~

1-002 DEFINITIONS

Adequate and appropriate supervision means:

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

Ages of children:

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

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

Class B pool means a swimming pool operated at a facility including, but not limited to, an apartment, a condominium, a property owner association, a child care facility, a health club, lodgings such as hotels and motels.

Department means the Nebraska Department of Health and Human Services.

Early Childhood Training Center means the entity authorized in Neb. Rev. Stat. § 79-1102 and established within the Nebraska Department of Education. Its purpose is to train individuals who provide education and development activities for infants and young children and their parents.

Family means individuals who are not household members and have one or more children enrolled in the child care program.

Family Child Care Home I means a child care program in the licensee's residence which is licensed to serve at least four but not more than eight children, except that a licensee may be approved to serve up to two additional school-age children during non-school hours if no more than two of the other children in care are under 18 months of age.

Family Child Care Home II means a child care program in the licensee's residence or another location which is licensed to serve at least four but not more than 12 children.

Fence means a continuous barrier, including a wall, that is at least 36 inches in height, flush with the ground, and without any gaps that would allow a child to exit the fenced area.

Health authority means the local health department, which by law has the authority and duty for communicable disease control in the counties under its jurisdiction.

Household member means any individual residing in or regularly present in the child care home, including children and youth for whom 24-hour care is provided.

Licensed health care professional means an individual for whom administration of medication is included in the scope of practice.

Licensee means the owner of the child care program and the individual, partnership, limited liability company, or corporation to whom the license is issued.

Locked storage means a container or closet used to store poisonous materials, medications, and weapons that is secured by lock and key, combination lock, or magnetic lock approved by the Department.

NAC means the Nebraska Administrative Code, the compiled regulations of all state agencies maintained by the Secretary of State. Properly adopted regulations have the force and effect of law. These regulations are 391 NAC 1. Within this chapter, references to other parts of the same chapter do not show "391 NAC"; they are shown simply as 1-003.01, for example. References to different regulations show the full citation; for example, 179 NAC 2-002.

Overnight care means care provided for children between the hours of 9:00 p.m. and 6:00 a.m.

Parent means a natural parent, adoptive parent, step parent, guardian, or other legally responsible custodian.

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

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

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

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

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

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

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

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

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

1. Emotional impairment: including behavioral impairment, requiring special equipment or assistance;
2. Developmental age level lower than chronological age and requires assistance via special supervision;
3. Movement impairment: requires assistance or is unable to move;
4. Sensory impairment: requires special environmental modifications or assistance;
5. Speech impairment: requires special equipment or assistance;
6. Hygiene: requires assistance or special equipment;
7. Feeding: requires special equipment or assistance;
8. Toileting: requires assistance or special equipment;
9. Medical conditions: requires respiratory aids or special procedures;
10. Therapy required: physical, occupational, speech, or respiratory;
11. Medications: requires assistance or special procedures.

Diseases such as measles, chicken pox, flu, etc., are not considered special needs.

Staff means an individual who has been hired or approved by the licensee to work or substitute in the child care home and who counts in the staff-to-child ratio.

Substitute means an individual age 16 or older who provides care in the absence of the primary provider.

Swimming pool means any artificial basin of water modified, improved, constructed, or installed for the purpose of swimming, wading, diving, recreation, or instruction. Swimming pool includes, but is not limited to, a pool on the child care premises, a pool serving a community, a subdivision, an apartment complex, a condominium, a club, a camp, a school, an institution, a park, a manufactured home park, a hotel, a motel, a recreational area, or a water park. Swimming pool includes a spa, hot tub, whirlpool, or similar device which is designed for recreational use and not to be drained, cleaned and refilled after each individual use.

USCIS means United States Citizenship and Immigration Services.

USDA means the United States Department of Agriculture.

Volunteer means an individual who assists in the care of children, who does not count in the staff-to-child ratio, and is not left alone with children other than his/her own at the child care home.

Wading pool means a portable, above-ground basin filled with 12 or fewer inches of water and designed for the purpose of wading.

~~1-003 Definitions~~

~~1-003.01 Common Definitions: The following definitions apply to all child care/preschool programs:~~

~~Agency Representative - Any person employed by or under contract with the Nebraska Department of Health and Human Services, the Nebraska Department of Health and Human Services Regulation and Licensure, the State Fire Marshal, or their designated agents.~~

~~Ages of Children -~~

1. ~~Infant - A child 6 weeks to 18 months of age.~~
2. ~~Toddler - A child age 18 months to 36 months.~~
3. ~~Preschooler - A child age 36 months to school-age.~~
4. ~~School-age - A child who attends grades kindergarten and above.~~

~~Child Care - The provision of care -~~

1. ~~To four or more children under age 13 at any one time from families other than that of the provider;~~
2. ~~For on the average of less than 12 hours per day;~~
3. ~~For compensation, either indirect or direct;~~
4. ~~On a regular basis; and~~
5. ~~By a person other than their parents/guardians. (Nebraska Revised Statutes, Section 71-1910)~~

~~Child Care Resource Specialist - A Department staff person responsible for measuring compliance with licensing regulations, and who provides consultation and technical assistance to child care providers.~~

~~Crib - Federally-approved infant equipment with a mattress.~~

~~Department - The Nebraska Department of Health and Human Services.~~

~~Delivery of Medication - Giving or applying a dose of medication to a child, either prescription or nonprescription.~~

~~Family - Individuals who are not household members and have one or more children enrolled in the child care program.~~

~~Fence - A barrier at least 36 inches in height, and flush with the ground.~~

~~Household Member - Any person residing in or regularly present in the child care home including children and youth for whom 24-hour care is provided.~~

~~Infant - A child age six weeks to 18 months.~~

~~Medication Route - The method in which medication is given to a child. Routes are defined as:~~

1. ~~Oral - given by the mouth;~~
2. ~~Topical - applied externally to the skin;~~
3. ~~Inhalant - given via the respiratory tract by having children breathe in the medication; or~~
4. ~~Instillation - placing drops or ointments into the eye, ears, or nose.~~

~~Own Children - The term "own children" includes biological, adoptive, foster children and grandchildren below age eight.~~

~~Parent - The natural parent, adoptive, or step parent(s), guardian, or other legally responsible person.~~

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

~~Preschooler - A child age 36 months to school-age.~~

~~PRN - Giving children medication that is not routine and is taken on an as-needed basis.~~

~~Recreation Camp - Programs or services that are recreational, social, or instructional and that are provided on a time-limited or irregular schedule and are not for the purpose of providing child care services.~~

~~Regulation - A requirement or policy having the force and effect of law.~~

~~Schoolage Child - A child who attends kindergarten or above.~~

~~Swimming Pool - Any artificial basin with more than 12 inches of water which has been designed for the purpose of swimming.~~

~~Toddler - A child age 18 months to 3 years.~~

~~Wading Pool - A portable, above-ground basin filled with 12 or fewer inches of water, and designed for the purpose of wading.~~

~~1-003.02 Definitions for Family Child Care Home I: These definitions are specific to a Family Child Care Home I.~~

~~Family Child Care Home I - A child care operation in the provider's place of residence which serves at least four but not more than eight children at any one time. A Family Child Care Home I provider may be approved to serve no more than two additional school-age children during non-school hours.~~

~~Overnight Care - Care provided for children between the hours of 9:00 p.m. and 6:00 a.m.~~

~~Primary Provider - A person age 19 or older responsible for the daily operation of the Family Child Care Home I and to whom the license is issued; also referred to as child care provider.~~

~~Registration - The process by which the child care provider self-certifies that s/he has complied with the rules as contained in the Family Child Care I publication.~~

~~Registration Clerk - The staff person responsible for processing Family Child Care Home I license applications.~~

~~Secondary Provider - A person age 16 or older providing direct care with the primary provider and needed to meet appropriate child/staff ratio as defined in the "Ratio/Capacity for Family Child Care Homes."~~

~~Substitute - A person age 16 or older who provides care in the absence of the primary provider in a Family Child Care Home I.~~

1-003 LICENSING REQUIREMENTS AND PROCEDURES: Any person intending to establish, operate, or maintain a Family Child Care Home I must first obtain a license from the Department. An applicant must show that the child care program meets all licensing requirements contained in these regulations, 391 NAC 1.

~~2-000 The Department shall issue a license only when the applicant -~~

1. ~~Is in compliance with all applicable regulations, or~~
2. ~~Has been granted an alternative compliance, or~~
3. ~~Has a corrective action plan approved by the Department that specifies how compliance will be achieved within a specific time period, AND~~
4. ~~Pays required fees.~~

~~2-003 Types of Licenses: All child care/preschool licenses are effective only for the address shown on the license, and as follows:~~

1. ~~Provisional License: The license issued to all newly licensed providers for the first year of operation. This license may be extended for one six month period.~~

~~2. Operating License: The standard non-expiring license issued to providers who have been licensed for more than one year and are in full compliance with all regulations.~~

~~3. Probationary License Status: The license status determined when a provider is found to be out of compliance with regulation(s) and has a corrective action plan approved by the Department that specifies how compliance will be achieved in no more than six months. This status cannot be renewed or extended.~~

~~The maximum capacity, days, and hours of operation will be indicated on every license issued by the Department.~~

1-003.01 Provisional License: Provisional licenses are issued to all newly licensed Family Child Care Home I programs. Provisional licenses are effective for one year.

1-003.01A Application Requirements: An applicant for a provisional Family Child Care Home I license must submit:

1. A complete, accurate, written and signed application and disclosure of ownership on a form provided by the Department, which contains all information required and authorized by the Child Care Licensing Act;
2. For the purpose of complying with Neb. Rev. Stat. §§ 4-108 to 4-114, an attestation that s/he is a U.S. citizen or a qualified alien lawfully present in the U.S. The applicant must provide his/her immigration status and alien number, and agree to provide a copy of his/her USCIS documentation upon request;
3. Consent for central registry checks and authorization for release of information for the applicant, all staff age 13 or older, and all household members age 13 or older;
4. Documentation of a criminal history record check for the applicant, all staff age 19 or older, and all household members age 19 or older (see 1-006.02A);
5. A Report of Law Enforcement Contact for the applicant, all staff age 19 or older, and all household members age 19 or older (see 1-006.02C);
6. A Health Information Report for the applicant on a form provided by the Department (see 1-006.02F);
7. Documentation of completed CPR/First Aid training (see 1-006.04F);
8. Documentation of completed pre-service orientation training by the Department;
9. A sketch, diagram, or blueprint of the facility showing the dimensions, arrangement of rooms to be used by the children, and outdoor play area;
10. Copies of zoning approval from the relevant jurisdiction;
11. The $25 licensing fee (see 1-004.06);
12. A completed Rules Compliance Checklist; and
13. Documentation that the applicant resides at the address on the application for licensure.

~~3-001 Family Child Care Homes~~

~~3-001.01 Family Child Care Home I: The licensing process for Family Child Care Home I is a self-certification process completed by the provider and Department staff.~~

~~The provider self-certifies that s/he is in compliance with the Family Child Care Home I regulations by completing the following forms provided by and returned to Department staff:~~

~~Application/Affidavit~~
~~Rules Compliance Checklist~~
~~Health Information Report~~
~~Felony/Misdemeanor Statement~~

~~An inspection referral will be sent to the appropriate Fire Marshal by Department staff.~~

1-003.01B Denial of Provisional License: See 1-008 for grounds on which the Department may deny a provisional license.

1-003.01C Extension of Provisional License: The Department may extend a provisional license once for a period no longer than six months. The Department's decision regarding extension of a provisional license may not be appealed. A provisional license may be extended if the Department determines:

1. The provisional licensee is unable to comply with all licensure requirements and standards, is making a good faith effort to comply, and is capable of compliance within the next six months;
2. The effect of the current inability to comply with a rule or regulation does not present an unreasonable risk to the health, safety, or well-being of children or staff; and
3. The licensee has a written plan of correction that has been approved by the Department which is to be completed within the extension period.

~~4-001.01 Extension of a Provisional License: The provisional license may be renewed once if the Department determines that -~~

~~1. A licensee is unable to complete all licensure requirements and standards, is making a good faith effort to comply, and is capable of compliance within the next six months;~~
~~2. An effect of the current inability to comply with a rule or regulation does not present an unreasonable risk to the health, safety, or well-being of children or staff; and~~
~~3. The licensee has a written plan of correction that has been approved by the Department which is to be completed within six months.~~

1-003.01D Expiration of Provisional License: The Department will send a notice of expiration to the licensee no later than 90 days before the date of expiration.

1. If a provisional licensee does not submit a complete application for an operating license on or before the expiration date, the provisional license expires.
2. If the former licensee submits a complete application and is in compliance with all regulations within 90 days after expiration, the Department will issue an operating license effective when issued.
3. If the former licensee submits an application more than 90 days after expiration, the Department will process the application as a provisional license application.

~~3-001.08 Voluntary Closure/Expiration~~

~~1. Upon notice by the provider of the voluntary closure of the licensed child care/preschool program, the Department staff shall complete the necessary closure form.~~
~~2. Providers with a Provisional License who voluntarily close and no negative actions are pending shall -~~
   ~~a. Reapply for a Provisional License. The previous license will not be reactivated;~~
   ~~b. Not have to pay fire inspection fees if the fire/safety inspection was approved and still effective;~~
   ~~c. Complete a continuous year with a Provisional License before the issuance of an operating license.~~
~~3. Providers with a Provisional License whose license expires -~~
   ~~a. May apply for an operating license up to 60 days after expiration when the Provisional License period of one year has been completed;~~
   ~~b. Shall apply for a Provisional License if the application is submitted more than 60 days after expiration;~~
   ~~c. Shall not have to pay fire inspection fees if the fire/safety inspection was approved and still effective.~~
~~4. Providers with an Operating License who voluntarily close and no negative actions are pending -~~
   ~~a. May reapply for an operating license up to 60 days after closure if a continuous year of licensing has occurred;~~
   ~~b. May reapply for an operating license if licensed for three years or more within the past five years;~~
   ~~c. Shall apply for a Provisional License if the application is submitted more than 60 days after closure and if not licensed for three consecutive years or more within the past five years;~~
   ~~d. Shall not have to pay fire inspection fees if the fire/safety inspection was approved and still effective.~~
~~5. Providers with an Operating License or Provisional License whose license has been revoked -~~
   ~~a. Shall not be issued a license for two years from the date of Finding and Order or Declaratory Order;~~
   ~~b. After two years, shall apply for a Provisional License.~~

~~6. Amended applications will not be processed whenever a negative license action is pending.~~
~~7. License effective dates not backdated unless due to agency error.~~

1-003.02 Operating Licenses: Operating licenses are standard, non-expiring licenses that are issued to Family Child Care Home I programs that have been in operation for more than one year and are in full compliance with all regulations. Licensees must have completed one full year with a provisional license with satisfactory compliance with all regulations before qualifying for an operating license.

1-003.02A Application Requirements: An applicant for a Family Child Care Home I operating license must submit:

1. A complete, accurate, written and signed application and disclosure of ownership on a form provided by the Department, which contains all information required and authorized by the Child Care Licensing Act;
2. For the purpose of complying with Neb. Rev. Stat. §§ 4-108 to 4-114, an attestation that s/he is a U.S. citizen or a qualified alien lawfully present in the U.S. The applicant must provide his/her immigration status and alien number, and agree to provide a copy of his/her USCIS documentation upon request;
3. A Health Information Report for the applicant on a form provided by the Department (see 1-006.02F);
4. A Report of Law Enforcement Contact for the applicant, all staff age 19 or older, and all household members age 19 or older (see 1-006.02C);
5. Documentation of annual training hours completed during the provisional year;
6. A completed Rules Compliance Checklist;
7. A Fire Inspection Approval issued by the appropriate fire marshal's office; and
8. The $25 licensing fee (see 1-004.06).

1-003.02B Denial of Operating License: See 1-008 for grounds on which the Department may deny an operating license.

~~4-001.01 Extension of a Provisional License: The provisional license may be renewed once if the Department determines that -~~

~~1. A licensee is unable to complete all licensure requirements and standards, is making a good faith effort to comply, and is capable of compliance within the next six months;~~
~~2. An effect of the current inability to comply with a rule or regulation does not present an unreasonable risk to the health, safety, or well-being of children or staff; and~~
~~3. The licensee has a written plan of correction that has been approved by the Department which is to be completed within six months.~~

1-003.03 Temporary and Voluntary Cease of Operation: A licensee may request to voluntarily cease operation of the child care program for a period of up to one year. The licensee must:

1. Have attained an operating license;
2. Intend to re-open the child care program at the same location;
3. Not serve any children during the period of ceased operation;
4. Not be the subject of an investigation of alleged non-compliance with regulations, or outstanding non-compliance; and
5. Pay license fees during the period as specified in 1-004.06.

1-003.03A If the licensee is the subject of any negative or disciplinary action, the period of ceased operation does not count toward the period of negative or disciplinary action.

1-003.03B No routine fire safety, sanitation, or Department inspections will be conducted during the period of ceased operation.

1-003.03C The period of ceased operation may be extended beyond the one-year limit if the licensee shows a reasonable cause.

1-003.03D Reinstatement: A Family Child Care Home I licensee may request reinstatement after a period of ceased operation by submitting an application at least 30 days before the scheduled re-opening date. The Department will review the application and decide if additional information, an on-site inspection, or a fire safety inspection is needed to determine compliance with regulations.

1-003.04 Negative Actions: The Department may initiate a negative action when a licensee is not in compliance with regulation but the violation does not rise to the level of a disciplinary action. (Disciplinary actions are described in 1-008.) Negative actions are voluntary and are not appealable. The Department may conduct unannounced monitoring inspections of licensees under negative action. If a licensee does not agree to the terms of the negative action, the Department may initiate a disciplinary action. The two types of negative action are a Licensing Agreement and Corrective Action Status, described as follows.

1-003.04A Licensing Agreement: The Department may request a written licensing agreement if:

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

1-003.04A1 The licensing agreement must:

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

~~CHAPTER 4-000 NEGATIVE LICENSURE ACTIONS:~~

~~4-001 Child Care/Preschool: The options described in the following material are available to the Department to address noncompliance with regulations in licensed child care/preschool programs. The specific option determined by the Department will be based on the seriousness of the risk to the safety of children, the seriousness of the noncompliance, the compliance history of the provider, and the ability/willingness of the provider to develop and implement a corrective action plan.~~

~~4-001.02 Licensing Agreements: A Licensing Agreement is a document signed by the provider and witnessed by a Department staff member, a notary public or another non-relative witness identified by the provider. Licensing Agreements may be issued when household members and/or staff have a history of behaviors indicating a potential risk to children, excluding sexual abuse or sexual assault, and/or a rule violation is determined. Licensing Agreements may not be issued for any regulation for which denial or suspension/revocation action(s) has been taken.~~

~~The purpose of the Licensing Agreement is to specify areas of concern as they relate to licensing standards, to obtain the agreement of the licensee to correct any identified problem, and to maintain compliance with licensing standards.~~

~~Licensing Agreements may be offered in lieu of denial, probationary status, revocation, or emergency closing order of a license where the Department determines that a Licensing Agreement does not present an undue risk to children in care. Licensing Agreements are voluntary and discretionary and are not appealable.~~

~~4-001.03 Probationary License Status: A probationary license status will be determined when providers are found to be out of compliance with regulations and have a corrective action plan approved by the Department that specifies how compliance will be achieved within a six-month period. A probationary status is determined in the following circumstances:~~

~~1. A licensee is unable to comply with all licensure requirements and standards or has had a history of noncompliance;~~

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

~~The Director may issue a probationary license status following an administrative hearing.~~

1-003.04B Corrective Action Status: The Department may place a provisional or operating child care license on Corrective Action Status for up to six months if:

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

1-003.04B1 The written plan of correction must:

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

1-003.04B2 The Department may discipline the license if the written plan of correction is not approved.

1-003.05 Voluntary Surrender of a License: A licensee may voluntarily surrender a license issued under the Child Care Licensing Act at any time, except that the Department may refuse to accept a voluntary surrender of a license if the licensee is under investigation or if the Department has initiated disciplinary action against the licensee. If the Department accepts the surrender, the licensee must return the license to the Department within one week of the surrender.

1-003.05A Reapplication for an Operating License Less Than One Year After Voluntary Surrender: An individual who voluntarily surrendered an FCCH I operating license less than one year before the date of reapplication may reapply for an operating license. The individual must meet the requirements of 1-003.02A.

1-003.05B Reapplication One Year or More After Voluntary Surrender: An individual who voluntary surrendered an FCCH-I provisional or operating license one year or more before the date of reapplication must reapply for a provisional license. The individual must meet the requirements of 1-003.01A.

~~3-001.08 Voluntary Closure/Expiration~~

1. ~~Upon notice by the provider of the voluntary closure of the licensed child care/preschool program, the Department staff shall complete the necessary closure form.~~
2. ~~Providers with a Provisional License who voluntarily close and no negative actions are pending shall -~~
   - ~~a. Reapply for a Provisional License. The previous license will not be reactivated;~~
   - ~~b. Not have to pay fire inspection fees if the fire/safety inspection was approved and still effective;~~
   - ~~c. Complete a continuous year with a Provisional License before the issuance of an operating license.~~
3. ~~Providers with a Provisional License whose license expires -~~
   - ~~a. May apply for an operating license up to 60 days after expiration when the Provisional License period of one year has been completed;~~
   - ~~b. Shall apply for a Provisional License if the application is submitted more than 60 days after expiration;~~
   - ~~c. Shall not have to pay fire inspection fees if the fire/safety inspection was approved and still effective.~~
4. ~~Providers with an Operating License who voluntarily close and no negative actions are pending -~~
   - ~~a. May reapply for an operating license up to 60 days after closure if a continuous year of licensing has occurred;~~
   - ~~b. May reapply for an operating license if licensed for three years or more within the past five years;~~
   - ~~c. Shall apply for a Provisional License if the application is submitted more than 60 days after closure and if not licensed for three consecutive years or more within the past five years;~~
   - ~~d. Shall not have to pay fire inspection fees if the fire/safety inspection was approved and still effective.~~
5. ~~Providers with an Operating License or Provisional License whose license has been revoked -~~
   - ~~a. Shall not be issued a license for two years from the date of Finding and Order or Declaratory Order;~~
   - ~~b. After two years, shall apply for a Provisional License.~~
6. ~~Amended applications will not be processed whenever a negative license action is pending.~~
7. ~~License effective dates not backdated unless due to agency error.~~

1-003.06 Permanent Closure: When a program is to be permanently closed, the licensee must return the license to the Department within one week of closing.

1-004 GENERAL REQUIREMENTS

1-004.01 License Not Transferable: A Family Child Care Home I license is not transferable or assignable and is only valid at the address printed on the license.

1-004.02 Posting of License and Availability of License Record Information: The license, including any applicable status or amendment, must be displayed in a prominent place so that it is clearly visible to parents and others. A provisional FCCH-I license will be marked "Inspection Pending" until the Department conducts the 60-day inspection of the home. (See 1-005.01 and 1-005.05.) The Department will note completion of the inspection on the license. The licensee must ensure that license record information and inspection reports are available for public viewing upon request.

~~(6-001) The current license will be prominently posted so that it is clearly visible to parents and others.~~

1-004.03 Alternative Compliance: The Department may grant alternative compliance with a regulation under the following conditions.

1-004.03A Written Request: A request for alternative compliance must be submitted to the Department in writing and must include:

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

1-004.03B Review and Approval: The Department may request additional information from the applicant or licensee in order to reach a decision to approve or deny the alternative compliance request. To be considered for approval, the proposed alternative must:

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

1-004.03C Terms of Alternative Compliance: Alternative compliance may be granted:

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

1-004.03D Requirements Not Qualifying for Alternative Compliance: Alternative compliance will not be granted for the following requirements:

1. Capacity/Ratio;
2. Transportation;
3. Supervision;

4. Fire safety;
5. Criminal history/background checks;
6. Licensee and staff; and
7. Any regulation for which a discipline has been initiated or completed.

1-004.03E Notification of Department Decision: When the Department receives an alternative compliance request and has obtained all information needed to process the request, the Department will notify the applicant or licensee in writing of its decision to approve or deny the request. The notification will be made within 30 days of receipt of the alternative compliance request or any additional information requested by the Department.

~~3-001.06 Alternative Compliance: The Department may grant alternative compliance with regulations if the Department determines that the alternative offers equal protection for children and meets the intent of the regulation for which alternative compliance is sought. Alternative compliances are not intended to waive or provide exemptions from regulations. Alternative compliances will not be granted for -~~

~~1. Exceeding the license capacity;~~
~~2. Staffing;~~
~~3. Transportation;~~
~~4. Supervision;~~
~~5. Fire safety inspection disapprovals; and/or~~
~~6. Any regulation for which denial or suspension/revocation action(s) has been taken.~~

~~Alternative compliances will be time limited.~~

1-004.04 Notification of Changes

1-004.04A Before the change goes into effect, the licensee must submit an Amendment to Application and receive approval from the Department for a change to any of the following:

1. Building or building usage;
2. Age of children for whom the program provides care;
3. Hours or days of the week care is provided;
4. Address or location. A new location cannot be used for child care until the license is amended. The following additional information must be submitted with the Amendment to Application:
   a. A sketch, diagram, or blueprint of the home showing the dimensions and arrangement of each room to be used by children and the outdoor play area;
   b. The applicable section of the Rules Compliance Checklist;
   c. The planned occupancy date; and

d. Documentation that the licensee will reside at the new location; and

5. Staff or household members. The following additional information must be submitted with the Amendment to Application:
   a. If a new staff or household member is 13 or older, a completed and signed Consent for Nebraska Central Registry Checks and Authorization for Release of Information; and
   b. If a new staff or household member is 19 or older, a Report of Law Enforcement Contact and documentation of a criminal history record check.

1-004.04B Within two working days of the following changes, the licensee must submit an Amendment to Application:

1. A change in the name of the licensee; or
2. A change in household members age 12 or younger.

~~(6-001) The child care provider shall report the following changes to the Nebraska Department of Health and Human Services: address, household composition, children residing in the home, and days and hours of care.~~

~~The child care provider shall report to the Nebraska Department of Health and Human Services within 24 hours or next business day when the following conditions occur within the child care program: the death of any child; any accident to children which requires hospitalization; or treatment at a medical facility.~~

1-004.05 Information Available to Public: The Department will release the following information to the public upon request:

1. Application;
2. Name of licensee;
3. Name of program;
4. Program address;
5. Program telephone number;
6. Alternative compliances;
7. Type of license;
8. Relevant license information (for example, license capacity, hours and days of care, ages of children served, license effective dates);
9. Copies of inspection reports;
10. Fire safety inspection reports and correspondence;
11. Sanitation inspection reports and correspondence;
12. Licensing agreements;
13. Provisional license extension notices;
14. Corrective action status notices;
15. Discipline notices;
16. Corrective action plans;

17. Written transcripts of administrative hearings;
18. Emergency orders; and
19. All final orders.

~~5-001 Public Access to Licensing Files: Department staff shall release information regarding the name of the child care/preschool provider, address, telephone number, type of license, license capacity, hours and days of care, ages of children served, and license effective dates upon verbal or written request.~~

~~The following forms, reports, correspondence and documents will be released upon either verbal or written request:~~

~~Application/Affidavit~~
~~Alternative Compliance Request~~
~~Registration Referral Form - Fire Safety Inspection/Fire Marshal~~
~~Registration Referral Form - Sanitation Inspection/Department of Health and Human Services Regulation and Licensure~~
~~Rules Compliance Checklist~~
~~Closure Form~~
~~Noncompliance Report/Compliance Review~~
~~Fire Safety Inspection Reports and Correspondence~~
~~Sanitation Inspection Reports and Correspondence~~
~~Letters initiating revocation, denial, suspension, extension of a license or probationary license status~~
~~Licensing Agreements~~
~~Emergency Closing Orders~~
~~Order of License Reinstatement~~
~~Finding and Order resulting from an appeal hearing~~
~~Declaratory Ruling resulting from a failure to appeal~~

~~5-001.01 Information Released to Other Governmental Entities: Copies of the following documents may be sent to other governmental entities:~~

~~Warning letters~~
~~Noncompliance Reports/Compliance Reviews~~
~~Extensions of provisional licenses~~
~~Issuances of probationary licenses~~
~~Letters initiating action to deny, suspend, revoke, extend a license or place on probationary license status~~
~~Emergency Closing Orders~~

~~If the above information includes any reference to specific names of children, their parents, Child Protective Services reports or records or law enforcement investigative reports, these references must be deleted before release.~~

1-004.05A The Department will not release the following information to the public:

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

~~5-001.02 Information Not Released: The following information documents or forms will NOT be released:~~

~~Names, addresses and phone numbers of complainants~~
~~Names of enrolled children and their parents/guardians~~
~~Child Protective Services reports or records, Adult Protective Services reports or records, Nebraska Child Abuse and Neglect Central Registry and Nebraska Adult Protective Services Central Registry information or law enforcement investigative reports~~
~~Felony/misdemeanor statements~~
~~Reference release statements~~
~~Reference letters~~
~~Enrollment/Attendance Form~~
~~Internal Department correspondence~~
~~Investigative reports and notes~~
~~Documentation regarding unlicensed care investigations~~
~~Medical records/Health Information Reports~~

~~Department staff shall not release information until the licensee has received the information or a reasonable effort has been made to provide the licensee with the information.~~

~~Requested information will be available five working days after the request is received.~~

~~If a determination is made to deny a request for information and the requesting party objects or further insists on production, Department staff shall consult with Legal Services for assistance in preparation of a written response as required by Nebraska Revised Statutes, Section 84-712.04.~~

1-004.06 Fees

1. Initial and annual licensure fees for a Family Child Care Home I are $25.
2. Initial and annual licensure fees are nonrefundable, except:
   a. If the Department denies an application for a license or an applicant withdraws their application, and the Department has not completed an inspection before the denial or withdrawal, the Department will return the license fee to the applicant.
3. Fees will be accepted in the form of a check or money order. Cash will not be accepted.

~~2-002 License Fees: There is a twenty-five dollar fee charged for the issuance of each license for providers with a license capacity of less than thirty children and a fifty dollar fee charged for the issuance of each license for providers with a license capacity of thirty or more children.~~

~~An annual license fee of twenty-five dollars must be paid by providers with a licensing capacity of less than thirty children and an annual license fee of fifty dollars must be paid by providers with a licensing capacity of thirty or more children.~~

~~Fire inspection fees are determined and collected by the State Fire Marshal and/or their delegated authority after initial licensure.~~

~~3-001.01A Fees: A non-refundable license fee and fire inspection fee will be collected at the time of initial application; a non-refundable license fee will be collected annually thereafter.~~

~~Fire inspection fees are determined and collected by the State Fire Marshal and/or their delegated authority after initial licensure.~~

~~Fees will be accepted in the form of a check or money order only. Cash will not be accepted.~~

1-005 INSPECTIONS AND COMPLAINT INVESTIGATIONS: To determine compliance with licensing regulations, the Department will inspect Family Child Care Home I programs as provided under the Child Care Licensing Act and the Quality Child Care Act.

1-005.01 Sixty-Day Inspection: The Department will conduct an unannounced inspection within 60 days of the issuance of a provisional, operating, or amended FCCH-I license.

1-005.02 Annual License Inspection: The Department will conduct an unannounced inspection each year to assess compliance with licensing regulations.

1-005.03 Follow-Up Inspection: The Department may conduct a follow-up inspection to determine if the licensee has corrected all violations and to determine full compliance with regulations following any type of inspection. If conducted, the follow-up inspection will:

1. Occur no later than 60 days after the original inspection, or sooner if the licensee requests or if the violation needs to be corrected immediately; and
2. Be unannounced unless the program is closed.

1-005.04 Monitoring Inspection: The Department may conduct unannounced monitoring inspections to determine compliance with regulations and the conditions of any negative action or discipline.

1-005.05 Inspection Results

1. The Department will provide a copy of the compliance report to the child care program within ten working days after completion of an inspection.
2. When the Department finds the applicant or licensee has complied substantially, but has failed to comply fully with all regulations, the applicant or licensee may request an alternative compliance (see 1-004.03).
3. When the Department finds that the applicant or licensee has complied substantially but has failed to comply fully with all regulations and the failure(s) would not pose an imminent danger of death or serious harm, the Department may:
   a. Allow the applicant or licensee a period of time to correct all the violations; or
   b. Initiate negative action or discipline if the applicant or licensee fails to correct all violations within the time frame given by the Department or has a history of violating the same or similar regulations at previous inspections.
4. When the Department finds that the applicant or licensee has failed to meet the regulations, the Department may initiate negative action or discipline or require the applicant or licensee to make all corrections at the time of inspection. If compliance cannot be achieved immediately, the Department may allow a reasonable period of time after the inspection was conducted to make corrections.

1-005.06 Complaint Investigation: The Department will investigate any licensed child care home after receiving an allegation of violation of licensing regulations. The Department will accept complaints from anyone via telephone, letter, fax, or electronically. The identity of a complainant is not public information.

1-005.07 Complaint of Allegedly Improper Unlicensed Care: The Department will investigate any complaint of a person allegedly providing child care without an appropriate license. The Department will accept complaints from anyone via telephone, letter, fax, or electronically. The identity of a complainant is not public information.

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

1-005.08 Inspection by Other Entities

1-005.08A Fire Inspection: The Department will make a fire inspection referral when:

1. An application is received for an initial Family Child Care Home I license;
2. There is a change in address;
3. The licensee is using areas of the home that were not approved for the care of children;
4. There is a change in hours to include overnight care;
5. There is a complaint specific to fire safety issues; or
6. Department staff observe conditions that may endanger the health or safety of children in care.

1-005.08B Sanitation Inspection: The Department will make a sanitation inspection referral when:

1. There is a complaint specific to sanitation issues; or
2. Department staff observe conditions that may endanger the health or safety of children in care.

~~3-001.05A Family Child Care Homes~~

~~1. Types of Visits:~~
~~a. Complaint Investigations~~
~~- These visits will be unannounced;~~
~~- Allegations of maltreatment of children will be addressed within 24 hours of the receipt of the complaint;~~
~~- Allegations of licensing violations will be addressed within five working days of the receipt of the complaint;~~
~~- Allegations regarding unlicensed care will be addressed within ten working days of the receipt of the complaint.~~
~~b. 60-Day Visits~~
~~- These visits will be unannounced;~~
~~- These visits will be within 60 days of the issuance of a provisional or operating Family Child Care Home I license;~~
~~- These visits will be conducted within 60 days of the amendment of a Family Child Care Home I license because of change of location.~~
~~c. Initial License Visits~~
~~- These visits will be scheduled in advance with the Family Child Care Home II provider;~~
~~- These visits will assess compliance with all applicable regulations.~~
~~d. Annual License Visits~~
~~- These visits will be unannounced;~~
~~- These visits to Family Child Care Home I and II providers will assess compliance with applicable regulations.~~

~~e. Amendment visits~~

~~- These visits will be to Family Child Care Home II providers who are changing locations;~~

~~- These visits will be to Family Child Care Home II providers when there is a change in ownership.~~

~~f. Consultation/Technical Assistance Visits~~

~~- These visits will be scheduled only upon request of Family Child Care Home I and II providers;~~

~~- These visits will be an opportunity for providers to become better informed of the applicable regulations.~~

~~2. Documentation of Visits:~~

~~a. Licensing Activity Visits~~

~~(1) Compliance Reviews will be completed for all visits with the exception of Consultation/Technical Assistance Visits. Providers will be given the opportunity to include written comments on the review form and will be given a copy of the review form or checklist at the time of the visit.~~

~~(2) Forms needed to complete initial licensure, annual inspections and amendments to the license will be completed as documentation for these visits.~~

~~(3) Sanitation and Fire Safety referrals will be made to the appropriate agency or delegated authority and documented with an inspection referral when applicable.~~

~~(4) Referrals to other HHS programs or non-HHS resources can be made at the request of the provider or upon determination of actual or potential non-compliance with regulations. Written documentation is not required for resource-only referrals.~~

~~b. Complaint Visits~~

~~(1) All allegations of non-compliance on licensed child care/preschools programs and unlicensed care complaints will be entered and tracked on the automated Child Care Complaint Tracking System.~~

~~(2) When a complaint visit is conducted, a Compliance Review form will be completed. Providers will be given the opportunity to include written comments on the review form and will be given a copy of the review form or checklist.~~

~~3. Referrals:~~

~~a. Child Protective Services/Law Enforcement~~

~~(1) When a complaint alleging child abuse or neglect in a child care/preschool facility is received, staff shall inform the Child Protective Services Unit, providing the name of the complainant whenever possible.~~

~~(2) Coordination with Child Protective Services and/or law enforcement will be maintained throughout the investigation process.~~

~~(3) Copies of Child Protective Services and/or law enforcement report(s) will be obtained following the conclusion of the investigation.~~

~~(4) If non-compliance with regulations is alleged from the investigation, a visit will be made to the child care/preschool program to determine compliance with regulations.~~

~~b. Sanitation/Health and Fire Safety~~

~~(1) When a complaint alleging sanitation/health and/or fire safety concerns is received or staff observe conditions that may endanger the health or safety of children, an inspection referral will be sent to the appropriate health/sanitation and/or fire safety authority.~~

~~(2) If the health/sanitation and/or fire safety inspection referral is returned indicating disapproval, staff shall proceed with actions necessary to deny or revoke the child care license.~~

~~c. County Attorney~~

~~(1) The appropriate county attorney must be given information regarding unlicensed child care programs that require a license based on statute.~~

~~(2) Follow-up contacts with the county attorney on unlicensed child care referrals will be coordinated by Department staff.~~

~~d. Other: Upon request of the child care/preschool provider or upon determination of actual or potential non-compliance with regulations, staff may make referrals to Department programs, Child and Adult Care Food Program, other state agencies and/or training resources.~~

~~3-001.10 Complaints Alleging Unlicensed Care: Upon receipt of allegations of unlicensed care, Department staff shall conduct an unannounced visit to the facility. If investigation reveals unlicensed care is occurring, Department staff shall inform the provider of the statute requirements and the licensure process. The provider is given the option of reducing care to three or fewer children or obtaining the appropriate child care/preschool license and is asked to sign a statement agreeing to these conditions. A follow-up visit will be conducted after 30 days to determine if illegal care is continuing to be provided. If, after 30 days, the provider has not submitted an application for licensure and/or is continuing to provide illegal care, Department staff shall make a referral to the appropriate County Attorney for further action.~~

~~(3-001.05A3b) Sanitation/Health and Fire Safety~~

~~(1) When a complaint alleging sanitation/health and/or fire safety concerns is received or staff observe conditions that may endanger the health or safety of children, an inspection referral will be sent to the appropriate health/sanitation and/or fire safety authority.~~

~~(2) If the health/sanitation and/or fire safety inspection referral is returned indicating disapproval, staff shall proceed with actions necessary to deny or revoke the child care license.~~

1-006 STANDARDS OF OPERATION AND CARE: To provide adequate protection to children in care and to comply with state law, a Family Child Care Home I must meet the following standards.

1-006.01 Licensee Qualifications and Requirements: The Family Child Care Home I licensee must:

1. Be at least 19 years of age;
2. Be of good moral character;
3. Be a U.S. citizen or qualified alien lawfully present in the U.S.;
4. Be responsible for the day-to-day operation of the child care program;
5. Read, understand, and be familiar with these regulations;
6. Make license record information and inspection reports available for public review upon request;
7. Be in compliance with all regulations whenever any children are in care;
8. Assess his/her own ability and the ability of all staff to provide care for children with special needs while meeting the needs of other children enrolled;
9. Not engage in any other employment that interferes with the care of children;
10. During the hours of operation, not be under the influence or allow any staff or household member to be under the influence of alcohol, controlled substances that have not been lawfully prescribed, or any other type of substance that would affect their ability to care for children;
11. Allow parents access to their children at all times that children are in care; Denial of immediate and unrestricted access to the licensed premises by parents may be basis for disciplinary action against the license;
12. Allow access to the premises by an agent or employee of the Department for the purpose of inspection, investigation, or other information collection activities necessary to carry out the duties of the Department;
13. Allow announced and unannounced inspections by state or local inspectors, investigators, or law enforcement officers for the purpose of investigation necessary to carry out their duties;
14. Not knowingly allow any individual to be on the premises if s/he has been convicted of, admitted to, or there is substantial evidence of, crimes involving intentional bodily harm, crimes against children, crimes involving the illegal use of controlled substances, or crimes involving moral turpitude;
15. Not knowingly allow any individual who is a registered sex offender on the premises, except that a parent who is a registered sex offender may be allowed on the premises only to pick up and drop off his/her child;
16. Not engage in or have a history of behavior injurious to or which may endanger the health or morals of children; and
17. Immediately file a report with the Child Abuse-Neglect Hotline (1-800-652-1999) and/or appropriate local law enforcement agency when s/he has reason to believe child abuse, neglect, or sexual abuse may be occurring in the family child care home, in the child's home, or elsewhere.

~~CHAPTER 6-000 FAMILY CHILD CARE HOME PROVIDER REQUIREMENTS~~

~~6-001 Provider: The child care provider must be at least 19 years of age.~~

~~The child care provider shall provide a valid Social Security number as verification of citizenship or lawful resident status in the United States.~~

~~The child care provider must understand and be familiar with the rules for Family Child Care Homes.~~

~~The child care provider shall pay an initial license fee and annually thereafter.~~

~~Parents shall have access to their children at all times that children are in care.~~

1. ~~The child care provider shall permit announced and unannounced visits by agency representatives during the hours of operation.~~
2. ~~Denial of immediate and unrestricted access to the premises to agency representatives will be basis for suspension or revocation of the license.~~
3. ~~Denial of immediate and unrestricted access to the licensed premises to parents will be basis for suspension or revocation of the license.~~

~~The child care provider shall assume responsibility for providing adequate and appropriate supervision at all times children are in attendance. Any designated substitute shall have the same responsibility for providing adequate and appropriate supervision. Ultimate responsibility for supervision will be with the child care provider.~~

~~The current license will be prominently posted so that it is clearly visible to parents and others.~~

~~The child care provider shall ensure that the maximum number of children stated on the license is not exceeded at any time.~~

~~The child care provider shall not engage in any other employment which interferes with the care of children.~~

~~A "Children's Record" will be completed before enrollment, and kept current for each child in care.~~

~~The child care provider shall give parents placing a child(ren) in the Family Child Care Home a Department Parent Handbook and shall retain the receipts on the premises. The receipts will be available for review upon request.~~

~~The child care provider shall report the following changes to the Nebraska Department of Health and Human Services: address, household composition, children residing in the home, and days and hours of care.~~

~~The child care provider shall report to the Nebraska Department of Health and Human Services within 24 hours or next business day when the following conditions occur within the child care program: the death of any child; any accident to children which requires hospitalization; or treatment at a medical facility.~~

~~The child care provider who has reason to believe child abuse or neglect may be occurring in the family child care home, in the child's home, or elsewhere, shall immediately file a report with~~

~~the Child Abuse-Neglect Hotline - 1-800-652-1999, and/or appropriate local law enforcement agency.~~

1-006.02 Background Checks, Health Information, and Employment Limitations

1-006.02A Criminal History Record Check: The applicant/licensee must complete a pre-employment criminal history record check through a governmental law enforcement agency on him/herself, each staff member age 19 or older, and each household member age 19 or older. Documentation must be kept and available for review by the Department.

The check must be conducted through the Nebraska State Patrol or through one or more local law enforcement agencies, as appropriate to the individual's residence(s). If an individual has lived in Nebraska less than 12 months, the applicant/licensee must obtain documentation of a criminal history record check from the previous state(s) of residence.

1-006.02A1 Permanent Child Care Disqualification: An individual is permanently disqualified from holding a child care license or working as a staff member or volunteer in a Family Child Care Home I if s/he has a criminal history including conviction of any unlawful act endangering the health or safety of another individual.

This includes crimes against a child or vulnerable adult, crimes involving intentional bodily harm, crimes involving the illegal use of a controlled substance, or crimes involving moral turpitude on the part of the individual. This includes but is not limited to:

1. Aggravated or armed robbery;
2. Arson;
3. Assault, first or second degree;
4. Child abandonment;
5. Child abuse;
6. Child molestation or debauching a minor;
7. Child neglect;
8. Commercial sexual exploitation of a minor;
9. Criminal non-support;
10. Domestic violence;
11. Exploitation of a minor involving drug offenses;
12. Felony controlled substances offenses;
13. Felony theft;
14. Felony violation of custody;
15. Incest;
16. Kidnapping;
17. Murder, first or second degree;

18. Robbery;
19. Sexual abuse of a minor;
20. Sexual assault;
21. Sexual exploitation of a minor, including child pornography; or
22. Voluntary manslaughter.

1-006.02A2 Five-Year Disqualification: An individual is disqualified from holding a child care license or working as a staff member or a volunteer in a Family Child Care Home I if s/he has a criminal history that includes conviction in the last five years of:

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

The five-year disqualification ends five years after the date the sentence was completed, or if more than one, five years after the date the most recent sentence was completed.

1-006.02A3 Department Determination: An individual may hold a child care license or work as a staff member or a volunteer in a Family Child Care Home I with a pending complaint or indictment or conviction of other crimes if the Department determines the individual has the present character and fitness to work with children. In making this determination the Department may consider the following factors:

1. The age of the individual at the time of the conduct;
2. The recency of the conduct;
3. The seriousness of the conduct;
4. The factors underlying the conduct;
5. The cumulative effect of the conduct;
6. The evidence of rehabilitation;
7. The individual's positive social contributions since the conduct;
8. The individual's honesty in providing information; and
9. The materiality of any omissions or misrepresentations.

The Department may deny or take action against a license if an individual is found to have a criminal history that includes conviction or substantial evidence of committing or permitting, or aiding or abetting another to commit, any unlawful act endangering the health or safety of another individual or a history of convictions or behavior that shows an inability or unwillingness to comply with laws or regulations. This applies to the

applicant/licensee, household members who reside at the place where the child care program will be/is provided, and employees of the applicant/licensee.

1-006.02B Registry Checks: The applicant/licensee, staff, and household members must not be listed as a perpetrator of abuse or neglect on Nebraska's:

1. Child abuse/neglect central register, if the individual is age 13 or older;
2. Adult protective services (APS) central registry, if the individual is age 18 or older; or
3. State Patrol sex offender registry.

The individual must provide enough information for an accurate check of the registries and must authorize the release of registry information. The Department will conduct the child and adult registry checks and provide the results to the applicant/licensee.

The applicant/licensee must conduct the State Patrol sex offender registry check. All registry checks must be completed before the individual assumes responsibility for the care and supervision of children.

Any individual who is listed as a perpetrator on any of the registries must not be on the child care premises during the hours of operation, except that a parent listed as a perpetrator may be allowed on the premises only to pick up and drop off his/her child.

~~3-001.04 Background Checks~~

~~1. Nebraska Child Abuse and Neglect Central Registry:~~

~~a. The names of the applicant, child care provider, licensee, primary provider, secondary provider, regularly identified substitute, director and staff (which includes teachers, assistant teachers and all support staff) will be cleared against the Nebraska Child Abuse and Neglect Central Registry by Department staff.~~

~~b. When child care is being provided in the residence of the provider, the names of all household members age 13 and older will be cleared against the Nebraska Child Abuse and Neglect Central Registry by Department staff.~~

~~c. Whenever the name of an applicant, child care provider, licensee, primary provider, secondary provider, regularly identified substitute, director and staff (which includes teachers, assistant teachers and all support staff) and/or household member is identified as being on the Nebraska Child Abuse and Neglect Central Registry as a perpetrator, for an entry made prior to April 18, 1994, staff will notify the individual that his/her name appears on the Register and may proceed with actions necessary to deny or revoke the child care/preschool license.~~

~~2. Nebraska Adult Protective Services Central Registry:~~

~~a. The names of the applicant, child care provider, licensee, primary provider, secondary provider, regularly identified substitute, director and staff (which includes teachers, assistant teachers and all support staff) will be cleared against the Nebraska Adult Protective Services Central Registry by Department staff.~~

~~b. When child care is being provided in the residence of the provider, the names of all household members age 18 and older will be cleared against the Nebraska Adult Protective Services Central Registry by Department staff.~~

~~c. Whenever the name of an applicant, child care provider, licensee, primary provider, secondary provider, regularly identified substitute, director and staff (which includes teachers, assistant teachers and all support staff) and/or household member is identified as being on the Nebraska Adult Protective Services Central Registry as a perpetrator, staff may proceed with actions necessary to deny or revoke the child care/preschool license.~~

~~6-004 Background Checks: When child care services are being provided in the provider's residence, the child care provider shall submit -~~

~~1. A completed application including the names of all persons residing in the home. Those persons age 13 and older must be cleared against the Nebraska Child Abuse and Neglect Central Registry AND Nebraska Adult Protective Services Central Registry (age 18).~~

~~2. Felony/misdemeanor statements for all household members age 19 and over, including any crimes for which a juvenile has been adjudicated as an adult.~~

~~3. A completed application and felony/misdemeanor statement when there is a change in household members residing in the home within ten days of the change.~~

~~6-004.02 Registry Checks: The names of child care providers, substitutes, and all household members age 13 and older must be checked against the Nebraska Child Abuse and Neglect Central Registry AND the Nebraska Adult Protective Services Central Registry (age 18 and older).~~

~~When child care is being provided in the residence of the provider, any household members age 13 and older appearing as a perpetrator of physical abuse/neglect on the Nebraska Child Abuse and Neglect Central Registry and/or Nebraska Adult Protective Services Central Registry and/or adjudication in adult or juvenile court shall not be on the premises during the hours of operation.~~

1-006.02C Report of Law Enforcement Contact: The applicant/licensee must complete a Report of Law Enforcement Contact for him/herself and must obtain a completed report for each staff member age 19 or older and each household member age 19 or older. The report must:

1. Be updated, signed and dated annually;

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

1-006.02D Notification of Law Enforcement Contact: As soon as the licensee becomes aware of the occurrence, the licensee must notify the Department of any arrest, misdemeanor ticket other than a traffic violation, pending criminal charges, and any felony/misdemeanor convictions of him/herself, staff, or household members. Failure to notify the Department of law enforcement contacts as described may result in disciplinary action.

~~3-001.04~~

~~3. Felony/Misdemeanor Statements:~~

~~a. The applicant, child care provider licensee, primary provider, secondary provider, regularly identified substitute, director and staff (which includes teachers, assistant teachers and all support staff) shall submit a completed and signed Felony/Misdemeanor Statement to Department staff.~~

~~b. When child care is being provided in the residence of the provider, all household members age 19 and older shall submit a completed and signed Felony/Misdemeanor Statement to Department staff, including any crimes for which a juvenile has been adjudicated as an adult.~~

~~c. The Department may request additional information from the provider and/or community, state, and/or federal law enforcement agencies.~~

~~d. Whenever the applicant, child care provider, licensee, primary provider, secondary provider, regularly identified substitute, director and staff (which includes teachers, assistant teachers and all support staff) or household member has a history of criminal behavior, staff may proceed with actions necessary to deny or revoke the child care/preschool license.~~

~~6-004.01 Felony/Misdemeanor Statement: Before the issuance of a license, the child care provider shall submit a "Felony/Misdemeanor Statement," signed and dated by all household members age 19 and older, which includes the following information:~~

~~1. Felony and/or misdemeanor arrests related to crimes against children;~~
~~2. Misdemeanor tickets, other than traffic violations;~~
~~3. Felony and/or misdemeanor convictions;~~
~~4. Any pending criminal charge(s);~~
~~5. Current parole or probation status.~~

~~This statement will include all law enforcement contacts, regardless of prosecution.~~

~~The child care provider and/or household members shall not engage in or have a history of behavior injurious to or which may endanger the health or morals of children.~~

~~6-004.03 Report of Law Enforcement Record: The child care provider is responsible for reporting any arrests, misdemeanor tickets other than traffic violations, pending criminal charges, and/or any felony/misdemeanor convictions on themselves, substitutes, secondary providers and/or household members when care is provided in the place of residence.~~

1-006.02E Investigations and Repeat Registry Checks

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

1-006.02F Health Information Report: The applicant must submit a completed and signed Health Information Report on a form provided by the Department for him/herself as part of the initial application. All staff who are responsible for the care and supervision of children more than 20 hours per week must complete the report within 30 days of hiring. The Health Information Report must be completed annually.

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

~~6-002 Health Examinations: The child care provider shall submit a completed "Health Information Report," or a report containing all information required in the Health Information Report current within six months, as part of their initial license application. The child care provider shall have a health information report completed every two years after initial licensure and retain on the premises. The Health Information Report, Part B, will be completed by a medical practitioner.~~

1-006.03 Staff, Volunteer, and Household Member Qualifications and Requirements

1-006.03A Staff: Staff, including substitutes, must:

1. Be at least 16 years of age;
2. Be of good moral character; and
3. Not engage in or have a history of behavior injurious to or which may endanger the health or morals of children.

1-006.03B Volunteers: All volunteers must:

1. Be of good moral character;
2. Not engage in or have a history of behavior injurious to or which may endanger the health or morals of children; and
3. Never be left alone with children other than their own.

1-006.03C Household Members: For each household member, the licensee must:

1. Obtain a completed Report of Law Enforcement Contact on household members age 19 or older;
2. Obtain documentation of a criminal history record check on household members age 19 or older; and
3. Not allow any household member who engages in behavior injurious to or which may endanger the health or morals of children to provide care or be on the premises.

~~6-003 Substitutes and Household Members: When child care is being provided in the residence of the provider, the child care provider shall notify the Department by completing an application, when there is a change in household members residing in the home.~~

~~Substitute providers must be at least 16 years of age.~~

~~The child care provider shall submit the names of regularly identified substitute(s) on the application or an amendment to the application.~~

~~All regulations regarding background checks will apply to regularly identified substitute(s).~~

~~Except in emergency situations, the child care provider shall inform parents in advance of the planned use of a substitute provider.~~

~~All Family Child Care Home regulations regarding supervision and care of children will apply to substitute(s).~~

1-006.04 Training: Training must be completed as follows. Documentation of the completion of all training must be available on the premises for the Department to review. Acceptable documentation includes certificates issued by trainers and documentation of independent study.

1-006.04A Pre-Service Training: Before a provisional license will be issued, the applicant must complete the following:

1. Two-hour orientation training provided by the Department;
2. Cardiopulmonary Resuscitation (CPR) training; and
3. First Aid training.

~~6-005 Child Care Provider Training~~

~~6-005.01 Pre-Service Training: Before the issuance of a provisional license, the provider shall complete training in the following areas:~~

~~1. Orientation to Child Care Licensure, 1 Hr. provided by the Department. This does not apply to the secondary provider of a Family Child Care Home II;~~
~~2. Cardiopulmonary Resuscitation (CPR); and~~
~~3. First Aid.~~

~~6-005.02 Provisional Year Training: A child care provider shall obtain a minimum of 12 hours of training. Two hours of CPR and one hour of first aid will be counted in the year that each is taken toward the required training. Training hours obtained in the calendar year prior to provisional licensure will be counted if the training taken includes topic areas listed in 391 NAC 6-005.03.~~

~~Written documentation of ALL training will be maintained on the Family Child Care Home premises and available for review upon request.~~

1-006.04B Safety Training: The licensee must complete training developed by the Early Childhood Training Center on Sudden Infant Death Syndrome (SIDS), safe sleep, shaken baby syndrome, and child abuse/neglect and reporting. Any proposed equivalent training must be approved by the Department.

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

1-006.04C Business Management Training: The licensee must complete a business training module for family child care homes developed by the Early Childhood Training Center (ECTC). Any proposed equivalent training must be approved by the Department.

1. In programs licensed on or after the operative date of these regulations, the licensee must complete the training within five years of the date of provisional licensure.
2. In programs licensed before the operative date of these regulations, the licensee must complete the training within five years of that operative date.
3. This training counts toward the annual training requirement.

1-006.04D Nebraska's Early Learning Guidelines Training: The licensee must complete training in the seven domains of Nebraska's Early Childhood Learning Guidelines developed by the ECTC. Any proposed equivalent training must be approved by the Department. The domains are: Approaches to Learning, Creative Arts, Health and Physical Development, Language and Literacy Development, Mathematics, Science, and Social and Emotional Development.

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

1-006.04E Annual Training: The licensee and each staff member, not including substitutes or volunteers, must obtain 12 clock hours of training annually. Staff who work 20 hours or less each week must complete six hours of training annually.

1-006.04E1 Training must include but is not limited to the following topics:

1. Safe environments;
2. Healthy environments;
3. Learning environments;
4. Physical development;
5. Cognitive learning;
6. Communication;
7. Creative learning;
8. Self esteem;
9. Social development;
10. Guidance;
11. Family relationships;
12. Program management; and
13. Professionalism.

Audio, video, and reading material specific to one or more of these training topics will count toward the annual training requirement only if an

Independent Learning Summary is completed on a form provided by the Department. The actual length of audio and video material will be counted, and 50 pages of text will be considered equal to one clock hour of training.

Two hours of CPR and one hour of first aid will be counted in the year that each is taken.

2-006.04E2 Each clock hour spent participating in any of the following types of activities counts toward the annual training requirement:

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

1-006.04F Cardiopulmonary Resuscitation (CPR) and First Aid Training

1. CPR training must be obtained from an entity that has been approved by the Nebraska Board of Emergency Medical Services. The Department will provide the program with information about approved CPR courses.
2. The licensee must maintain current CPR and First Aid training as long as s/he is licensed.
3. The CPR card and documentation of First Aid training must be available upon request.

~~6-005.03 Annual In-Service Training: Child care providers shall obtain a minimum of 12 clock hours of in-service training annually. Secondary providers who work 20 hours or less will be required to complete six hours of training.~~

~~Child care providers licensed before implementation of these regulations shall meet the following requirements:~~

~~Calendar Year 1995 - 6 clock hours of In-Service Training *~~
~~Calendar Year 1996 - 8 clock hours of In-Service Training *~~
~~Calendar Year 1997 - 10 clock hours of In-Service Training *~~
~~Calendar Year 1998 - 12 clock hours of In-Service Training *~~

~~* Secondary providers who work 20 hours or less will be required to complete half of the clock hours listed.~~

~~Written documentation of annual in-service training will be maintained on the Family Child Care Home premises and available for review upon request.~~

~~In-service training will include but is not limited to the following topic areas:~~

~~1. Safe Environment~~
~~2. Healthy Environment~~
~~3. Learning Environment~~
~~4. Physical Development~~
~~5. Cognitive Learning~~
~~6. Communication~~
~~7. Creative Learning~~
~~8. Self-Esteem~~
~~9. Social Development~~
~~10. Guidance~~
~~11. Family Relationships~~
~~12. Program Management~~
~~13. Professionalism~~

~~6-005.04 Cardiopulmonary Resuscitation (CPR) and First Aid Training: The child care provider shall complete certified Cardiopulmonary Resuscitation (CPR) and First Aid training:~~

~~1. Cardiopulmonary Resuscitation (CPR) Training will be certified through one of the following: American Heart Association; American Red Cross; National Safety Council; or Emergency Medical Planning America (Medic First Aid).~~
~~2. The child care provider shall maintain current CPR and First Aid certification as long as the provider is licensed.~~
~~3. The CPR card and First Aid certificate will be available for review upon request.~~
~~4. Two hours of CPR and one hour of first aid will be counted in the year that each is taken toward the required in-service training.~~

~~The effective dates of the CPR training will be determined by the certified instruction program. The effective dates of the First Aid training will be determined by the instruction program. If dates are not indicated on the First Aid certificate, the training will be considered valid for three years.~~

1-006.05 Employee Records Requirements: The licensee must ensure the following records are maintained, updated as needed, and made available to the Department upon request.

1-006.05A Staff: Records for all staff, except substitutes and volunteers, must include:

1. Name;
2. Address and telephone number;
3. Social Security number;
4. Date of hire/termination;
5. A completed Report of Law Enforcement Contact;
6. Documentation of a criminal history record check;
7. A completed Health Information Report;
8. Documentation of Nebraska registry checks with no adverse findings;

9. Documentation of training; and
10. Documentation that the individual has read and understands these regulations.

1-006.05B Substitutes and Volunteers: Records for each substitute and volunteer must include:

1. Name;
2. Address and telephone number;
3. Social Security Number;
4. Start date;
5. A completed Report of Law Enforcement Contact;
6. Documentation of a criminal history record check;
7. Documentation of Nebraska registry checks with no adverse findings; and
8. For volunteers only, a written schedule that includes the hours and days of the week the individual serves as a volunteer.

1-006.06 Child's Record: A Child's Record must be completed before the child's enrollment. The record must be kept current and available for review upon request by the Department. A Child's Record form may be used or a form may be created and must contain the following information for each child:

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

~~(6-001) A "Children's Record" will be completed before enrollment, and kept current for each child in care.~~

1-006.07 Parent Information Brochure: At the time of enrollment, the licensee must give the parent(s) of each enrolled child a Parent Information Brochure provided by the Department. The licensee must keep receipts signed and dated by the parent and make them available for review by the Department.

~~(6-001) The child care provider shall give parents placing a child(ren) in the Family Child Care Home a Department Parent Handbook and shall retain the receipts on the premises. The receipts will be available for review upon request.~~

1-006.08 Licensed Capacity and Staff-to-Child Ratio

1-006.08A Licensed Capacity: The number of children in care at any one time must not exceed the licensed capacity. Licensed capacity will be determined by the Department based on available space and the capacity authorized by the State Fire Marshal or delegated authority. Whichever number is smaller will be the licensed capacity of the child care home.

The maximum licensed capacity for a Family Child Care Home I is eight children, except that a licensee may be approved to serve up to two additional school-age children during non-school hours, if no more than two of the other children in care are under 18 months of age.

In determining whether the licensed capacity has been exceeded, any adults receiving care and supervision and all children at the program are counted, except:

1. Children who leave the child care home for an activity and will not be returning that day; and
2. Children who are enrolled in the program and in attendance at school.

~~6-006 License Capacity and Child/Staff Ratio: Child/staff ratio and license capacity includes the provider's own children below age eight.~~

~~6-006.01 License Capacity~~

1. ~~The maximum license capacity for a Family Child Care Home I is 8 children. A Family Child Care Home I provider may be approved to serve no more than two additional school-age children during non-school hours.~~
2. ~~The maximum license capacity for a Family Child Care Home II is 12 children.~~
3. ~~The maximum license capacity will be determined by Department staff based on actual available space in the home and the number authorized by the State Fire Marshal.~~

1-006.08B Staff-to-Child Ratio: The appropriate staff-to-child ratio must be met at all times, as follows.

1. Infants only. If the program provides care to infants only, the following ratios apply:

Number of Infants in Care	Number of Staff Required
4	1

5-8	2

2. Mixed ages. If the program provides care to children of mixed ages, the following ratios apply:

Number of Children in Care	Number of Staff Required
1-8	1
9-10 (at least two must be school-age)	1

a. Programs serving children of mixed ages of may provide care for up to three infants if no more than two of the infants are under 12 months of age.
b. Programs may provide care for up to two additional school-age children during non-school hours if no more than two of the other children in care are under 18 months of age.

3. School-age only. If the program provides care to school-age children only, the following ratio applies:

Number of Children in Care	Number of Staff Required
1-10	1

~~6-006.02 Child/Staff Ratio: The child care provider shall maintain compliance with the child/staff ratios as indicated below.~~

~~The following chart describes child/staff ratio for Family Child Care Homes:~~

~~RATIO/CAPACITY FOR FAMILY CHILD CARE HOMES~~

~~Age Groups and # of Children~~	~~Family Child Care Home I~~	~~Family Child Care Home II~~
	~~Number of Providers Required:~~	~~Number of Providers Required:~~
~~INFANT ONLY:~~		
~~4~~	~~1~~	~~1~~
~~5-8~~	~~2~~	~~2~~
~~9-12~~	~~N/A~~	~~3~~
~~MIXED AGE:~~		
~~8~~	~~1~~	~~1~~
~~9-10~~	~~1*~~	~~1*~~
~~9-12~~	~~N/A~~	~~2~~

~~SCHOOL-AGE ONLY:~~

~~9-10~~	~~1~~	~~1~~
~~11-12~~	~~N/A~~	~~1**~~

~~Infant Only: Family Child Care Home I and II providers serving infants only may exclude their own school age children in the ratio/capacity.~~

~~Mixed Age: Family Child Care Home I and II providers serving mixed ages may provide care for no more than three infants (under 18 months) per adult as long as no more than two infants per adult are under 12 months of age. In the event of multiple births, an alternative compliance may be considered.~~

~~*Family Child Care Home I and II providers serving mixed ages may provide care for no more than two additional school-age children during non-school hours as long as no more than two children are under 18 months of age.~~

1-006.09 Communicable Diseases: The Department will provide the program with information about communicable diseases to assist the program in carrying out its responsibilities.

1-006.09A Notification to Parents: The licensee must notify parents of all enrolled children of any case of any communicable disease on the same day the licensee is informed of or observes the illness, unless otherwise directed by the health authority. The health authority is the local health department for the area. Proper notification includes:

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

1-006.09B Confidentiality: Names of ill children must not be released to anyone except health authorities, unless parents have given their permission.

1-006.09C Health Authority: The licensee must follow all directives given to the licensee by the health authority in the event of a communicable disease outbreak.

~~6-009.03 Outbreak of Communicable Diseases: The child care provider shall notify parents of all enrolled children of a case of any communicable disease on list "A" on the same day the provider is informed of or observes the illness. (See Compliance Guide for list "A" of communicable diseases.) Proper notification of parents will include:~~

~~1. Notification to parents of children in attendance.~~
~~2. Phone notification to parents of enrolled children who are not in attendance on that day.~~

~~3. Posting notice of the outbreak in a conspicuous place.~~

~~The child care provider shall notify the local health authority by phone of a case of the communicable diseases on list "B" on the same day the provider is informed of or observes the illness. (See Compliance Guide for list "B" of serious communicable diseases.) The child care provider shall maintain a record of the date and time of all such notifications which will be available for review upon request.~~

1-006.10 Children Excluded Due to Illness: The licensee must have a written policy that identifies the circumstances under which children would be excluded from child care due to illness. To assist in writing the policy, the Department will provide the licensee with materials that include recommendations on:

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

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

~~6-009.04 Isolation of Children Who are Ill: In the case of more severe illness, the child care provider shall -~~

~~1. Separate the child from other children;~~
~~2. Properly attend to the child's needs until arrangements are made for return to the child's home.~~

1-006.11 Immunizations: Within 30 days of a child's enrollment, the licensee must obtain a copy of each enrolled child's immunization record. Immunization records must be available for review upon request by the Department and updated each time the child receives additional immunizations. Each child's immunization record must include:

1. Documentation of age-appropriate immunization;
2. Certification by a physician, advanced practice registered nurse, or physician assistant that immunization is not appropriate for a stated medical reason; or
3. A written statement that the parent or guardian does not wish to have the child immunized and the reasons for that decision.

~~6-009.05 Immunizations: The child care provider shall maintain copies of children's immunization records. These copies will be available for review upon request.~~

~~The child care provider shall comply with all Nebraska Department of Health and Human Services requirements regarding immunization status of all enrolled children.~~

1-006.11A Immunization Report: The licensee must comply with all state statutes and regulations (Neb. Rev. Stat. §§ 71-1913.01 to 71-1913.03 and 173 NAC 4) regarding immunization status of all enrolled children. This includes annual reporting to the Department as specified in 173 NAC 4. The Department will provide materials to assist the program in carrying out its responsibilities.

1-006.12 Supervision of Children: Adequate and appropriate supervision must be provided to children at all times children are in attendance, including during outdoor play. Ultimate responsibility for supervision rests with the licensee.

~~(6-001) The child care provider shall assume responsibility for providing adequate and appropriate supervision at all times children are in attendance. Any designated substitute shall have the same responsibility for providing adequate and appropriate supervision. Ultimate responsibility for supervision will be with the child care provider.~~

1-006.12A Supervision in the Absence of the Licensee: Any designated substitute has the same responsibility for providing adequate and appropriate supervision as the licensee. All parents, except in emergency situations, must be notified in advance of the use of a substitute supervisor.

1-006.12B Permission for Off-Premises Supervision: The licensee must ensure that parents are informed and give written permission when children will be outside the premises of the home and supervised by staff. Written permission must be available to the Department on request.

1-006.12C Permission for Child to Leave Premises: If a child participates in activities that are not provided by the licensee and are outside the child care premises, the licensee must obtain written permission from the parent. The written permission must be available to the Department upon request and must indicate the following:

1. The parent gives permission for his/her child(ren) to leave the child care premises; and
2. The parent understands the licensee is not responsible for supervision while his/her child participates in activities outside the child care premises or outside the supervision of the licensee.

1-006.12D Supervision During Outdoor Play: All children must be supervised during outdoor play.

1-006.12D1 Fenced Play Area: Children under the age of two must be accompanied and supervised while in a fenced play area. Children two or older may play in a fenced area unaccompanied, but must be supervised at all times.

1-006.12D2 Unfenced Play Area: Children under the age of four must be accompanied and supervised while in a play area that does not require a fence. Children four or older may be unaccompanied, but must be supervised at all times when playing in an unfenced play area.

~~(6-007.08) The child care provider must accompany and supervise children under age four in play areas not requiring a fence. Children age four and older must be supervised at all times.~~

~~The child care provider shall accompany and supervise children under age two in fenced play areas. Children age two and older must be supervised at all times in the fenced play area.~~

~~6-011.01 Indoor/Outdoor Play: The child care provider shall have knowledge of where each child in care is at all times.~~

1-006.13 Discipline: When parents are not present, the responsibility for the discipline of children in care lies only with the licensee or the designated substitute.

1-006.13A Prohibited Forms of Discipline: The following actions are prohibited as a form of discipline:

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

1-006.13B Child Behavior That Cannot Be Disciplined: Children must not be disciplined for the following:

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

3. Refusal to eat.

~~6-011.03 Discipline: The child care provider and/or his/her designated substitute is prohibited from using the following as a means of punishment:~~

1. ~~Spanking, slapping, punching, shaking, striking with any inanimate object, handling roughly, or biting;~~
2. ~~Denying food or forced napping;~~
3. ~~Subjection to derogatory remarks about themselves or their family, abusive or profane language, yelling or screaming, or threats of physical punishment.~~

~~The child care provider shall not punish any child for toilet training accidents or refusal for taking medication.~~

~~While children are in care and when parents are not present, the responsibility for discipline lies **ONLY** with the child care provider or designated substitute.~~

1-006.13C Use of Time Out: Separation from the group, if used, must be brief and appropriate for the child's age. The time out period must:

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

1-006.13D Use of Physical Hold: The licensee and staff may restrict a child's movement by the use of a physical hold. A physical hold may be used only:

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

1-006.13D1 Notification and Documentation: The licensee must notify the child's parents when a physical hold is used on their child. Written documentation of each use of a physical hold must be available for review by the parents of the child involved in the physical hold and the Department. The documentation must include:

1. Child's name;
2. Date of the incident;

3. Description of the incident; and
4. Names of the staff involved.

1-006.13E Use of Restraints: The use of restraints is prohibited except under the following conditions:

1. All staff who participate in restraining a child must have received prior training in de-escalation and the use of restraints.
2. The training curriculum must be accepted by the Department.
3. The training must be taught by a certified trainer.
4. Written documentation of each use of restraint must be available for review by the parents of the child involved in the restraint and the Department. The documentation must include:
   a. Child's name;
   b. Date of the incident;
   c. Description of the incident; and
   d. Names of the staff involved.

1-006.14 Prohibited Language, Materials, and Actions: Children of any age must not be exposed to:

1. Profanity;
2. Sexually explicit material;
3. Acts of violence towards a person or animal; or
4. Acts of racism.

1-006.15 Child Development Program: The licensee must provide an age-appropriate program designed to promote the cognitive, social, emotional and physical development of children in care. Information about the program must be given to parents and the Department upon request. The program must include:

1. Indoor play;
2. Outdoor play;
3. Napping and rest periods;
4. Opportunities for individual and group play times;
5. Opportunities for children to read and explore books;
6. Daily reading with children of age-appropriate literature; and
7. Fostering language and social development by talking and interacting with children and modeling appropriate language and behavior.

~~6-011 Daily Activities~~

~~Enough age-appropriate play materials will be available so that, at any one time, each child can play individually.~~

~~The child care provider shall obtain written permission from parents to allow schoolage children to engage in activities outside the child care home without direct provider supervision.~~

~~6-011.02 Naps and Rest Periods: A regular rest period will be made available for children as agreed upon between parent and child care provider.~~

1-006.15A Toys, Equipment and Materials: The licensee must provide a sufficient number of age-appropriate toys, equipment, and materials for all children in care. Children below the age of three must not have access to toys and objects that could create a choking hazard unless directly supervised by the licensee or staff.

~~(6-007.01) The child care provider shall ensure that toys and objects with a diameter of less than one inch or less than one and one-half inches in length are used only under provider supervision with children who are below three years of age.~~

1-006.15B Beds, Cribs, and Sleeping Surfaces: Appropriate sleeping surfaces must be available for each child in care.

1. Acceptable sleeping surfaces for children over 12 months of age are:

   a. Beds;
   b. Cots;
   c. Cribs;
   d. Playpens;
   e. Sofas;
   f. Washable sleeping bags; and
   g. Waterproof mats.

2. The only acceptable sleeping surfaces for children age 12 months and under are cribs and playpens. When used, cribs and playpens must meet the following standards:

   a. Cribs and playpens must be federally approved;
   b. Cribs must be equipped with a tight-fitting mattress covered by a fitted sheet. The mattress pad for a playpen must be specifically designed for playpen use and covered by a fitted sheet;
   c. Drop-side latches must securely hold sides in raised position;
   d. Cribs and playpens must contain no soft objects, bumper pads, toys, or loose bedding. If a blanket is used, it must be secured or tucked under the crib mattress or the pad of the playpen and reach no higher than the infant's chest; and
   e. Cribs and playpens must be clean, in good repair, and not have any surface covered by lead-based paint.

3. The following must not be used as sleeping surfaces:

a. The top level of a bunk bed for children age 5 and under;
b. Stackable cribs;
c. Waterbeds for children age 3 and under; and
d. Cots, cushions, futons, mats, or pillows for infants 12 months and under.

~~6-011.02 The child care provider shall have clean beds, cribs, mats, washable sleeping bags, sofas, or cots for napping for each child over 12 months of age. The top level of bunk beds will not be used for children below 5 years of age. Futons will not be used for infants under 13 months of age; where allowed, futons will conform to the definition in the Compliance Guide. Waterbeds will not be used for children under 36 months of age.~~

1-006.16 Infant/Toddler Care: If care is provided to infants and/or toddlers, the licensee and staff must:

1. Investigate the cries of infants immediately;
2. Hold, talk to, and engage in play activities with each child every day;
3. Hold infants under six months of age or those not yet able to hold their own bottles. Bottles must not be propped and must be removed from sleeping infants;
4. Only use high chairs that are equipped with three-point safety straps;
5. Obtain and keep on file a signed and dated statement by the parent(s) that describes the formula and feeding schedule for each infant in care; and
6. Place infants on their backs to sleep unless there is a medical reason for a child to sleep in a different position. A written note from the infant's physician, nurse practitioner, or physician assistant indicating that the infant must sleep in a different position must be obtained, kept on file, and available for review by the Department.

~~6-012 Infant Care: In addition to complying with all other rules, a child care provider who provides care for any infant shall comply with the following rules:~~

~~The child care provider shall meet the emotional and physical needs of infants consistently and promptly. This includes:~~

~~1. Talking to, playing with, holding, and rocking infants, and providing them with the opportunity to explore outside of their cribs and/or playpens.~~
~~2. Immediately investigating the cries of infants.~~

~~The child care provider shall feed infants according to a plan agreed upon by the parent(s) and the provider.~~

~~The child care provider shall ensure that prepared formula is labeled with the appropriate child's name and stored in the refrigerator. Unused (prepared) formula will be discarded after 48 hours.~~

~~The child care provider shall hold infants under six months of age and those not yet able to hold their own bottles during bottle feeding.~~

~~The child care provider shall not prop bottles and shall remove bottles from sleeping infants.~~

~~Infants who are capable of feeding themselves, but cannot sit in child-sized chairs at child-sized tables, must be seated in high chairs with three point safety straps.~~

~~The child care provider shall ensure that only federally approved cribs and/or playpens are used for infants.~~

~~1. Drop-side latches will securely hold sides in the raised position.~~
~~2. Infants must not be left unattended in cribs with the drop-side lowered.~~
~~3. Bumper pads will be provided for each crib in which a child under six months sleeps.~~

~~Cots, waterbeds, pillows, mats, futons, or cushions will not be used for infants under 13 months of age.~~

1-006.16A Diapering and Toileting

1. The licensee must ensure that diapering procedures are established and followed by staff. The procedures must require that:

   a. Wet and/or soiled diapers are changed immediately;
   b. Diapers are checked on a frequent and regular basis;
   c. Individual washcloths or disposable towelettes are used;
   d. Wet and soiled diapers are properly stored and disposed;
   e. Diaper-changing surfaces are cleaned after each use by sanitizing the surface or changing the diaper pad or disposable sheeting; and
   f. Proper hand washing is done after each diaper change.

2. The licensee must ensure that toilet training is conducted in a manner agreed upon by the primary provider and the parent. The licensee must also ensure that:

   a. Potty chairs are not used or stored in eating or play areas; and
   b. Proper hand washing by the provider and the child is done each time a child is helped with toileting.

~~6-011.04 Diapering and Toileting: The child care provider shall change children's diapers when needed.~~

~~The child care provider shall use individual washcloths, towels, or disposable towelettes to cleanse children during diapering.~~

~~The child care provider shall wash his/her hands thoroughly with soap and water after changing the diaper of each child and after helping children toilet.~~

~~The child care provider shall ensure that soiled diapers are properly disposed of and/or stored in airtight containers.~~

~~Potty chairs must not be used or stored in eating and playing areas.~~

~~When toilet training is conducted in the child care home, toilet training must be carried out in a manner agreed upon by the child care provider and parent.~~

1-006.17 Overnight Care: If overnight care is provided, the licensee must ensure that:

1. If requested by the parent, the child is given a shower, tub, or sponge bath in a manner agreed upon between the parent and the licensee; and
2. The following fire safety standards for overnight care are met:

    a. The licensee/staff remain awake until all children are asleep;
    b. The licensee/staff sleep on the same level of the home as the children;
    c. Smoke detection is provided in the sleeping rooms of the licensee/staff and children;
    d. A portable fire extinguisher with a minimum safety rating of 2A10BC is located in the licensee/staff sleeping room;
    e. The licensee/staff is/are familiar with the operation of the extinguisher; and
    f. The extinguisher is properly maintained according to State Fire Code Regulations, 153 NAC 1.

~~6-014 Overnight Care: In addition to the other regulations, child care providers who offer overnight care shall comply with the following rules.~~

~~The child care provider shall provide clean cots or beds for each child over twelve months of age, fitted with a firm, waterproof mattress. The top level of bunk beds may not be used for children below five years of age.~~

~~Infants under 13 months of age shall sleep only on federally approved cribs and/or playpens. Cots, pillows, mats, futons, or cushions will not be used for infants under 13 months of age. Waterbeds will not be used for children under 36 months of age.~~

~~The child care provider shall be awake and alert to the needs of children until all children are asleep.~~

~~The child care provider shall sleep within hearing distance of the sleeping children.~~

~~Operating, properly mounted, smoke detection equipment will be available on all floors wherein children sleep. Wired smoke detection equipment will be U.L. (Underwriters Laboratories) approved.~~

~~The child care provider may give each child a shower, tub, or sponge bath in a manner agreed upon between the parent and the provider.~~

1-006.18 Wading and Swimming Activities: Children must be accompanied, kept safe, and adequately supervised during wading and swimming activities while in care.

1-006.18A Prohibited Water Sources: Children must not be allowed to use the following water sources for wading or swimming activities:

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

1-006.18B Wading: If the licensee allows children to participate in wading or other water play activities:

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

1-006.18C Permission for Non-Licensee-Supervised Activities Off the Premises: If the licensee does not allow children to participate in swimming activities while in care, but a parent requests that their child leave the premises to go to a pool, the licensee must obtain a written and signed statement from the parent that is kept on file on the premises and available to the Department upon request. The statement must indicate that the child is allowed to leave care and must acknowledge that the licensee is not responsible for providing supervision.

1-006.18D Permission for Licensee-Supervised Activities Off the Premises: If the licensee allows children in care to participate in swimming activities under the supervision of the licensee but off the premises, the licensee must obtain a written, signed, and dated statement from the parent that is updated annually. The written permission must be available to the Department upon request, and must indicate the following:

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

1-006.18E Licensure of Swimming Pools: The licensee must ensure that swimming pools off the center's premises where children are taken are licensed by the Department.

1-006.18F Water Safety: If the depth of the water is over four feet, the pool must have an individual who has satisfactorily completed a swimming water safety course on duty at all times children are at the pool.

1-006.18G Pool on the Premises Not Used by Children in Care: If an above-ground or in-ground swimming pool is on the premises and children in care are not allowed to use it, the licensee must meet the following requirements:

1. The pool must be enclosed with a fence that is at least four feet high and flush with the ground;
2. Above-ground pools must have non-climbable side walls;
3. When a pool is covered, the cover used must be the manufacturer's recommended cover;
4. Equipment needed to rescue a child or adult must be readily accessible; and
5. Children must be accompanied and directly supervised if the pool is located in the outdoor play area.

1-006.18H Pool on the Premises Used by Children in Care: If the children in care are allowed to use a pool on the premises, the licensee must meet the requirements in 1-006.18G and:

1. Meet all requirements of a Class B pool;
2. If the depth of the water is over four feet, an individual who has satisfactorily completed a swimming water safety course must be on duty at all times children are at the pool; and
3. Maintain the following staff-to-child ratios:

	Number of Children	Number of Staff Required
Infants	1	1
Toddlers	2	1
Preschoolers	4	1
School-age	6	1

~~6-007.05 Water Safety: The child care provider shall ensure that above-ground and in-ground swimming pools are enclosed with a fence that is at least 4 feet high and the fence flush with the ground.~~

~~The child care provider shall ensure that above-ground pools will have non-climbable side walls that are 4 foot high or will be enclosed with an approved fence as described above.~~

~~The child care provider shall ensure that when above-ground and in-ground pools are covered, this cover will meet or exceed the standards of the American Society for Testing and Materials.~~

~~If children are allowed to use above-ground or in-ground swimming pools, the following conditions will be met:~~

~~1. Written permission from parents will be available for review.~~
~~2. Equipment needed to rescue a child or adult will be readily accessible.~~
~~3. The child care provider shall comply with all Nebraska Department of Health and Human Services Regulation and Licensure requirements regarding swimming pools.~~

~~The child care provider shall accompany and directly supervise the children during swimming and wading activities.~~

~~The following ratios will be maintained with the use of above-ground or in-ground pools on the child care premises:~~

	~~Children~~	~~Provider/Secondary Provider~~
~~Infants~~	~~1~~	~~1~~
~~Toddlers~~	~~2~~	~~1~~
~~Preschoolers~~	~~4~~	~~1~~
~~School-age~~	~~6~~	~~1~~

~~If the depth of the water is over four feet, a person who has satisfactorily completed an approved life-saving course must be on duty at all times the pool is in use.~~

~~Wading pools must be drained daily and inaccessible to children when not in use.~~

~~6-007.05A Prohibited Water Sources: The child care provider shall not allow children to use -~~

~~1. Natural bodies of water;~~
~~2. Hot tubs, spas, or saunas; and/or~~
~~3. Livestock tanks.~~

1-006.19 Transportation: When transportation is provided for children in care, the licensee must ensure the following conditions are met:

1. No child must ever be left alone in the vehicle;
2. Smoking is prohibited in the vehicle when children are being transported;
3. All doors on the vehicle must be locked when the vehicle is in motion;
4. Any individual who transports children must possess a current and valid driver's license for the type of vehicle used to transport children, as verified by the Department of Motor Vehicles;
5. The vehicle used to transport children must be properly registered and must contain a first aid kit and parent contact information for each child being transported;
6. The number of children transported must not exceed the seating capacity of the vehicle as indicated by the manufacturer;

7. All children transported must be properly secured in an appropriate restraint system as required by Neb. Rev. Stat. §§ 60-6,267 and 60-6,268;
8. All car seats must be federally approved and must be the correct type for the child's age and developmental level;
9. Written permission from parents for the program to transport children must be obtained, kept on file, and made available to the Department;
10. Children must not be transported to any location without the prior knowledge of the parent(s), except in a medical or other emergency; and
11. Children must not be transported to avoid violations of capacity or staff-to-child ratio.

~~6-013 Transportation: When transporting children in care, the child care provider shall comply with the following requirements:~~

~~The child care provider shall possess a current and valid driver's license as verified by the Nebraska Department of Motor Vehicles. In lieu of the child care provider, the person providing transportation shall possess a current and valid driver's license.~~

~~The child care provider shall obtain parent's written permission to transport children.~~

~~The child care provider shall maintain the adult-child ratio when transporting children.~~

~~The child care provider shall not exceed the seating capacity of the vehicle, as indicated by the vehicle manufacturer.~~

~~The child care provider shall ensure that all doors are locked when the vehicle is in motion.~~

~~The child care provider shall use an age appropriate and individual safety restraint for each child transported. Failure to properly restrain may result in revocation.~~

1. ~~Nebraska law requires that all children under four years of age OR under forty pounds be correctly secured in a federally approved child safety seat.~~
2. ~~All children ages four and above OR children weighing forty pounds or more must be secured in a safety belt or federally-approved child safety seat restraints.~~
3. ~~Restraints are not required for children transported by public transportation or school bus.~~

1-006.20 Medications

1-006.20A Giving or Applying Medication: If the licensee or staff gives or applies medication, s/he must comply with the "Five Rights" as set out in the Medication Aide Act. The Five Rights are:

1. The right drug;
2. The right recipient;
3. In the right dose;
4. By the right route; and

5. At the right time.

1-006.20B Competence to Give or Apply Medication: Parents or any licensed health care professional are responsible for determining if the licensee or staff are competent to give or apply medication. Any licensed health care professional, as directed by the prescribing health professional, is competent to give or apply medication under any circumstances.

1-006.20C Confidentiality: Any licensee or staff who gives or applies medication must not disclose information about a child's medication or physical or mental health condition unless such information is needed to protect the health of other children or staff. The use of a posted medication sign-in sheet does not violate confidentiality if the parent has been advised in writing that the parent has the option of using a private method of informing center staff of the child's medication needs.

1-006.20D Written Permission and Instructions: The licensee or staff must give or apply prescription and non-prescription medication only with prior written permission and written instructions from a parent. The licensee must comply with the instructions provided by the parent or inform the parent that medications will not be given or applied.

1. Any error in the giving or applying of medication must be reported to the parent.
2. The dosage must not exceed that which is printed on the label.
3. Expired medication must not be given or applied to a child and must be returned to the parent or destroyed.

1-006.20E Unusual Circumstances: The licensee must obtain a written statement from the licensed health care professional who prescribed the medication allowing the licensee or staff to give the medication when:

1. Any prescription medication is given or applied as needed (PRN); or
2. By a route other than oral, topical, inhalant, or instillation.

The written statement must describe the route and what symptoms need to exist in order for the medication to be given or applied.

1-006.20F Hand Washing: All caregivers must properly wash their hands before giving or applying any medication. If handling any bodily fluids is involved, caregivers must properly wash their hands after giving or applying medication.

1-006.20G Storage: All medications must be kept in proper storage. This includes:

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

1-006.20H Record-Keeping: The licensee must keep a record of the time and amount of medication given or applied.

~~6-009.02 Medications~~

~~6-009.02A Delivery of Medication: Any child care provider or secondary provider or substitute who gives or applies medication shall do so in accordance with the "5 Rights" as required in Nebraska Statutes 71-6718 through 6742. These are:~~

~~1. The right drug;~~
~~2. The right recipient;~~
~~3. In the right dose;~~
~~4. By the right route;~~
~~5. At the right time.~~

~~6-009.02B Parental Responsibility: Parents or any licensed health care professional shall determine if child care providers or secondary providers are competent to give or apply medication.~~

~~6-009.02C Confidentiality: Any child care provider who gives or applies medication shall not disclose information about a child's medication unless such information is needed to protect the health of other children or staff.~~

~~6-009.02C1 The use of a posted medication sign in sheet does not violate 6-009.02C if the child care provider has advised the parent in writing that the parent has the option of using a private method of informing the child care provider of the child's medication needs.~~

~~6-009.02D Written Permission and Instructions: All child care providers shall give or apply medication both prescription and non-prescription, only with prior written permission and written instructions from a parent. Child care providers shall comply with the instructions provided by the parent. Medication shall be in the original container, stored according to instructions, clearly labeled for a named child, and returned to the parent when no longer needed. The dosage will not exceed that which is printed on the label. Expired medication shall not be given or applied to a child and shall be returned to the parent.~~

~~6-009.02D1 Report to Parents: Any error in the giving or applying of medication shall be reported to the parent.~~

~~6-009.02E Unusual Circumstances: There must be a written statement from the licensed health care professional who prescribed the medication allowing the provider to give the medication when:~~

~~1. Any prescription medication is given or applied as needed (PRN); or~~
~~2. By a route other than oral, topical, inhalant, or instillation.~~

~~6-009.02F Handwashing: All child care providers shall wash hands before giving or applying any medication. If handling any bodily fluids are involved, caregivers must also wash hands after giving or applying that medication.~~

~~6-009.02G Storage: The child care provider shall ensure that all prescription and over the counter medications will be kept in locked storage. Separate locked storage will be provided for medications requiring refrigeration.~~

~~Over-the-counter lip balm, petroleum jelly, suntan lotion and diaper ointment will be kept out of reach of children.~~

~~6-009.02H Recordkeeping: The child care provider shall maintain a record as to the time and amount of medication given or applied.~~

1-006.21 Food Service: Meals and snacks that are appropriate to the needs of the children in care must be served to all children in attendance. Weekly menus must be given to parents upon request. Meals and snacks must:

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

1-006.21A The licensee must offer at least the following number of meals and snacks, based on how long children are present:

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

1-006.22 Food Safety: The licensee must store, prepare, protect, serve, and dispose of food in a safe and sanitary manner, as follows:

1. All perishable foods must be stored in a covered container in an operating refrigerator at a maximum temperature of 40 degrees;
2. Individuals handling food must properly wash their hands before and after handling food;
3. All prepared formula or breast milk must be refrigerated and clearly labeled with the child's name. Unused prepared formula must be discarded as indicated by the label. Unfrozen breast milk must be discarded after 48 hours. Frozen breast milk must be kept in a freezer for no more than three months;
4. Formula provided by the licensee must be made from commercially prepared products;
5. Children must only be served pasteurized grade A milk and milk products. Dry milk and milk products must be made from pasteurized milk and milk products;
6. All fresh or raw fruits and vegetables must be thoroughly washed with water before use;
7. Home-canned foods must not be served to children in care;
8. All food preparation areas must be easily cleanable and in good repair;
9. Any deep freezer that cannot be opened from the inside must be locked or stored in a locked room;
10. All utensils, equipment, and food storage areas must be kept clean and in good repair; and
11. All dishes and utensils must be properly washed, rinsed, sanitized, and air dried.

~~6-010 Food Preparation and Serving~~

~~6-010.01 Food Preparation Area: The child care provider shall ensure that all food preparation, serving, and storage areas, equipment, and utensils are easily cleanable and in good repair.~~

~~The child care provider shall ensure that dishes and utensils will be properly cleaned, rinsed, sanitized, and air-dried.~~

~~The child care provider shall ensure that all perishable foods are stored in a covered container in an operating refrigerator with a maximum temperature of 40 degrees.~~

~~The child care provider shall ensure that deep freezers which cannot be opened from the inside are locked or stored in a locked room.~~

~~The child care provider shall ensure that no home-canned foods are served to children in care.~~

~~The child care provider shall ensure that only pasteurized grade A milk and milk products are served to children. Dry milk and milk products must be made from pasteurized milk and milk products.~~

~~6-010.02 Meals and Snacks: The child care provider shall serve at least the following number of meals and snacks when children are present:~~

~~1. 2 1/2 to 4 hours - one snack;~~
~~2. 4 to 8 hours - one snack and one meal;~~
~~3. 8 to 10 hours - two snacks and one meal; and~~
~~4. 10 or more hours - two snacks and two meals.~~

~~Each meal served will include servings from each of the food components (fluid milk; meat or meat alternates; vegetables and/or fruits; and bread or bread alternates). (Breakfast does not need to include a meat or meat alternative.)~~

~~Each snack served will include a serving from two of the previously listed food groups.~~

~~The child care provider shall wash all fresh or raw fruits and vegetables thoroughly with water before use.~~

~~The child care provider shall provide weekly menus to parents upon request.~~

1-006.23 Emergency Preparedness

1-006.23A Telephone: A working telephone must be available on the premises at all times. Emergency telephone numbers, including fire, rescue, police (or 911), and Poison Control, must be prominently posted.

~~(6-007.01) The child care provider shall ensure that an operable telephone is available on the premises of the child care facility. Emergency phone numbers, including fire, rescue, police (or 911 or local equivalent), and Poison Control, will be prominently posted.~~

1-006.23B Fire and Tornado Drills: Fire and tornado drills must be practiced with the children and staff. Written documentation of drills, including dates conducted, must be kept and available for review by the Department.

1. Fire drills must be completed a minimum of six times per year in alternating months.

2. Tornado drills must be completed a minimum of four times per year during the months of March through September.

~~6-007.01 Tornado drills will be practiced with the children a minimum of four times per year from March through September. A written tornado safety plan and documentation of drills will be available for review upon request.~~

~~(6-008) Fire drills will be practiced with the children a minimum of six times per year in alternating months. A written evacuation plan and documentation of drills will be available for review upon request.~~

1-006.23C Fire and Tornado Safety Diagrams: Fire and tornado safety diagrams must:

1. Show the layout of the licensed child care area(s);
2. Be prominently posted and visible;
3. Include how the evacuation of children with special needs will be conducted;
4. Include fire evacuation routes; and
5. Include tornado safety locations.

1-006.23D Disaster Preparedness: The licensee must have a written plan that addresses:

1. Evacuating and moving children to a safe location in the event of a fire, tornado, flood, or other natural or man-made disaster;
2. Notifying parents of children in care of an emergency;
3. Reunification of parents with their children in the event of an emergency that requires evacuation; and
4. How children with special needs will be safe in the event of a disaster including evacuation and reunification with the parent.

1-006.23E Notification to the Department of Emergencies: The licensee must notify the Department within 24 hours or the next business day of the following occurrences at the child care program:

1. The death of a child;
2. Any accident or injury to a child which requires hospitalization or treatment at a medical facility; or
3. An emergency or disaster that results in damage to the Family Child Care Home I or inability of the licensee to comply with regulations.

~~(6-001) The child care provider shall report to the Nebraska Department of Health and Human Services within 24 hours or next business day when the following conditions occur within the child care program: the death of any child; any accident to children which requires hospitalization; or treatment at a medical facility.~~

1-006.23F First Aid Kit: A first aid kit must be available on the premises. It must be inaccessible to children. If any poisons or medications are stored in the kit, it must be kept in locked storage. The kit must include the following supplies:

1. Fever thermometer;

2. Soap;
4. Bandages;
4. Gauze;
5. First aid tape;
6. Scissors; and
7. Disposable gloves.

~~6-009.01 First Aid Kit: The child care provider shall have a first aid kit, including the following supplies: tweezers, fever thermometer, soap, band-aids, gauze, tape, scissors, and disposable latex gloves. These supplies will be inaccessible to children.~~

1-006.24 Environmental Services: The licensee must provide child care in a safe, clean, comfortable environment. Every area and building on the same premises used for child care must comply with these regulations.

1-006.24A Housekeeping and Maintenance: The licensee must provide the necessary housekeeping and maintenance to protect the health and safety of children in care. The child care home and grounds must be kept clean, safe, and in good repair.

1. The child care home and any building on the premises in or around areas where children are present must be kept free of exposed lead-based paint surfaces that are flaking, peeling or chipped.
2. Rooms, walls, floors, and ceilings must be kept clean, in good repair, and free of odor.
3. Heating, ventilation, and lighting in all rooms used for child care must be adequate to protect the health of children.
4. The licensee must equip and maintain the premises to prevent the entrance, harborage, or breeding of rodents, flies, and all other insects and vermin. All doors opening to the outside must be self-closing (except sliding doors) and all windows used for ventilation must be screened.
5. All garbage and rubbish must be disposed of in a manner that prevents the attraction of rodents, flies, and all other insects and vermin. The licensee must dispose of garbage so as to minimize odor and the transmission of infectious diseases.

1-006.24B Maintenance of Equipment, Fixtures, Furnishings, and Toys: The licensee must keep equipment, fixtures, furnishings, and toys used in the child care program clean, safe, and in good repair.

1. The licensee must create and follow a written process for routine and preventative maintenance of equipment, fixtures, furnishings, and toys so they are kept safe, in good repair, and available to meet the intended use.

2. The licensee must arrange furniture and equipment so as not to interfere with exits.

1-006.25 Environmental Safety: The licensee is responsible for maintaining a safe and hazard-free environment.

1-006.25A Smoking: Smoking anywhere indoors in a child care home is prohibited during the hours of operation when one or more children who are not occupants of the residence are present. If the licensee or any household member smokes, parents must be informed before enrollment of their child(ren).

~~(6-007.01) Smoking will be prohibited in all areas of the home designated for child care during the hours of operation.~~

~~The child care provider shall inform parents of all enrolled children if any household member, including the provider, smokes in the home. This information will be provided to parents before accepting a child into care.~~

1-006.25B Alcohol and Controlled Substances

1. Alcohol as defined by Neb. Rev. Stat. § 53-103 must not be consumed in any area used for child care whenever any child in care is present.

2. The unlawful use or possession of controlled substances, as defined by Neb. Rev. Stat. §§ 28-401 to 28-403 and 28-439, is prohibited. Controlled substances that have not been legally prescribed must not be on the premises.

~~(6-001) Alcohol or controlled substances as defined in Nebraska Revised Statutes, Section 28-401 through 403 and 28-439, will not be consumed in any area of the home designated for child care during the hours of operation. The provider and/or designated substitute shall not consume or be under the influence of alcohol or controlled substances while providing care. Controlled substances will not be in any area of the child care program.~~

1-006.25C Animals/Pets: Any animal present at the child care home must not negatively affect the children. The licensee must:

1. Have all pets examined annually by a licensed veterinarian and have documentation available;
2. Complete all vaccinations recommended by the licensed veterinarian that include, at a minimum, current rabies vaccinations for dogs, household cats, and ferrets, and have documentation available;
3. Have provisions for pet care necessary to prevent the acquisition and spread of fleas, ticks, and other parasites; and

4. Ensure that no animals are allowed in the food preparation, food storage, or serving areas during food preparation and serving times; and
5. Comply with any state or local law or ordinance relating to the care and ownership responsibilities of pets or specific breeds identified by those laws or ordinances.

1-006.25D Prohibited Animals: Exotic or unusual animals, or any animal that has bitten or attacked anyone, must not be allowed on the child care premises during the hours of care.

~~6-007.06 Animals: If there are animals on the premises, the child care provider shall ensure that -~~

1. ~~All household pets will be vaccinated. Proof of current vaccination as documented by a veterinary clinic will be kept on the child care premises.~~
2. ~~All animal waste will be immediately removed from children's areas and properly disposed of.~~

~~The child care provider shall ensure that no animals are allowed in the food preparation, food storage, and serving areas during food preparation and serving times.~~

~~The child care provider shall ensure that animals which have bitten or attacked a person without provocation are not allowed on the child care premises.~~

~~The child care provider shall ensure that exotic or unusual animals are not on the child care premises during the hours of care.~~

1-006.25E Other Environmental Safety Requirements

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

~~6-007.07 Weapons: The child care provider shall ensure that firearms, other potentially hazardous weapons, weapon accessories, and ammunition are kept in locked storage. Firearms will be unloaded and ammunition will be stored separately from firearms.~~

4. Electrical outlets within reach of children must be covered with safety caps, ground fault interrupters, or have safety outlets installed.
5. Shared use of the following items is prohibited:
   a. Disposable towelettes;
   b. Drinking containers, cups, or glasses;
   c. Personal care items such as toothbrushes and hair brushes; and
   d. Towels and washcloths.
6. Waterproof storage must be provided for soiled or wet clothing and must not be accessible to children.

~~6-007 Facility~~

~~6-007.01 Overall: The child care provider shall ensure that at least 35 square feet of indoor space per child (excluding areas not designated for child care) is available.~~

~~The child care provider shall ensure that at least 50 square feet of outdoor play space per child is available.~~

~~The child care provider shall ensure that all cleaning agents and poisons are kept in locked storage.~~

~~The child care provider shall ensure that all rooms used for child care are clean and dry.~~

~~The child care provider shall ensure that all floors, walls, ceilings, and furniture are clean and in good repair.~~

~~The facility must be free of exposed lead-based paint surfaces which are flaking, peeling, or chipped. When lead-based paint is determined to be present in a condition listed above, a referral will be made to the Nebraska Department of Health and Human Services or local health authority for consultation on proper abatement procedures. Failure to take appropriate action to abate the lead-based paint within a reasonable time, not to exceed six months, will result in the initiation of revocation/suspension action.~~

~~The child care provider shall ensure that an operable telephone is available on the premises of the child care facility. Emergency phone numbers, including fire, rescue, police (or 911 or local equivalent), and Poison Control, will be prominently posted.~~

~~The child care provider shall ensure that play materials, equipment, and furnishings are easily cleanable, kept clean and in good repair, have no sharp edges, and have no rusty or loose parts.~~

~~The child care provider shall ensure that toys and objects with a diameter of less than one inch or less than one and one-half inches in length are used only under provider supervision with children who are below three years of age.~~

~~The child care provider shall ensure that buildings that are used for child care are constructed to prevent rodents from entering.~~

~~The child care provider shall ensure that doors opening to the outside are self-closing (except for sliding doors), and all windows used for ventilation are screened.~~

~~The child care provider shall ensure that heating, ventilating, and lighting facilities are adequate for the protection of the health of children.~~

~~The child care provider shall ensure that electrical outlets within the reach of children are covered with safety caps, ground fault interrupters, or have safety outlets installed.~~

~~Tornado drills will be practiced with the children a minimum of four times per year from March through September. A written tornado safety plan and documentation of drills will be available for review upon request.~~

~~All garbage and refuse will be collected, stored, and disposed of in a manner which will not attract rodents or insects.~~

~~The grounds will be kept neat and clean and free from rodents and accident hazards.~~

~~Accident hazards, such as flammable materials, deep pools, farm and lawn equipment, will be inaccessible. Potential accident hazards such as uncovered wells, broken glass, boards containing nails, and other debris will be eliminated.~~

~~Barnyard animals and/or fowl will not be allowed in the outdoor play area.~~

~~Smoking will be prohibited in all areas of the home designated for child care during the hours of operation.~~

~~The child care provider shall inform parents of all enrolled children if any household member, including the provider, smokes in the home. This information will be provided to parents before accepting a child into care.~~

~~(6-007.03) The child care provider shall ensure that no common drinking container is used. Drinking water must be provided by sanitary drinking fountains, or individual or disposable cups.~~

~~6-007.04 Personal Care Items: Common use of grooming items will be prohibited.~~

~~The child care provider shall ensure that individual towels and washcloths and facilities for their storage are available. Common use of towels and washcloths is prohibited.~~

~~The child care provider shall ensure that waterproof storage is provided for storing soiled and/or wet clothing.~~

1-007 PHYSICAL PLANT STANDARDS: The child care home must be maintained in a manner that is safe, clean, and functional for child care. The following regulations apply to all areas of the child care home used for child care.

1-007.01 Activity Space: The child care home must have space for children's activities, napping, and free play. The child care activity space must:

1. Have furnishings to accommodate all activities and age-appropriate needs of all children in care;
2. Be available for all children; and
3. Have at least 35 square feet of activity space per child. Rooms not used for child care do not count in the square footage total.

~~6-007.01 Overall: The child care provider shall ensure that at least 35 square feet of indoor space per child (excluding areas not designated for child care) is available.~~

~~The child care provider shall ensure that at least 50 square feet of outdoor play space per child is available.~~

~~The child care provider shall ensure that all cleaning agents and poisons are kept in locked storage.~~

~~The child care provider shall ensure that all rooms used for child care are clean and dry.~~

~~The child care provider shall ensure that all floors, walls, ceilings, and furniture are clean and in good repair.~~

~~The facility must be free of exposed lead-based paint surfaces which are flaking, peeling, or chipped. When lead-based paint is determined to be present in a condition listed above, a referral will be made to the Nebraska Department of Health and Human Services or local health authority for consultation on proper abatement procedures. Failure to take appropriate action to abate the lead-based paint within a reasonable time, not to exceed six months, will result in the initiation of revocation/suspension action.~~

~~The child care provider shall ensure that an operable telephone is available on the premises of the child care facility. Emergency phone numbers, including fire, rescue, police (or 911 or local equivalent), and Poison Control, will be prominently posted.~~

~~The child care provider shall ensure that play materials, equipment, and furnishings are easily cleanable, kept clean and in good repair, have no sharp edges, and have no rusty or loose parts.~~

~~The child care provider shall ensure that toys and objects with a diameter of less than one inch or less than one and one-half inches in length are used only under provider supervision with children who are below three years of age.~~

~~The child care provider shall ensure that buildings that are used for child care are constructed to prevent rodents from entering.~~

~~The child care provider shall ensure that doors opening to the outside are self-closing (except for sliding doors), and all windows used for ventilation are screened.~~

~~The child care provider shall ensure that heating, ventilating, and lighting facilities are adequate for the protection of the health of children.~~

~~The child care provider shall ensure that electrical outlets within the reach of children are covered with safety caps, ground fault interrupters, or have safety outlets installed.~~

~~Tornado drills will be practiced with the children a minimum of four times per year from March through September. A written tornado safety plan and documentation of drills will be available for review upon request.~~

~~All garbage and refuse will be collected, stored, and disposed of in a manner which will not attract rodents or insects.~~

~~The grounds will be kept neat and clean and free from rodents and accident hazards.~~

~~Accident hazards, such as flammable materials, deep pools, farm and lawn equipment, will be inaccessible. Potential accident hazards such as uncovered wells, broken glass, boards containing nails, and other debris will be eliminated.~~

~~Barnyard animals and/or fowl will not be allowed in the outdoor play area.~~

~~Smoking will be prohibited in all areas of the home designated for child care during the hours of operation.~~

~~The child care provider shall inform parents of all enrolled children if any household member, including the provider, smokes in the home. This information will be provided to parents before accepting a child into care.~~

1-007.02 Water Supply and Sewer Requirements

1-007.02A Water Supply: The licensee must have and maintain an accessible, adequate, safe, and potable supply of water for drinking, bathing, and hand washing.

1. If water is obtained from a source other than a public water supply system, the water must not contain contaminants that meet or exceed the maximum contaminant levels set for nitrate, coliform, and lead for public water supply systems in 179 NAC 2-002, 3, and 12. The licensee must report to the Department the results of all tests that show the water contains contaminants that meet or exceed a maximum contaminant level.
   a. The water supply must be tested annually and the tests results must be available for review upon request.

b. If the water supply does not meet nitrate, coliform, and lead standards, the licensee must, until the contaminants are lowered to acceptable levels:
(1) Obtain water from a source approved by the Department; or
(2) Purchase water from a commercial source.

2. Drinking water must be provided by sanitary drinking fountains or individual or disposable cups.
3. The licensee must maintain hot and cold water to all hand washing and bathing locations. The hot water system must be maintained between a minimum of 100 degrees Fahrenheit and a maximum of 120 degrees Fahrenheit. Soap must be available at the hand washing sink.

~~6-007.03 Water Supply: The child care provider shall ensure that no common drinking container is used. Drinking water must be provided by sanitary drinking fountains, or individual or disposable cups.~~

~~The child care provider shall ensure that the water temperature of the bathroom sink is at least 100 degrees Fahrenheit, but no greater than 120 degrees Fahrenheit.~~

~~The child care provider shall ensure that drinking water from a private water supply system meets current standards set by the Nebraska Department of Health and Human Services Regulation and Licensure as they may be amended from time to time. Water sample test verification will be submitted annually.~~

1-007.02B Sewer Requirements: The licensee must maintain a sanitary and functioning sewage system which includes no open sewage discharge on the child care premises.

~~6-007.03 The child care provider shall ensure that there is no open sewage discharge on the child care premises. When the Department determines that there may be open sewage present on the child care premises, a referral will be made to the Nebraska Department of Environmental Quality for an inspection.~~

1-007.03 Outdoor Play Areas: An outdoor play area must be available. The area must:

1. Have at least 50 square feet per child of age-appropriate play space;
2. Be kept clean and safe and contain no accident hazards, debris, or stagnant water;
3. Contain no barnyard animals or fowl; and
4. Be free of animal waste.

~~(6-007.01) Barnyard animals and/or fowl will not be allowed in the outdoor play area.~~

~~(6-007.01) The child care provider shall ensure that at least 50 square feet of outdoor play space per child is available.~~

~~(6-007.01) Accident hazards, such as flammable materials, deep pools, farm and lawn equipment, will be inaccessible. Potential accident hazards such as uncovered wells, broken glass, boards containing nails, and other debris will be eliminated.~~

1-007.04 Fencing: A fence is required when the following conditions exist on or near the child care premises:

1. Drainage ditches;
2. Wells;
3. Holes;
4. Heavy machinery is used;
5. Railroad tracks;
6. Bodies of water, including decorative ponds;
7. Heavy street traffic; and
8. Other hazards.

~~6-007.08 Fences: If there are unsafe areas such as drainage ditches, wells, holes, heavy machinery, railroad tracks, bodies of water, heavy street traffic, or other hazards in or near the outdoor play area, a fence is required.~~

1-007.05 Playground Surfaces: The area under climbing equipment, swings, slides, and other equipment from which children might fall must be of resilient material such as sand, dirt, grass, rubber matting, wood chips, or small-to-medium size gravel.

1-007.06 Toilets and Sinks: The child care home must have a toilet and sink available for children's use. Toilets and sinks must be:

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

~~6-007.02 Bathrooms: The child care provider shall ensure that a toilet which is conveniently located, clean, and in good repair is available to the children.~~

~~The child care provider shall ensure that a sink with hot and cold running water and soap is available.~~

~~The child care provider shall ensure that sinks and toilets are of a suitable height for children, or a safe stepstool or platform is provided.~~

1-007.07 Fire Safety: The child care home must maintain fire safety approval in addition to meeting the following standards:

1. There must be two unblocked exits approved by the Fire Marshal from every floor on which child care is provided;

2. Furnaces, wood-burning stoves, and other heaters must be inaccessible to children when in use;
3. Candles or incense must not be used while children are in care;
4. Open flames must not be present while children are in care;
5. All storage areas must be free of excessively combustible or highly flammable materials;
6. Bathroom and closet doors must be designed so they can be unlocked from the outside;
7. There must be properly mounted and operated smoke detection equipment as required by the Fire Marshal; and
8. When overnight care is provided, the licensee must ensure that additional fire safety requirements are met as specified in 1-006.17.

~~6-008 Fire Safety: Fire Safety rules are contained in regulations adopted by the State Fire Marshal, specifically, the National Fire Protection Association's Life Safety Code. Local fire regulations may be more restrictive. Fire code requirements differ depending on the number of children cared for. The following is a description of these regulations:~~

~~The child care provider shall ensure that a Fire Safety approval is maintained for the child care facility for the license to be effective.~~

~~There will be at least two unblocked exits approved by the State Fire Marshal from every floor on which child care is provided.~~

~~Furnaces, fireplaces, wood-burning stoves and other heaters will be inaccessible to children when in use.~~

~~All storage areas will be free of excessive combustibles or highly flammable materials.~~

~~Bathroom and closet doors will be designed so they can be unlocked from the outside.~~

~~Fire drills will be practiced with the children a minimum of six times per year in alternating months. A written evacuation plan and documentation of drills will be available for review upon request.~~

~~Operating, properly mounted smoke detection equipment will be required in child care areas. Smoke detection equipment will be U.L. (Underwriters Laboratories) listed or bear the approval of another major testing laboratory such as Factory Mutual.~~

~~By the authority found in Nebraska Revised Statutes, Section 81-502, the Fire Marshal has the power to ask for additional requirements for specially constructed facilities. In accordance with Nebraska Revised Statutes, Section 81-505.01, the Nebraska State Fire Marshal will charge an inspection fee for State Licensure Inspections in health care, liquor, mobile trailer courts, and child care facilities. The State Fire Marshal may be contacted for the fee schedule: (402) 471-2027.~~

1-008 DENIAL AND DISCIPLINARY ACTIONS

1-008.01 Grounds for Denial or Disciplinary Action: The Department may deny the issuance of or take disciplinary action against a license on any of the following grounds:

1. Failure to meet or violation of any of the requirements of the Child Care Licensing Act or the rules and regulations adopted and promulgated under the Act;
2. Violation of an order of the Department under the Act;
3. Conviction of, or substantial evidence of committing or permitting, aiding, or abetting another to commit, any unlawful act, including, but not limited to, unlawful acts committed by an applicant or licensee under the act, household members who reside at the place where the program is provided, or employees of the applicant or licensee that involve:
   a. Physical abuse of children or vulnerable adults as defined in Neb. Rev. Stat. § 28-371;
   b. Endangerment or neglect of children or vulnerable adults;
   c. Sexual abuse, sexual assault, or sexual misconduct;
   d. Homicide;
   e. Use, possession, manufacturing or distribution of a controlled substance listed in Neb. Rev. Stat. § 28-405;
   f. Property crimes, including, but not limited to, fraud, embezzlement, and theft by deception; and
   g. Use of a weapon in the commission of an unlawful act;
4. Conduct or practices detrimental to the health or safety of an individual served by or employed at the program;
5. Failure to allow an agent or employee of the Department access to the program for the purposes of inspection, investigation, or other information collection activities necessary to carry out the duties of the Department;
6. Failure to allow state or local inspectors, investigators, or law enforcement offices access to the program for the purposes of investigation necessary to carry out their duties;
7. Failure to meet requirements relating to sanitation, fire safety, and building codes;
8. Failure to comply with or violation of the Medication Aide Act;
9. Failure to file a report of suspected abuse or neglect as required by Neb. Rev. Stat. §§ 28-372 and 28-711;
10. Violation of any city, village, or county rules, regulations, or ordinances regulating licensees; or
11. Failure to pay fees required under the Child Care Licensing Act.

1-008.02 Types of Disciplinary Action: The Department may impose any one or a combination of the following types of disciplinary action against a license issued under the Child Care Licensing Act:

1. Issue a probationary license;

2. Suspend or revoke a provisional, probationary, or operating license;
3. Impose a civil penalty of up to $5 per child, based upon the number of children for which the program is authorized to provide child care on the effective date of the finding of violation, for each day the program is in violation;
4. Establish restrictions on new enrollment in the program;
5. Establish restrictions or other limitations on the number of children or the age of the children served in the program; or
6. Establish other restrictions or limitations on the type of service provided by the program.

1-008.02A Considerations: In determining what type of disciplinary action to impose, the Department will consider:

1. The gravity of the violation, including the probability that death or serious physical or mental harm will result, the severity of the actual or potential harm, and the extent to which the provisions of applicable statutes, rules, and regulations were violated;
2. The diligence exercised by the program in identifying or correcting the violation;
3. The degree of cooperation exhibited by the licensee in the identification, disclosure, and correction of the violation;
4. Any previous violations committed by the program; and
5. The financial benefit to the program of committing or continuing the violation.

1-008.02B Additional Action: If the licensee fails to correct a violation or to comply with a particular type of disciplinary action, the Department may take additional disciplinary action.

1-008.03 Unpaid Fines: Any fine imposed and unpaid under the Child Care Licensing Act will constitute a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in any proper form of action in the name of the State of Nebraska in the district court of the county in which the program is located. The Department will, within 30 days after receipt, remit fines to the State Treasurer for credit to the permanent school fund.

1-008.04 Department's Emergency Power: Whenever the Department finds that an emergency exists requiring immediate action to protect the physical well-being and safety of a child in the program, the Department may, without notice or hearing, issue an order declaring the existence of such an emergency and requiring that such action be taken as it deems necessary to meet the emergency. The order may include an immediate prohibition on the care of children by the licensee other than children of the licensee. An order under this subsection will be effective immediately. Any person to whom the order is directed must comply immediately, and upon application to the Department, the person

will be afforded a hearing as soon as possible and not later than ten days after his or her application for the hearing. On the basis of such hearing, the Department will continue to enforce the order or rescind or modify it.

1-008.05 Re-Application After Revocation: A former licensee whose child care license has been revoked for any cause other than nonpayment of fees is not eligible to reapply for a license for two years. The former licensee must:

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

~~3-001.12 Denial of a License: Denial of a license will be based upon any of the following circumstances:~~

1. ~~The applicant's unwillingness or inability to comply with regulations;~~
2. ~~Any entry of the applicant, child care provider, licensee, primary provider, secondary provider, regularly identified substitute, director and staff (which includes teachers, assistant teachers, and all support staff) as a perpetrator on the Nebraska Child Abuse and Neglect Central Registry for inconclusive or court-substantiated child abuse, child neglect, or child sexual abuse;~~
3. ~~Misdemeanor or felony conviction of the applicant, child care provider, licensee, primary provider, secondary provider, regularly identified substitute, director and staff (which includes teachers, assistant teachers, and all support staff) for child abuse or neglect, child sexual abuse, or sexual assault;~~
4. ~~Any entry of the applicant, child care provider, licensee, primary provider, secondary provider, regularly identified substitute, director and staff (which includes teachers, assistant teachers, and all support staff) as a perpetrator on the Nebraska Adult Protective Services Central Registry for physical abuse or sexual assault;~~
5. ~~Conviction, admission, or substantial evidence of any offenses against children or adults including, but not limited to: physical abuse, sexual abuse, sexual assault, neglect, or endangerment by the applicant, child care provider, licensee, primary provider, secondary provider, regularly identified substitute, director and staff (which includes teachers, assistant teachers, and all support staff);~~
6. ~~Conviction, admission, or substantial evidence of one or more of the following offenses as outlined below, by the applicant, child care provider, licensee, primary provider, secondary provider, regularly identified substitute, director and staff (which includes teachers, assistant teachers, and all support staff):~~
   a. ~~Any offenses against adults excluding sexual assault and sexual abuse;~~
   b. ~~Felony conviction for the use, possession, manufacturing, or distribution of any controlled substance as defined in Nebraska Revised Statutes, Section 28-405, as it may be amended, or applicable Federal law;~~
   c. ~~A history of property crimes, including but not limited to fraud, embezzlement or theft by deception.~~

~~Mitigating circumstances, number of offenses, length of time since last offense, and intervention, treatment, or rehabilitation may be considered.~~

7. ~~Fire safety (inspection) disapproval;~~
8. ~~Sanitation (inspection) disapproval;~~
9. ~~When child care/preschool is being provided in the home of the child care/preschool provider, the following applies to household members:~~
   a. ~~Any entry as a perpetrator on the Nebraska Child Abuse and Neglect Central Registry for inconclusive or court-substantiated child sexual abuse;~~
   b. ~~Admission, conviction or substantial evidence of any child/adult sexual abuse, sexual assault, or crimes of a sexual nature including, but not limited to: obscene telephone calls, or any act considered to be lewd, indecent, or lascivious;~~
   c. ~~Any entry as a perpetrator on the Nebraska Adult Protective Services Central Registry for sexual assault;~~
   d. ~~Any household member appearing as a perpetrator on the Nebraska Child Abuse and Neglect Central Registry for inconclusive or court-substantiated physical abuse or neglect, or as a perpetrator on the Nebraska Adult Protective Services Central Registry for physical abuse or neglect, or having a conviction, admission or substantial evidence of having perpetrated physical abuse or neglect of any child or adult must not be on the premises during the hours of operation. Failure on the part of the licensee to comply with this condition will be grounds for denial or revocation of the license.~~

~~3-001.13 Appeal Process: Pursuant to Nebraska Revised Statutes, Section 71-1911, the licensee has the right to appeal the denial of a child care/preschool license within ten days of delivery of the notice from the Nebraska Department of Health and Human Services. To initiate action to deny -~~

1. ~~The licensee must appeal in writing to Legal Services of the Nebraska Department of Health and Human Services Finance and Support within ten days of receiving denial notice.~~
2. ~~A hearing will be afforded the licensee and notice sent to the licensee with the date, time and location of the hearing.~~
3. ~~The hearing will be conducted pursuant to the applicable provisions of the Administrative Procedures Act (Nebraska Revised Statutes, Section 84-901, et seq.) as they may be amended from time to time.~~
4. ~~The burden of proof at the hearing is upon the Department and the standard of proof will be by the preponderance of the evidence.~~

~~If an appeal is not made to Legal Services within ten days of notice, a Declaratory Order finding the charges to be true will be issued within fifteen days of delivery of notice.~~

~~3-001.13A Action Following the Hearing: Following the hearing, the Director of the Nebraska Department of Health and Human Services shall determine whether the charges are true or not by a preponderance of the evidence, and if true, the Department Director may either -~~

1. ~~Deny the application for a license; and/or~~

~~2. Impose a civil penalty of $5.00 for each child in the program for each day in violation after the Department issues its finding and violation.~~

~~If the Department Director determines that the charges are not true by a preponderance of the evidence, the child care/preschool license will be issued.~~

~~3-001.13B Waiver of Attendance at or Failure to Appear at Appeal Hearing: The applicant may waive his/her right to an appeal hearing. The hearing notice provides the applicant with a written means to waive attendance at the hearing.~~

~~Failure of an applicant to appear at a scheduled hearing will result in a hearing being held and a decision entered.~~

~~After the Director has made a hearing decision, the applicant has the right to appeal this decision to the Nebraska District Court in accordance with Nebraska Revised Statutes, Chapter 84, Article 7.~~

~~4-001.04 Suspension or Revocation: The Department may initiate suspension or revocation proceedings under any of the following circumstances:~~

1. ~~When a licensee has shown a history of repeated violations of regulations;~~
2. ~~When a licensee has violated a regulation(s) so as to create a situation which places children at substantial risk;~~
3. ~~When a complaint of suspected child abuse or neglect has been filed;~~
4. ~~When any Department representative observes conditions or behaviors which may indicate suspected child abuse or neglect;~~
5. ~~When the child care/preschool provider has a criminal charge filed against him/her involving a crime against children or a crime involving intentional bodily harm;~~
6. ~~When a child in care dies at the facility;~~
7. ~~When a licensee has violated any state statute regarding the care and protection of children;~~
8. ~~When the licensee has violated any state statutes regarding the proper restraint of children when transporting;~~
9. ~~When there is a fire safety (inspection) disapproval;~~
10. ~~When there is a sanitation (inspection) disapproval;~~
11. ~~When there is a conviction, admission, or substantial evidence of any offenses against children or adults including, but not limited to: physical abuse, sexual abuse, sexual assault, neglect, or endangerment by the child care provider;~~
12. ~~When there is a conviction, admission, or substantial evidence of one or more of the following offenses by the child care provider:~~
    a. ~~Any offenses against adults excluding sexual assault and sexual abuse;~~
    b. ~~Felony conviction for the use, possession, manufacturing, or distribution of any controlled substance as defined in Nebraska Revised Statutes, Section 28-405, as it may be amended, or applicable federal law;~~
    c. ~~A history of property crimes, including but not limited to fraud, embezzlement, or theft by deception.~~

~~Mitigating circumstances, number of offenses, length of time since last offense, and intervention, treatment, or rehabilitation may be considered.~~

13. ~~An entry of the child care provider, licensee, primary provider, secondary provider, regularly identified substitute, director and staff (which includes teachers, assistance teacher, and all support staff) as a perpetrator on the Nebraska Child Abuse and Neglect Central Registry and/or Nebraska Adult Protective Services Central Registry;~~
14. ~~When child care is being provided in the home of the child care/preschool provider, the following applies to household members:~~
    a. ~~Any entry as a perpetrator on the Nebraska Child Abuse and Neglect Central Registry for inconclusive or court-substantiated child sexual abuse;~~
    b. ~~Admission, conviction or substantial evidence of any child/adult sexual abuse, sexual assault, or crimes of a sexual nature including, but not limited to: obscene telephone calls, or any act considered to be lewd, indecent, or lascivious;~~
    c. ~~Any entry as a perpetrator on the Nebraska Adult Protective Services Central Registry for sexual assault;~~
    d. ~~Any household member appearing as a perpetrator of physical abuse/neglect on the Nebraska Child Abuse and Neglect Central Registry or the Nebraska Adult Protective Services Central Registry, or having a conviction, admission or substantial evidence of having perpetrated physical abuse or neglect of any child or adult shall not be on the premises during the hours of operation. Failure on the part of the provider to comply with this condition will be grounds for denial or revocation of the license.~~
15. ~~A provisional license or probationary license status may be suspended or revoked if periodic reviews indicate that insufficient progress has been made toward compliance;~~
16. ~~Denial of the extension of a provisional license will occur when any of the following is determined:~~
    a. ~~A licensee is unable to complete all licensing requirements and standards and has not made a good faith effort to comply and/or is incapable of compliance within a six-month period;~~
    b. ~~The effect of the provider's inability to comply with a rule or regulation present an unreasonable risk to the health, safety, or well-being of children or staff;~~
    c. ~~The licensee does not have a written plan of correction approved by the Department.~~
17. ~~When a licensee has violated any regulation;~~
18. ~~When a licensee has failed to pay the annual license fee.~~

~~When the Department initiates a negative action to suspend or revoke a license, the suspension or revocation action may continue to finality even if the license is surrendered by the licensee.~~

~~The licensee shall not transfer the license to a household member or current staff member while a suspension or revocation action is still pending.~~

~~Any staff person having knowledge of any of the previous circumstances shall immediately notify the appropriate Department staff.~~

~~5-004 Notification of Parents When an Emergency Closing Order Is Issued: Whenever the Director of the Nebraska Department of Health and Human Services finds that an emergency exists requiring immediate action to protect the physical well-being and safety of children in a child care program, the Director may issue an "Emergency Closing Order" declaring the existence of an emergency and requiring that action be taken as the Director deems necessary. Any licensed child care/preschool provider to whom the Emergency Closing Order is directed shall comply immediately.~~

~~Department staff shall inform the parents of enrolled children of the issuance of the Emergency Closing Order by telephone and in writing.~~

~~Parents and appropriate Department staff must be informed of the following:~~

1. ~~An Emergency Closing Order issued by the Director of the Nebraska Department of Health and Human Services to protect the physical well-being and safety of the children in care at the facility;~~
2. ~~The date and time the order is effective;~~
3. ~~A general description of the circumstances which endangered the health and safety of the children;~~
4. ~~An explanation of how parents may obtain information regarding the facility's compliance with licensing standards;~~
5. ~~The names and telephone numbers of resources that could assist parents in locating another provider, if necessary; and~~
6. ~~The name and work number of the appropriate Department staff.~~

~~Appropriate Department staff must be notified when a decision has been made to issue an Emergency Closing Order and when the Order has been delivered.~~

~~5-004.01 Lifting of an Emergency Closing Order: If an Emergency Closing Order is lifted, written notice will be immediately provided.~~

~~The Department shall inform the parents of enrolled children in writing when an Emergency Closing is lifted.~~