

# QUESTIONS AND ANSWERS

## Child Care Centers (CCC)

### (391 NAC Chapter 3)

REVISED 7/5/2019

#### Acronyms Defined

CCC means Child Care Center

CPR means Cardiopulmonary Resuscitation

ECTC means Early Childhood Training Center

NAP SACC means the Nutrition and Physical Activity Self-Assessment for Child Care

SIDS means Sudden Infant Death Syndrome

UN-L means University of Nebraska-Lincoln

#### Definitions (3-002, page 3)

1. *Are children who attend “transitional kindergarten” considered to be of school-age? (NEW)*

**Nebraska Department of Education considers the following programs to be kindergarten: Transitional kindergarten, Jump Start Kindergarten, Begindergarten, and Jr. Kindergarten.**

**Child care licensing defines school-age as: A child who attends kindergarten or above. Therefore, a program providing care to children in what the Nebraska Department of Education defines as kindergarten meets the licensing definition of school-age.**

#### Change of Ownership (3-003.03, page 9)

1. *Can a Non-Profit owned child care program amend their license to a For-Profit program through the amendment process? Or, is this a “change” of ownership considered to be a new licensee, and thus must apply for a provisional license?*

**A Non-Profit and For-Profit cannot amend to change from one ownership to the other since they are considered a different type of ownership. A Non-Profit owned child care program will be required to close that license and apply for a Provisional license under the For-Profit ownership.**

#### Temporary and Voluntary Cease of Operation (3-003.04, page 10)

1. *I have been approved for a Temporary Cease of Operation and know I have to complete an amendment application to reinstate my license to provide care. Can I provide child care to 3 or fewer children, other than my own, until I get reinstated?*

**No. A licensee who has been approved for Temporary Cease of Operation agrees to NOT provide care to any children. The process for reinstatement must be completed before child care can be provided to any children other than your own.**

#### Notification of Changes (3-004.06, page 14)

1. *A licensee has moved and submitted amendment paperwork. The new location is not yet approved as remodeling is in process. Can the licensee provide care at the new location for 3 or fewer children?*

**The new location is not licensed so the licensee should not be using it. This is a violation that can result in discipline if the practice occurs.**

2. *What is the procedure for changing the “name” of the Child Care Center when the ownership of the Center remains the same?*

**Changing the name of the Child Care Center was omitted from the regulations. The licensee would need to complete an Amendment Application and Full Disclosure of Ownership Statement to complete this change. No new Fire Safety, Sanitation, or Child Care Licensing inspections would need to be conducted if the only change was in the name of the Center.**

**3. What are the requirements of the Child Care Center when there is a Change of Director?**

The licensee must notify the Department within two working days whenever there is a change in the position of director – this includes the separation of an existing director and the hire of a new director. The licensee or new director will receive a Director Change Amendment Application Packet which must be completed and returned to the Department within 30 days for a qualified director (see Q & A for Director Qualifications).

Centers located in Douglas, Sarpy, Cass, and Washington Counties need to contact the Omaha Public Health Office (402-595-3343).

Centers located in any of the remaining counties need to contact the Lincoln Public Health Office (402-471-9562).

**Background Checks (3-006.03, page 19)**

**1. Can a person work in a child care who is currently on Diversion for a crime, that if convicted, would result in an automatic disqualification period?**

If a person is currently on Diversion for a crime, that if convicted, would result in an automatic disqualification period, this situation may be handled by offering the licensee an Interim Licensing Agreement indicating that the person who is currently on Diversion will not be left alone with children until such time as s/he has successfully completed the Diversion Program.

This person cannot be disqualified from hire, due to the charge only, but can be required to have supervised contact with children per an Interim Licensing Agreement due to the behavior exhibited during the commission of the crime.

**2. What is considered a “minor” traffic violation which would not be required to be reported to Children’s Services Licensing?**

Minor traffic violations on criminal history reports will be labeled as TM or TI or Traffic (on the NDEN Data Exchange System): Any citation, charge, or conviction not categorized in this manner is not considered a minor traffic violation.

The following would NOT be considered a Minor Traffic violation and MUST be reported to Children’s Services Licensing: Driving While Intoxicated (DWI), Driving Under the Influence (DUI), Driving While License is Suspended (DWLS), Failure to Appear (FTA), Reckless Driving, Open Container, and Assault with a Motor Vehicle.

When in doubt if the traffic offense would be considered “minor” the individual should list the offense on the Report of Law Enforcement Contact.

**3. The regulations do not specify an age at which the State Patrol Sex Offender Registry must be checked. Does this mean that all ages for staff, volunteers, and household members must be checked?**

Since the regulation regarding State Patrol Sex Offender Registry does not have a specific age identified AND it is possible for a minor to have been convicted as an adult or from another state that requires him/her to register, we need to ensure everyone involved in the child care program (applicant/licensee, staff, volunteers, and household members) are not listed as a perpetrator on the sex offender registry, therefore those age eleven years or older must be checked. The regulation does not require “re-checking” an individual at any point in time. This is a one-time only requirement.

**4. There are students that want to train at licensed centers. What is the procedure needs to be followed in order to ensure the center stays in compliance and if the person trains at one facility to another that they are prepared to do so?**

When Community College/College students, age 19 or older participate in their first practicum assignment in licensed Child Care Centers as a teacher or staff, background checks must include:

- Criminal History Record Check including criminal records from States and jurisdictions where student lived from age 19 to present. This may be obtained from private companies that conduct background checks or from State/local law enforcement agencies. \*
- Nebraska Central Registry Checks (see above)\*\*
- Report of Law Enforcement Contact\*\*\*

When Community College/College students, age 19 or older participate in additional practicum assignments in licensed Child Care Centers as a teacher or staff, background checks must include:

- Criminal History Record Check – copy of CHRC given to first Child Care Center should be given to new Centers

- Criminal History Record Check from law enforcement jurisdiction where student lived from the prior Criminal History Record Check – This serves as an update to CHRC \*
- Nebraska Central Registry Checks (see above)\*\*
- Report of Law Enforcement Contact – updated annually and any time the student is arrested, issued a citation other than a minor traffic violation, or charged with or convicted of any felony, misdemeanor, or infraction;\*\*\*

---This means that students do not have to obtain a new initial Criminal History Record Check for each new practicum assignment as long as the student keeps a copy of the initial CHRC and obtains an updated Criminal History Record Check from the local law enforcement agency in the city/county where the student resides.---

When Community College/College students, age 19 or older participate in their first practicum assignment in licensed Child Care Centers as a volunteer, background checks must include:

- Nebraska Central Registry Checks (see above)\*\*
- Report of Law Enforcement Contact\*\*\*

When Community College/College students, age 19 or older participate in additional practicum assignments in licensed Child Care Centers as a volunteer, background checks must include:

- Nebraska Central Registry Checks (see above)\*\*
- Report of Law Enforcement Contact - updated annually and any time the student is arrested, issued a citation other than a minor traffic violation, or charged with or convicted of any felony, misdemeanor, or infraction;\*\*\*

When Community College/College students, under age 19 participate in their first practicum assignment in a licensed Child Care Centers as a teacher, staff, or volunteer, background checks must include:

- Documentation of Nebraska registry checks with no adverse findings; (Child Abuse/Neglect Central Registry: age 13 and older; Adult Abuse/Neglect Central Register: age 18 and older;)

When Community College/College students turn 19 while in a practicum assignment in a licensed Child Care Centers as a teacher, staff, or volunteer, the student must give the Child Care Center complete and accurate Report of Law Enforcement Contact. If the report contains any criminal history that could lead to a disqualification 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, a Criminal History Record Check must be obtained. The Center should contact the assigned Child Care Inspection Specialist for a review of the student's criminal history based on 391 NAC 3-006.03A Department Determination.

- The Center is also required to conduct a Nebraska State Patrol Sex Offender and keep the documentation in the student's personnel file.
- No additional Child Abuse/Neglect or Adult Abuse/Neglect Central Registry checks are required.

5. *If a child care program has outside individuals or organizations come to the program to do special classes such as dancing, gymnastics, etc., what background checks are required on these individual?*

If the individual(s) are going to be fully supervised by staff and never left alone with children, then no background checks are required.

If the individual(s) are going to be left alone with children, then background checks are required as they are for staff.

6. *A criminal history records check and registry checks were completed on a potential staff. The checks were all fine, but the employee was not hired at that time. These checks are now six months old, do the checks need to be re-done before the individual can now be hired?*

Additional checks are not required unless the newly hired person provides additional information on his/her Report of Law Enforcement Contact which was not previously disclosed.

7. *Criminal History Report checks - can Child Care Centers accept a copy of this report or does it need to be the original?*

Child Care Centers and the Department will accept a copy of the Criminal History Record Check as long it has not been tampered with, is complete and accurate, and is recent – within 30 days of the date the Record was obtained.

8. *Criminal History Report- how old of a report is too old- applicant may have obtained the report and been hired by one center, then decides to leave and apply elsewhere and has a copy of her report from say six months ago- is that considered current or would the history report need to be obtained again by the applicant?*

The Criminal History Record Check should be current as of 30 days of the date the applicant/volunteer applied to work/volunteer at the Child Care Center unless the Department has approved a longer time.

The applicant may obtain a local Criminal History Record Check from the City or County Law Enforcement Agency where s/he has lived when the original Criminal History Record Check was obtained more than 30 days prior.

**9. Is a Minor in Possession (MIP) a disqualification to work in a Child Care Center?**

An MIP and any other indictments or convictions not specifically listed will be considered under 3-006.03A5 Department Determination. The Department will consider the following factors:

- a. The age of the individual at the time of the conduct;
- b. The recency of the conduct;
- c. The seriousness of the conduct;
- d. The factors underlying the conduct;
- e. The cumulative effect of the conduct;
- f. The evidence of rehabilitation;
- g. The individual's positive social contributions since the conduct;
- h. The individual's honesty in providing information; and
- i. The materiality of any omissions or misrepresentations.

One Minor in Possession would not disqualify an individual from working in a Child Care Center.

**10. If a staff member was hired prior to May 20, 2013 and sometime later leaves employment for a while or say goes back to college in the fall, do they have new hiring date? And have to do everything that is now required?**

If the Child Care Center considers the employee "new hire", then anyone hired after May 20, 2013, must meet the new requirements and background checks.

If the Child Care Center considers the employee to be on a "leave of absence", then the employee could be re-instated, however, the employee would need to meet the in-service training, Health Information Report and other regulations of an employee.

**11. If a Child Care Center staff takes a leave of absence, how long can they be gone until they would be considered a "new hire" and the facility has to have the new items required for new staff members in the employee's file.**

The length of time a Child Care Center staff can be on a "leave" of absence needs to be addressed in the Center's Written Personnel Policies. If asked this question by a Child Care Center, the Child Care Inspection Specialist will refer to the Centers' Personnel Policies to determine the maximum length of time a staff can be on a "leave of absence".

**12. The CCC regulations only mentions allowing a parent who has been listed on the Sexual Offender Registry to be allowed on the premises only to drop off and pick up a child. A few center directors asked about parents who they know are on the Child Abuse/Neglect Central Registry and/or have a history of behaviors that include violence. I looked through the new regulations and don't see anything that addresses allowing or not allowing individuals on the child care premises who they know are on central registry for abuse/neglect or have a history of violent behavior. Is there something in the new regulations that address this? And if not, what are your thoughts.**

There are no restrictions on allowing parents who have a history of child abuse, child neglect, or criminal history from dropping off or picking up their children from any licensed child care program. Special attention was given to parents who are on the Nebraska State Patrol Sex Offender Registry for two reasons:

- This is a "public" registry and the Department wanted to eliminate concerns by licensees and others that a "registered sex offender" would be seen on the premises of a licensed child care program; and
- Since the Nebraska State Patrol established the Sex Offender Registry, we have gotten quite a number of calls from providers and parents (not on the Registry) about what, if any, contact a parent who was on this Registry could have with a licensed child care program. The regulation is consistent with how we have responded to these questions over the years.

**13. At an activity with the children that involves the parents that may or may not be on the center premises (activity may be at a park), can a parent who is a registered sex offender attend the activity or are they still limited to pick up or drop off only?**

A parent of a child enrolled at the Child Care Center who is a known registered sex offender can only be on the center premises to drop off or pick up their child(ren).

If the Child Care Center wants to include a parent who is a known registered sex offender in an activity off the premises of the center, the parent must be supervised at all times and can only be left alone with his/her own children. Child Care Centers that want to include a parent who is a known registered sex offender in an activity off the premises of the center are encouraged to consult with their insurance agent and/or legal counsel.

**14. Staff that are already employed at a CCC who are 18 and turn 19 after May 20, 2013 -- do they need to do a Criminal History record Check?**

If staff are hired when they are age 18 or younger then turn age 19 on or after May 20, 2013, they are not required to obtain a Criminal History Record Check automatically. These staff are required to submit a "Record of Law Enforcement Contact" to the Director when they turn 19, and, if the individual reports "arrest, misdemeanor ticket other than a traffic violation, pending criminal charges, and any felony or misdemeanor convictions", "the licensee/director must request a Criminal History Record Check on the individual within five working days". Failure to notify the Department of law enforcement contacts as described may result in disciplinary action. (3-006.03D Notification of Law Enforcement Contact)

**15. Can Child Care Centers, School-Age-Only Centers and Preschools use companies such as "One Source" for background checks as the new regulations require criminal history record checks to be "conducted through the Nebraska State Patrol or through one or more local law enforcement agencies, as appropriate to the individual's residence(s)"?**

Any company that conducts background checks on applicants for employment or employees such as "One Source" or "Sterling" must obtain criminal history records from law enforcement agencies. Thus, it is fine when licensed programs use a service like One Source for criminal history record checks.

Sometimes "One Source" background checks include the Child Abuse/Neglect and Adult Protective Services Central Registry checks in Nebraska and other states where the applicant/employee has lived. More often, the Central Registry checks are not included. Also, most companies conduct Sex Offender Registry checks using the National Sex Offender Registry and the state specific registries where the applicant/employee has lived. "One Source" and other such company records typically list the sources of the checks that are included.

**16. Do companies that provide background checks need to be approved?**

No, there is no "approval" process by any government agency. If any Licensee or Director observes improper behavior on the part of any company that conducts background checks, the Department should be notified immediately.

**17. Do you need a criminal background check done on high school students who come for a child development class?**

High School students who are not providing care, are supervised at all times, and are not left alone with any children are not required to have any background checks. Criminal History Record Checks and Record of Law Enforcement Contacts are required when an individual 19 years of age or older is working or volunteering in a Child Care Center.

**18. Will printing the results of the Nebraska State Patrol Sex Offender Registry check and placing that document in the staff/volunteer file meet the documentation requirement in the regulations?**

Yes, printing the results of the Nebraska State Patrol Sex Offender Registry will meet the requirement.

**19. What crimes are considered "theft"? Is shoplifting considered "theft"?**

Theft includes larceny, embezzlement, false pretense, extortion, blackmail, fraudulent conversion, receiving stolen property, shoplifting and similar crimes. (Neb. Rev. Stat. §§ 28-510. Consolidation of theft offenses.) The court has three options:

- If the court decides it is an infraction, then it does not fall under "misdemeanor or felony theft".
- If the court determines the theft is a misdemeanor, then it is a "misdemeanor theft."
- If the court determines it is a felony, it is "felony theft".

1. *If a licensee or staff is required by the Office of Children's Services Licensing (OCSL) to sign an Authorization for Release of Information due to information s/he provided on the Health Information Form is s/he still eligible to provide care/work during the time period the information is being sought from the health care provider by the OCSL?*

Yes, the licensee or staff may remain employed during this time. Based upon the information provided by the health care provider OCSL will make a determination regarding compliance with regulations at that time.

### **Director Requirements (3-006.02, page 19)**

1. *A non-custodial parent wishes to have access to his/her child. Does the licensee need to provide access?*

The intent of the regulation is to allow a parent to drop in and assess the care of the child. It is not to dictate non-custodial rights. The licensee is not to deny access to a parent without proper documentation, such as a court order.

It is not considered denial of access if a licensee does not permit constant or regular visitations that disrupt the care of other children in care. This would be viewed as something that the provider and parent need to discuss and resolve in some fashion, if occurring.

2. *Do I have to take any family that walks in asking for care...example if they are in a wheel chair, not potty trained and can't feed themselves?*

Your question would be considered an ADA issue. Licensed Child Care programs can't simply say they won't accept children with disabilities. They must show how they actually assess the child and be able to show how the child's needs create a hardship for their program (that would not allow them to accommodate the child.)

Also, if a child care program is accepting federal subsidy, either from a Food Program or Subsidized Child Care, those child care programs could be affected if it was determined they violated the ADA. I would encourage you to contact your own attorney regarding this matter, as he/she can assist you in determining how your actions may expose you to liability under a discrimination claim or for concerns with loss of funding from any Federal program.

The Dept. of Justice has info on line regarding child care and the ADA. That link is below.

<https://www.ada.gov/chcaflyr.htm>

### **Director Qualifications (3-006.04, page 24)**

1. *Will Child Care Licensing accept a Practical Nursing Diploma as automatically meeting the educational qualification for a Director?*

This type of diploma can be considered an LPN, however, they would need to take the exam and be licensed to do so. Child Care Licensing will accept a nursing degree, i.e., RN, LPN, BSN, MSN to qualify a person as a Director, as long as the coursework meets the regulatory requirements for Department approved training in administration, early childhood education, education, or child/youth development. Business courses may be included, not to exceed one-half of the credit or clock hour requirement.

- Transcripts will be required to be submitted for acceptance of a nursing degree.

2. *Would verified experience as a baby sitter or nanny count as experience toward qualify an individual as a director or teacher?*

No, Child Care regulations require experience to be in an organized setting as indicated by a positive reference from an employer/supervisor.

3. *Our program was licensed before 5/20/2013 and a Director was already in place, so the Director did not have to meet requirements. We have now hired a new Director, does s/he have to meet the requirements in the regulations which went into effect 5/20/2013?*

Yes, if a new director is hired after the effective date of the regulations, 5/20/2013, s/he must meet the qualifications for the position.



4. *If a new director does not meet the education/training qualifications for the position of Director, who approves the written plan to acquire at least six credit hours or 36 clock hours of training in administration, early childhood education, education, or child/youth development, in a period not to exceed 12 months?*

Effective August 1, 2014, when a Center wants to hire an individual who does not meet “director” requirements, the “written plan” must now be sent to the Early Childhood Training Center. Here is the link to the Training Approval Form: <https://erecords.education.ne.gov/PreServicePlanInstructions.aspx>

For questions, please call the Early Childhood Training Center at 1-800-89-Child.

5. *What happens if an individual does not meet Director Qualifications within one year?*

The individual cannot be a Director until the qualifications are met per the Director Qualifications Plan. The individual may be in employed in another capacity for which s/he is qualified until director qualifications are met per the Director Qualifications Plan.

The licensee must submit the name of a qualified Director to the Department within two days.

6. *Can foster parent/care experience count toward the 3000 clock hours of verifiable experience?*

No, the requirement is for “organized group activities for children,” not parenting experience.

### **Teacher Qualifications (3-006.05, pages 24 - 25)**

1. *Would verified experience as a baby sitter or nanny count as experience toward qualify an individual as a director or teacher?*

No, Child Care regulations require experience to be in an organized setting as indicated by a positive reference from an employer/supervisor.

2. *If a new staff has no experience/education, and they want them to be a teacher that individual must complete 45 clock hours (or three (3) credit hours) in the first 6 months, who approves the “written plan”?*

Effective August 1, 2014, when a Center wants to hire an individual who does not meet “teacher” requirements, the “written plan” must now be sent to the Early Childhood Training Center. Here is the link to the Training Approval Form: <https://erecords.education.ne.gov/PreServicePlanInstructions.aspx>

For questions, please call the Early Childhood Training Center at 1-800-89-Child.

3. *Does the Child Care Center have to wait until the “Teacher Qualifications Plan” is approved before a newly hired individual can be left alone with children? (NEW)*

Yes. An individual who is newly hired and has completed all the background checks (Central Registry Checks, Criminal History Record Check, Report of Law Enforcement – based on age) can work as a “staff”, but cannot be considered a “teacher” until the “Teacher Qualifications Plan” is approved.

4. *What happens if an individual does not meet Teacher Qualifications within six months?*

A qualified teacher must be present in every room. The individual may be a staff, but cannot be a teacher, and not be left alone with children, until the teacher qualifications are met per the Teacher Qualifications Plan.

5. *Will we credit these hours for annual in-service as well, or do they need an additional 12 (or 6 depending on # of hours worked)?*

The 45 clock hours or three credit hours needed to qualify an individual to be a “teacher” do not count toward the 12 clock hours of in-service training for full time staff or 6 clock hours for staff who work 20 or fewer hours/week. The 45 clock hours are intended to compensate for not having the experience, education, or training requirements for the position of “teacher”.

6. *Does a Certificated Teacher automatically meet the training requirements specified in the regulations?*

A Certificated Teacher who is employed at a licensed center or preschool that is on the premises of an accredited or approved school automatically meets Teacher Qualifications and is not required to have any annual in-service training. In addition, the Certificated Teacher is not required to have a Health Information Report or any background checks.

Certificated teachers are not required to have CPR/First Aid Training, Safety Training, Nebraska Early Learning Guidelines Training, Nutrition and Food Safety Training, or Transportation Training but do not count toward the required percentage of Teachers that must complete these training curriculums unless the Certificated Teacher completes the specific curriculum.

### **Non Certified Teachers (3-006.05B, pages 24-25)**

1. *What needs to be provided as proof of meeting one of these criteria if the applicant for the job has a diploma or credential from another country?*

Some type of written documentation from the applicant's education institution is needed, whether that is a diploma or a transcript it must be equivalent to a Child Development Associates Credential, High School Diploma, or GED.

### **Substitute, Support Staff, Volunteer, and Parent Helper Qualifications (3-006.06, page 25)**

1. *What are the qualifications for aides - ages 16 years to 18 years? Do they fall under support staff – in regulations support staff is only identified as food service, transportation, clerical or custodial? Would the center be responsible for identifying what the job description and qualifications are - but included under Support Staff?*

There are two applicable definitions:

- **Staff** means an individual who provides direct care to the children attending the child care center, including the licensee, director, teacher, aide, and any other individual who counts in the staff-to-child ratio.
- **Support staff** means an individual employed by the center as a food service, clerical, custodial, or transportation staff.

It was intended that the term "support staff" be inclusive of all positions in a Child Care Center except for Licensee, Director or Teacher, to include direct care staff AND food service, clerical, custodial and transportation staff.

One of the Director Requirements in 3-006.02 is #4:

4. Provide written personnel policies and policies and procedures specific to:
  - a. Job descriptions and responsibilities; and
  - b. Position qualifications, skills, knowledge, abilities and physical demands of the job;

It is up to the Center to determine job titles and job descriptions and for each job title, identify the responsibilities, qualifications, skills, knowledge, abilities, and physical demands of the job.

Once hired, the documents that need to be kept in the employee's file are listed in Employee Records Requirements (3-006.11).

2. *If a licensee owns/operates two centers and is planning to open another center after the May 20, 2013 effective date of new regulations, is it possible to transfer any staff members who have worked at the current operating centers that want to work at the new center/location - staff who were hired prior to May 20, 2013?*

*The licensee wants to offer positions at the new center to those who have worked for her - but if going to the new provisional program that will be licensed after May 20, 2013, would those staff members be considered new hires and require the additional background check information that is now required and would not be in their current staff records (i.e. 1 criminal history record check; sex offender registry check as the extra background checks, signing a new Report of Law Enforcement Contact form)?*

It is OK for the licensee to "transfer" employees to the new center. However, the positions of "Director" and "Teacher" have new requirements. Also, staff hired to prepare food and transport children would need to have the required training under the "new center" requirements.



All staff hired to work at the new center would require Criminal History Record Checks, Report of Law Enforcement Contacts, Sex Offender Registry checks, CAN/APS checks, proof of Orientation Training before they work with children, and anything else that is required under the new regulations.

3. *Are parents who come to help with Valentine's Day party, Christmas, etc...considered subs or volunteers or anything? If so what are they and what do Child Care Centers have to have on them? Anything? These are sporadic parent helpers NOT counted in RATIO and NEVER left alone.*

These individuals would be considered, "Uncompensated parent helpers" - the parent(s) of a child enrolled in the center who, without compensation, assists in the care of children, who does not count in the staff-to-child ratio, and who is not left alone with children other than his/her own at the center.

The director may use volunteers and uncompensated parent helpers. Volunteers and uncompensated parent helpers are not counted in the staff-to-child ratio. Volunteers and uncompensated parent helpers must be supervised by the director or a teacher at all times and must not be left alone with any children other than their own. (3-006.06 Substitute, Support Staff, Volunteer, and Parent Helper Qualifications)

No background checks are required on Uncompensated Parent Helpers.

4. *Can a volunteer be younger than 13 years of age?*

No. A Volunteer must be at least 13 years of age. Children under the age of 13 are in the age range the Department authorizes for child care for both the Child Care Subsidy Program and Child Care Licensing.

5. *Can a person be a staff/volunteer/substitute at a child care if he or she does not have proof of legal status?*

Child Care Licensing statutes and regulations do not directly address the legal status of staff who work in a licensed child care program. However, the Child Care Licensing statutes and regulations are not the only one that apply to hiring staff.

The Department cannot provide legal advice to any individual/program. The individual/program should be advised that there are many laws that impact hiring and it is best if the individual/program contact their own attorney about this issue.

### **Nebraska's Early Learning Guidelines Training (3-006.08, page 26)**

1. *As it relates to programs licensed before May 20, 2013, if a director or teacher who is required to complete this training has completed four of the domains of the training in 2016, does s/he have to complete at least ONE domain in 2017 and each year thereafter until all seven are completed?*

No, if s/he has completed one domain within four years (due 2017) plus also completed 3 additional domains in 2016 s/he can be allowed to not complete a domain in 2017 and possibly not complete any through the year 2020, as long as s/he is on target to complete ALL domains, averaging ONE per year, by the year 2023.

2. *Where can the equivalencies for Nebraska's Early Learning Guidelines Training be found?*

The equivalencies can be found on the training page of the Nebraska Child Care Licensing Website:  
<https://dhhs.ne.gov/publichealth/pages/crlChildCareLicensingTraining.aspx>

### **Safety Training (3-006.08A, page 26)**

1. *If a center has more than one person as a director or co-director at a site, do both of the directors need the Safe With You training?*

Yes, both would need the training.

2. *Can you please clarify the regulations below related to SAFETY TRAINING?*

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

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

**Centers licensed before May 20, 2013, Director must complete by May 20, 2016, or 3 years from date of hire, and every 5 years.**

**Centers licensed on or after May 20, 2013, Director must complete with 3 years of provisional license date/date of hire and every 5 years.**

3. *Programs licensed prior to May 20, 2013 must complete Safety Training by May 20, 2016. When does the “count” start for the every 5 years thereafter?*

If training was completed prior to 2013, then an individual has 5 years from the effective date of the regulations (May 20, 2013) to obtain the training. If an individual completed the training after May 20, 2013, they need to complete it again 5 years from that date. For example: If a person completed the training prior to May 20, 2013, they would have 5 years from May 20, 2013 (date training became a requirement) until they have to complete the training again. If a person completed the training in 2014 they have 5 years from the 2014 date until they have to complete it again. SEE CHART BELOW.

<b>DATE OF INITIAL TRAINING</b>	<b>WHEN MUST TRAINING BE COMPLETED AGAIN?</b>
Prior to May 20, 2013	By May 20, 2018
May 20, 2013 and beyond	5 years from the date of initial training completed

**Management Training (3-006.08B, page 26)**

1. *Are there Equivalencies to the Child Care Management Training?*

Yes, training equivalencies were developed in April 2017 and are located on the Child Care Licensing Website on the Training Page: <https://dhhs.ne.gov/licensure/Documents/PP%20Equivalencies%20Child%20Care%20Management%20Training%20-%20CCC.pdf>

2. *Does the “new” director have to get training completed by May of 2018 OR do they have 5 years from the date of hire to obtain the training or show proof of meeting a Department approved equivalency?*

- If a program was licensed before May 20, 2013 AND has the same director training must be completed by May 20, 2018. If the director was hired after May 20, 2013, they have 5 years from the date of hire to complete the training.
- If a program was licensed after May 20, 2013 AND has the same director training must be completed within 5 years of the date of the provisional license.
- If a program was licensed after May 20, 2013 AND has had a change in director since the provisional license was issued, the training must be completed within 5 years from the date the director was hired.

**Teacher and Staff Training Requirements (3-006.09, page 27 & 3-006.10, pages 27-28)**

1. *Can the Orientation that a Child Care Center (CCC) Director does for new staff count toward in-service hours?*

The Questions and Answers for Child Care Centers were written prior to the passage of LB 967, which was passed in the 2014 legislative session, changing the approval of training effective August 1, 2014. LB 967 states:

“...The (Early Childhood Training) Center, in consultation with the Department of Health and Human Services, shall approve training that is used to satisfy child care licensing criteria for required training, annual in-service training, and training needed for participation or advancement in the quality rating and improvement system established pursuant to the Step Up to Quality Child Care Act.” (Neb. Rev. Stat. §79-1102)

Thus, upon further review, Orientation will not count toward in-service hours. This decision is based upon the following:

- Orientation of new staff must be provided prior to staff having direct responsibility for the care of children.
- Orientation varies from center to center and may be provided in a few hours or a few days depending upon the specific Child Care Center.
- Orientation is not required to be approved by the Early Childhood Training Center and thus cannot be used to satisfy child care licensing criteria for required training or annual in-service training.

**2. *If a Child Care Center Director completes the Early Learning Guidelines training, then can that director use the self-study training materials available through ECTC to train the center staff?***

The requirement is:

**3-006.09B Nebraska's Early Learning Guidelines Training:** Teachers must receive training in the domains of Nebraska's Early Childhood Learning Guidelines developed by the ECTC. Any proposed equivalent training must be approved by the Department.

Self-Study Training is not an option for Nebraska Early Learning Guidelines Training (NELG). The Director could contact the Early Childhood Training Center about becoming an approved trainer for NELG Training. If approved, the Director could train Center staff on one or more of the Domains included in the NELG Training.

**3. *If a Child Care Center does not serve infants, are the Directors and Teachers required to take "Safe Sleep/SIDS Prevention" and "Shaken Baby" Training?***

**Yes.** All programs licensed as a Family Child Care Home I or II or a Child Care Center are required to take all three curriculums of Safety Training.

**4. *Do the self-study packets for the Nebraska's Early Learning Guidelines (2 hours) work for meeting the requirement for having to complete the ELG? Or do they have to attend the face to face trainings?***

**No.** Self-study packets for Nebraska's Early Learning Guidelines Training are no longer available. The individuals who checked out Self-Study NELG Packets will receive training credit for the sections they completed. Only the individual who checked out an NELG Self-Study packet will get credit. A percentage of Teachers in Child Care Center only have to complete one Domain of training so a Teacher can complete the full six hours by one face-to-face training.

**5. *Is there a date when Licensing will be accepting other training or course work to see if they are equivalent to the new required training?***

The Department will identify specific degrees from specific Nebraska Community and Four Year Colleges/Universities that include Nebraska Early Learning Guidelines and/or Child Care Management Training as required curriculum. When identified, this information will be posted on the Child Care Licensing Web Site.

There are a number of trainings that would be considered an equivalent to Safe Sleep/SIDS Prevention and Shaken Baby – two of the three required curriculums for Safety Training. To date, no other Child Abuse/Neglect/Reporting Training addresses the "caregiver" as a potential abuser of children.

We would accept the clock hours of training on Child Abuse/Neglect/Reporting conducting by other entities (i.e. Child Advocacy Centers), but not as an equivalent to the required Safe with You Training.

**6. *Trainers for Safe With You, Nebraska Early Learning Guidelines, and Management Training: Are they required to take the trainings? How do we know who is a trainer and what documentation do they need to provide to us?***

Individuals who have completed "Train the Trainer" with the Early Childhood Training Center and are approved trainers have met the requirement for completing that specific training. Individuals should have documentation they have completed "Train the Trainer" and are an approved trainer. Contact the Early Childhood Training Center to confirm that a specific individual is an approved trainer for specific curriculum.

In the future, there will be a Training Registry that you will be able to access that will have the names of everyone who has completed training in any of the new required curriculums and the approved trainers for these curriculums.

1. *The training that most staff who prepare food have taken to this point is only two (2) clock hours. So can they just get two (2) more hours of training, and where would they find that?*

Child Care Centers that participate in the Child and Adult Care Food Program are required to obtain 2 clock hours of training each year. This training will count toward the annual requirement of 4 clock hours. Centers located in urban communities and trade centers should be able to obtain face to face training through their local Health Authority. Hospitals and Nursing Homes may also offer Food Safety Training. There is training on food safety, menu planning, and food storage on line.

Child Care Licensing will accept Nutrition and Food Safety Training offered by UN-L Extension, the Nebraska Department of Education's Nutrition Services Division, Nutrition and Physical Activity Self-Assessment for Child Care (NAP SACC), Food Handlers Training and any other training specific to Nutrition and Food Safety. Here is the link to automatically approved training entities that may offer nutrition and food safety training:

<https://drive.google.com/file/d/0B96RUsC-c8secmdyU0IHc2R4ROU/view>

Staff hired on or after May 20, 2013 to prepare food need to obtain 4 clock hours of training in nutrition and food safety within 30 days of hire.

Staff hired before May 20, 2013, have one year from their date of hire to obtain 4 clock hours of training in nutrition and food safety.

2. *When a Child Care Center serves meals prepared by schools or parents are required to provide meals, are any of the Child Care Center staff required to attend Nutrition and Food Safety Training?*

No. When the Child Care Center does not prepare meals, the Center would not have staff responsible for menu planning, food preparation, or food safety. Thus, the Center would not need to send staff to Nutrition and Food Safety Training.

3. *Do Child Care Centers s offering school-age only programs or who only serve snacks need anyone to complete the four hours of food/nutrition training?*

If the CCC does not serve MEALS they are not required to obtain "Nutrition and Food Safety Training". Here is the regulation for CCC:

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

The regulation regarding Nutrition and Food Safety Training is the same for School Age Only Centers. Thus, a School Age Only Center that does not serve meals is not be required to obtain Nutrition and Food Safety Training.

4. *Does the staff who prepares food who has completed the Nutrition and Food Safety Training have to be on the premises during food serving times?*

The regulations require all staff responsible for menu planning, food preparation etc. receive four clock hours of training each year. There is not a requirement that individuals who have completed Nutrition and Food Safety Training be present during serving times. However, the staff who are responsible for putting food away safely need to have the training.

5. *When a Child Care Center serves food "family style", do all staff who "handle food" need the Nutrition and Food Safety Training?*

No. Only staff responsible for menu planning, food preparation, and food safety are required to have four clock hours of Nutrition and Food Safety Training each year.

6. *If a Child Care Center caters meals for the children, do the Center staff need to have Nutrition and Food Safety Training?*

No. If all meals are catered, staff at the Child Care Center are not required to have the Nutrition and Food Safety Training each year. It is important that Child Care Center staff know the proper temperatures for keeping food safe if meals that are catered are delivered to the center hours before the meals are served.

7. *If a Child Care Center is owned by a nursing home or hospital and their meals are catered by those entities, does the Child Care Center need to maintain any documentation of the training of the food personnel at the nursing home or hospital?*

**No. The only time Nutrition and Food Safety Training is required is when the Child Care Center prepares meals on site.**

### **Transportation Training (3-006.10C, page 28)**

1. *Where can I find the list of approved trainers for Transportation Training?*

**Here is the link: <https://www.safekidsnebraska.org/#!childcare/c1qpa>**

2. *Does every driver have to complete the training? What if it is a sub driver that does not normally do it but is helping someone out when sick, medical apt. etc.*

**The regulation requires, “Everyone who transports children on behalf of a child care center” to obtain the safety training, CPR, and First Aide. Obviously, if an individual only transports children one time, we would not require the training. But, if the individual is a regular “substitute” for the driver, then that individual needs to meet the training requirements.**

3. *Staff who transport children and already have a Commercial Driver’s License (CDL). Do they also have to have the “Safe Kids Buckle Up” training?*

**If the Child Care Center serves infants, toddlers, and/or preschool age children, the buses used to transport children are less than 10,000 lbs., and the CDL training included proper installation of car seats, booster seats and proper restraints, the staff who transport children do not have to take “Safe Kids Buckle Up” training.**

**If the CDL Training does not include proper installation of car seats, booster seats and proper restraints and the buses used to transport children are less than 10,000 lbs., then the staff who transport children will need to take “Safe Kids Buckle Up” Training.**

**See “Transportation” questions for buses that are more than 10,000 lbs.**

4. *Would a contracted transportation service driver need the transportation training in 3-006.10C?*

**When Centers use buses weighing over 10,000 lbs. or more that are not equipped with safety/booster seats and restraints to transport children on field trips and other activities and contract with a school or other entity to provide transportation services, the center has the option of having a staff who has completed Transportation Training ride with the children rather than requiring the bus driver to complete the Transportation Training. It is the responsibility of the Center to verify the bus driver, or the center staff has completed the Transportation Training.**

### **Annual Training (3-006.10D, pages 28 - 29)**

1. *Do all of the training sponsored by the Educational Service Units (ESU’s) count toward annual (in-service) hours?*

**Yes, any training sponsored by the ESU’s would be approved. This training may be under the Early Learning Connection Regional Partnership Sponsored Event on the Nebraska Department of Education automatically approved training list.**

2. *I have heard that pro-rated training has been allowed. Under what conditions does that apply?*

**If a staff person is employed or a facility is licensed less than a year it is permissible for proration of training hours, although it is encouraged for licensees and staff to obtain training to the extent possible to enhance the quality of delivery of child care services.**

**Proration would not apply to operating part time schedules for the licensee. For employees employed during the calendar months that make up a year, per the regulations if a staff person “averaged” less than 20 hours/week, then 6 hours of approved training is required and if the average work time is “averaged” at more than 20 hours then 12 hours of in-service is needed.**

3. *How do Child Care Centers know what training is approved?*

Here is the link to the Department of Education's Training Approval web site:

<https://www.education.ne.gov/OEC/trainingapproval.html>

4. *My Child Care Center has already had one inspection in 2013 and training records for 2012 were reviewed. The total clock hours of training for CPR and First Aid were already approved for the required 12 clock hours of training. Will the Child Care Inspection Specialist change the number of clock hours for CPR and First Aid and require staff to have more training?*

Training records are always reviewed for the past year. Thus, CPR and First Aid training taken before May 20, 2013 will count for the actual clock hours of training.

CPR Training taken on or after May 20, 2013 will count for two clock hours and First Aid Training taken on or after May 20, 2013 will count as one clock hour.

5. *How do Child Care Centers know what CPR Curriculums are approved?*

CPR Training must be obtained from an entity that has been approved by the Nebraska Board of Emergency Medical Services. This is a link to the list of approved CPR Curriculums: <https://dhhs.ne.gov/licensure/Documents/ApprovedCPRorgs.pdf>

No CPR Training that is offered on-line that does not include practice and testing on a mannequin is approved.

While we recommend infant/child CPR, it is not required.

### **Employee Records Requirements (3-006.11, page 29)**

1. *We have Child Care Centers in eight (8) Counties. Do we need to have the staff files kept on-site at each center? Or, can staff files be kept at our home office location where our Human Resources Department is located?*

Whenever a Child Care Center has administrative offices where staff records are maintained, the Child Care Inspection Specialist assigned to that center will conduct "staff records checks" at the administrative office as long as that office is located in Nebraska.

### **Children's Records (3-006.12, pages 30-31)**

1. *Is there a required amount of time that a program must keep a child's record after the child is no longer enrolled in the program?*

There is no required amount of time, but Children's Services Licensing recommends a program keep a child's records on the premises for at least 6 months after the child is no longer enrolled. It is also recommended that the program contact their tax preparer for any additional guidance.

2. *Do providers need to add allergy information and current health status of children to "old" records if these children were enrolled before May 20<sup>th</sup>, 2013? Can we just accept the old children's enrollment form for those children and enforce the new information for children just recently enrolled?*

- The two most current versions of "Children's Record Form" (CRED-0364 dated 4/13 and CRED-0363 dated 10/09) already include allergy information and current health status of children.
- If licensees are using the 6/07 or any older version of Children's Record, they need to start using the April 2013 version with newly enrolled children.

### **Parent Information Brochures (3-006.13, page 31)**

1. *When the Parent Information Brochures are printed, how will they be distributed to Child Care Centers? When Centers get copies of the brochure, should they provide to all parents and get receipts?*

Parent Brochures have been sent to all licensed programs from Central Office in Lincoln. Licensed programs were mailed three (3) times their license capacity of brochures. Newly licensed programs will receive three times their license capacity of brochures with their Provisional License.



Child Care Centers then need to distribute the Brochures to parents of children who are enrolled in the center and retain the receipt with the name and date the parent received the brochure in the child(ren)'s file. One brochure is required for each family of children that are enrolled in the Center.

Centers can print their own copies of the brochure from the Forms Page of the Child Care Licensing Website at: <https://dhhs.ne.gov/licensure/Documents/CREC-PAM-24ParentBrochure.pdf>

2. *Can a Child Care Center substitute their own "parent handbook" or other written description, if all the elements in the Department's Parent Information Brochure are included?*

Yes, a Child Care Center can substitute their own document as long as all the elements in the Department's parent Information Brochure are included.

3. *Are Parent Information Brochures available in any language other than English?*

Parent Information Brochures are only available in English.

### **Description of Services (3-006.14A, page 31)**

1. *Is it acceptable for Child Care Centers to put their Description of Services in writing and post it to meet the requirement "must be given to parents and the Department upon request?" Or, does it actually have to be on something that can be handed out?*

The Description of Services must be in a format to be "given to parents and the Department". Thus, it has to be in writing, legible, include all required elements.

2. *# 7 in the "Description of Services" requires the Name, address, and phone number of the center's owner or authorized representative to be given to all staff and the parents of all enrolled children. Does this mean the personal address and phone number of the owner must be shared with staff and parents?*

The address and phone number of the owner or authorized representative may be the address and phone number of the Child Care Center or personal address/phone number but the phone number must be the direct line/personal phone number of the owner or authorized representative. The intent of this regulation is that staff and parents need to know how to contact the owner or authorized representative with questions or concerns.

3. *In the Description of Services, it states Child Care Centers have to list "special services provided." What is considered a special service?*

Examples of some "real" "special services" offered by some Child Care Centers across the state include: health/vision/hearing screenings, home visitation, drop off/pick up for dry cleaning, respite care services for children with special needs, extra activities (i.e. dancing lessons, gymnastics) provided on the premises by an entity other than the licensee for an extra fee.

Most Child Care Centers do not offer any "special services", but if the center does offer one or more of these services, it must be included in the Description of Services.

Child Care Centers are encouraged to include whether or not medications will be given to children in the Description of Services.

### **Staffing Requirements (3-006.15B, page 32) Supervision of Children (3-006.19, page 34)**

1. *When children are napping, is it permissible for the teacher in the room to be engaged in other sedentary child centered activities such as reading, completing lesson plans, or working on a lap top?*

If all children in the room are asleep it is acceptable for the teacher to do other sedentary child centered activities in the room with the children as long as s/he is attentive to the needs of all of the children at all times.

### **Staff-To-Child Ratio (3-006.15C, page 32)**

1. *I have substitutes come in at times when a teacher is not available. Can a substitute be left alone with children?*

No, unless that substitute meets teacher requirements. The regulations (3-006.15 B) state that each room where children are receiving care must have a staff person who is “qualified” as a teacher, and is involved in the direct care of children.

2. *If a child care provider is providing care and supervision to a child over the age of 13, does this child count in the staff-to-child ratio? (child care licenses are issued TO AGE 13 per NE statute)*

Yes, if this child is in care due to supervision needs, s/he would be counted in the staff-to-child ratio. In the situation of home care, any child(ren) 13 years of age and older who are on the premises playing with the providers own children, should be able to return to their own home at any time if the provider is not responsible for supervision.

3. *Can you please give us further explanation of this regulation: 3-006.15B #4a: At least two staff members must be on the premises at all times, except: a. When the number of children in care is 12 or fewer.*

First, this is not a “new” regulation. The previous regulations allowed a Child Care Center to have one staff on the premises when eight or fewer children were in care. This number was increased to 12 because one of the first drafts of the regulations allowed Child Care Centers to maintain the same staff-to-child ratios as “Family Child Care Home II” programs when the number of children in care was at 12 or fewer for an extended period of time (i.e. end of day, overnight). That language got dropped somewhere in the process.

Second, all Child Care Centers must maintain staff-to-child ratios at all times:

3-006.15C Staff-to-Child Ratio: The center must maintain accurate staff and daily attendance records to verify compliance with staff-to-child ratios. Compliance with staff-to-child ratios is determined on a center-wide basis. Only staff involved in the direct care of children are counted. The appropriate staff-to-child ratios must be met at all times, as follows.

Thus, the only time a Child Care Center could have one staff on the premises with 12 children is when the children in care are 4 – 5 years of age and/or school-age. Adding even one child younger than 4, would require two staff with 12 children.

This regulation would have made much more sense if the language allowing Child Care Centers to follow FCCH II staff-to-child ratios was not dropped.

4. *The center has a position of teacher aide and if a person is hired as a teacher aide but also meets the qualifications of a teacher can that person at any time be left alone with the children?*

It is the center who determines whether staff are teachers or teacher aids. If they determine a staff is a teacher then they need to make sure that individual meets the teacher qualifications. If the CCC determines that the person meets teacher qualifications and designates that person as a dual function person (teacher/aide) then the person could be left alone with children.

### **Communicable Diseases (3-006.16, page 33)**

1. *What are reportable communicable diseases?*

Below are the REPORTABLE communicable diseases which the public health authority may/will contact you with guidance. You can also contact your local health authority to receive direction. Reportable Communicable Diseases include, but are not limited to:

- E Coli
- Influenza (certain types)
- RSV
- Rotavirus
- Salmonella
- Giardia
- Measles
- Mumps
- Rubella
- Pertussis (whooping cough)

- Haemophilus influenza type B (Hib) (invasive infection only)
- Diphtheria
- Neisseria meningitides (invasive infection only)
- Hepatitis A
- Shiga toxin producing E. coli (STEC, including E. coli 0157:H7)
- Shigella
- TB
- Suspected food or waterborne clusters or outbreaks

2. *We need some clarification about what “notify” means and “who” all needs notified of reportable communicable diseases.*

On the same day the child care provider becomes aware of the reportable communicable disease, parents of all children enrolled in the child care program must be notified, whether or not their children are actually in attendance that day. Notification to parents can be accomplished by giving them a written note, calling, or emailing them.

Also, on the same day, the child care provider must post notice of the disease in a conspicuous place at the program location.

3. *Are there other diseases and illnesses a child care provider should notify parents about?*

It is recommended, but not required by regulation, that child care providers notify parents of other contagious, infectious diseases present in the child care program such as:

- Chicken pox
- Conjunctivitis (pink eye)
- Ring worm
- Scabies
- Head lice
- Hand/Foot/Mouth

### **Immunizations (3-006.18, pages 33-34)**

1. *Is a program required to care for a child who is not immunized if the program receives federal dollars through Child Care Subsidy or the Child and Adult Food Program?*

Child Care regulations are silent regarding whether or not a program must provide care for a child who is not immunized. This is considered a business decision. There are no known restrictions regarding enrollment if federal funds are received, however, a child who has a disability cannot be denied services. Consultation with legal counsel or board leadership is recommended.

### **Permission for Off Premises Supervision (3-006.19A, page 34)**

1. *Does permission from the parent have to be event specific or could it be a general permission that the parent gives permission that their child will be involved in events outside the program and supervised by staff?*

Permission for “Off Premises Supervision” can be general in nature but should include the activities the Center will conduct off the premises of the Center so that parents can be informed where their children will be and have the opportunity to say no to any activity they do not want their child to attend. For example, the Center should provide parents with a list of the types of field trips and other off site activities that will be conducted throughout the summer and other seasons.

Parents should never have to question where their children are at any time.

### **Permission for Child to Leave Premises 3-006.19B, page 34**

1. *How much documentation is a provider required to have if a child gets picked up to leave the child care program outside of the child’s normal schedule? For example, a grandmother who is listed on the “registration” form as someone authorized to pick up the child, wants to come and take the child out for lunch for unexpectedly.*

We view the written authorization regarding who the child may be released to and the permission to leave the premises as two separate, but sometimes interwoven issues.

If the child's parent/guardian has authorized the release of their child, in writing, to an individual and that individual wants to take the child off the premises then the child has been "released" to that individual by the "blanket," authorization to release the child to that specific individual. Therefore, no additional authorization or "permission" form needs to be signed. The child care provider would NOT be responsible for the child after the child is released to the authorized individual. IF the authorized individual returns the child to the child care program, (say after lunch or a doctor appointment, etc) then the program resumes responsibility for the care and supervision of the child.

If written authorization has been given for a child to be released to an individual only for a specific purpose or at a specific time and the individual wants the child released at a time outside of that permission, then you need to contact the parent/guardian before releasing the child.

We view the regulation regarding permission to leave the premises as governing things such as a child leaving the provider's home to walk to the swimming pool in the afternoon during the summer. Another example is the child walks to the ball field for little league practice. The child care provider would need to have the parent/guardian give written permission as well as indicate their understanding as to when the child care provider would no longer be responsible for the child.

### **Discipline (3-006.20, page 34-35)**

1. *When the children of staff are served in a Child Care Center, can the parent approve a discipline that is not allowed in regulations? For example, can a parent put their child in a room with no other children or staff? Can a parent spank their child?*

If the child is enrolled in the Child Care Center, the Center must follow all regulations, including regulations regarding discipline and guidance, even for the children of staff who are employed by the Center.

### **Use of Restraints (3-006.20, page 36)**

1. *What are the Department approved training curriculums for de-escalation or use of restraints?*

- 1) Therapeutic Crisis Intervention (TCI) through Cornell University
  - a. Registration/Payment: Alisa Burns [ab358@cornell.edu](mailto:ab358@cornell.edu) (607) 255-4528
  - b. On-site Training: Eugene Saville [eas20@cornell.edu](mailto:eas20@cornell.edu) (607) 254-5210
  - c. Trainer Certification: Kris Carlson [kmc16@cornell.edu](mailto:kmc16@cornell.edu) (607) 254-5440
- 2) Non-Violent Crisis Intervention through the Crisis Prevention Institute.
  - a. Crisis Prevention Institute; 10850 W. Park Place, Suite 600; Milwaukee, WI 53224; (888) 426-2184  
<https://www.crisisprevention.com/What-We-Do/Nonviolent-Crisis-Intervention>
- 3) The Mandt System
  - a. The Mandt System; PO Box 831790; Richardson, TX 75083; (972) 495-0755;
  - b. Training: [kevin@mandtsystem.com](mailto:kevin@mandtsystem.com)  
<https://www.mandtsystem.com/schedule/overview/>
- 4) Therapeutic Aggression Control Techniques (TACT 2)
  - a. All contacts are done via this website  
<https://www.tact2.com/>
- 5) Safe Crisis Management through JKM Training Inc.
  - a. JKM Training, INC.; 1710 Ritner Highway, Suite 1: Carlisle, PA 17013; (866) 960-4726
  - b. [info@jkmtraining.com](mailto:info@jkmtraining.com)

### **Child Development Program: Outdoor Play (3-006.22, page 36)**

1. *What does the plan have to include regarding outdoor play specific to cold and hot weather?*

The regulation does not require temperature to be addressed specifically, however, if a program places a child in a situation/temperatures that can harm the child then the program could be considered to be placing a child in a neglectful or abusive situation which may be reported to and investigated by the proper authorities.

### **Beds, Cribs, and Sleeping Surfaces (3-006.22B, page 37)**

1. **Are infant sleep sacks and swaddling sacks allowed? (REVISED)**

Yes, infant sleep sacks and/or infant swaddling sacks are allowed if manufactured for that purpose. A blanket cannot be used. Swaddling should never cover the child's face or be used to secure a bottle or pacifier. The sleep sack, swaddler, and swaddler sleepsack pictured below are examples of appropriate types of sleep/swaddling sacks to use for infants. If you are questioning the use of a particular sleep sack, you may contact your Child Care Inspection Specialist.



Pic 1: Sleep Sack



Pic 2: Swaddler



Pic 3: Swaddler sleepsack

2. **Can a blanket be placed with a child in a crib or playpen when the child is AWAKE and then the blanket removed when the child falls asleep?**

Whether or not a child is awake or asleep, or over 12 months of age, if a blanket is in a crib or playpen with a child, it **MUST** be secured as the regulation directs. Also, no soft objects, such as a stuffed animal, are allowed in a crib or playpen with a child, **EVER**.

3. **Is the use of a product called a "crib hammock" or "baby hammock" as seen in the picture below allowed to be used in a crib or playpen?**

**NO**, this product is not allowed for use in a crib, playpen or in any other manner.



4. **If a Child Care Center has a note from an infant's physician stating the infant can sleep in a swing or bouncy seat, can a blanket be used?**

Current regulations do not address prohibition or limitation on use of blankets for a child who is medically approved to **NOT** be sleeping or napping in a crib or playpen as required by child care regulations. However, best safe sleep practice is to not place a blanket with a child while s/he is sleeping or napping in an alternative arrangement such as a swing or bouncy seat.

5. **If a child is to be placed an alternative position for sleep, does the note from the physician also need to address HOW that position is to be achieved along with the statement this is needed for a medical reason and for what period of time? I.e., Boppy, wedge, bouncy seat, etc.**

Yes, the note from the physician requiring an alternative sleep position must also address how that alternative position is to be achieved.

6. *Parents of newborn twins have asked that the twins be allowed to sleep together in the same crib. Is this allowable?*

A child care program may request an Alternative Compliance be granted from the Department to allow twins to sleep together in the same crib or playpen until such time as one of the infants is able to roll over. The parent must make a request, in writing, to the child care program, and this request must be attached to the request for Alternative Compliance submitted by the program to the Department. A form may be obtained on the Forms Page of the new Nebraska Child Care Licensing Website. <https://dhhs.ne.gov/licensure/Documents/AlternativeComplianceRequest.pdf>

7. *If no one is sleeping in the cribs, must the cribs be three feet apart or can they just be moved when infants are placed in them?*

Cribs or other sleeping surfaces (i.e. playpens, mats, cots) must be separated by at least three feet of space when children are sleeping or napping.

8. *Regarding three (3) feet of space between children using mats, cots, etc., can cots be two feet apart if there is a barrier such as a book case between the two children?*

No. When in use cribs, playpens, cots, and mats must be separated by at least three feet of space regardless of whether there is a barrier such as a book case between the children.

9. *If the reason behind the 3 foot space between cribs is infants standing up and touching each other...then can Centers use plex-i-glass barriers on cribs and keep the infants who are 6 weeks to 9 months "head to toe" since they cannot stand yet?*

No. Three feet of space between cribs, playpens, cots, mats, and sleeping bags has been a requirement for Child Care Centers for decades. Based on the feedback we are getting from some directors and licensees of Child Care Centers, it appears the requirement for three feet of space between cribs, playpens, cots and mats in the previous regulations was not consistently and universally enforced. In the old regulations, this requirement was located in the "sanitation" regulations which were enforced through once every two year sanitation inspections. Now, this requirement is included in the regulations enforced by the Child Care Licensing staff who inspect most Child Care Center twice each year. Also, in the training on the changes in the news regulations, Child Care Licensing staff informed center directors and licensees of how the three feet of separation requirement will be enforced,

To better understand the importance of maintaining a minimum of three feet of separation between children who are napping or sleeping in cribs or playpens or on cots and mats, here is the "Rationale" from *Caring For Our Children* for Sleep and Rest Areas (Standard 5.4.5, page 251):

**RATIONALE:** Separate sleeping and resting, even for siblings, reduces the spread of disease from one child to another. Droplet transmission occurs when droplets containing microorganisms generated from an infected person, primarily during coughing, sneezing, or talking are propelled a short distance (three feet) and deposited on the conjunctivae, nasal mucosa, or mouth (2). Because respiratory infections are transmitted by large droplets of respiratory secretions, a minimum distance of three feet should be maintained between cots, cribs, sleeping bags, beds, mats, or pads used for resting or sleeping (2). A space of three feet between cribs, cots, sleeping bags, beds, mats, or pads will also provide access by the staff to a child in case of emergency. If the facility uses screens to separate the children, their use must not hinder observation of children by staff or access to children in an emergency. Lice infestation, scabies, and ringworm are among the most common infectious diseases in child care. These diseases are transmitted by direct person-to-person contact. ...

**COMMENTS:** Although children freely interact and can contaminate each other while awake, reducing the transmission of infectious disease agents on large airborne droplets during sleep periods will reduce the dose of such agents to which the child is exposed overall. ...

The use of solid crib ends as barriers between sleeping children can serve as a barrier if they are three feet away from each other. (American Academy of Pediatrics, American Public Health Association, National Resource Center for Health and Safety in Child Care and Early Education. 2011. *Caring for our Children: National Health and Safety Performance Standards; Guidelines for Early Care and Education Programs*. 3rd edition. Elk Grove Village, IL: American Academy of Pediatrics; Washington, DC: American Public Health Association.)



10. *If a Child Care Center uses play pens in the toddler room for napping children over the age of 18 months, does the regulation specific to “no soft objects, bumper pads, toys, or loose bedding” apply? Does this mean that a toddler cannot have a loose blanket to cover themselves or any comfort toy or blanket if they nap in a play pen?*

If play pens are used for napping children of any age, they must not contain soft objects, bumper pads, toys, or loose bedding. A blanket can be used, but it must be tucked under the pad of the play pen and reach no higher than the child’s chest.

11. *Can infants wear bibs when they are sleeping or napping in cribs or play pens?*

No. Bibs are considered “loose objects” and must be removed before an infant is placed in a crib or playpen for sleeping or napping.

12. *Can infants wear “amber necklaces”?*

No, children under the age of three (3) years cannot have access to objects that present a choking hazard, including amber and beaded necklaces and bracelets.

13. *Can a Child Care Center keep the crib with evacuation wheels on the premises and use it for emergency evacuation only? This crib does not meet new federal requirements so they would not use it for napping or sleeping.*

Yes, a crib with evacuation wheels that does not meet the new federal requirements can be used for evacuation of children in the event of a fire or other emergency. However, cribs that do not meet federal requirements cannot be used for napping or sleeping for any children.

14. *Are objects such as mirrors or mobiles that attach to the side or hang above a crib allowed?*

Child Care Licensing regulations do not address whether or not anything can be attached to the side of a crib or hung above a crib. If the object is not "in the crib", it is allowed.

15. *If children move their mats to be closer than 3 feet of separation, is this a violation?*

If children move their mats to be closer to another child, this is not a violation. However, if children move their mats, there must be adequate space to allow for three (3) feet of separation. If there is not adequate space to allow for three (3) feet of separation, then that is a violation.

### **Infant/Toddler Care (3-006.23, page 38)**

1. *If all infants are sleeping can only one staff be in the infant room?*

Staff-to-child ratio must be met at all times in an infant room whether infants are asleep or awake.

2. *What information do we view or expect facilities to obtain from parents regarding infant’s formula and feeding schedules?*

On the Child Care Licensing web site under forms is a sample feeding schedule form.

<https://dhhs.ne.gov/licensure/Documents/InfantFeedingSchedule.pdf>

Information listed on this form is what is required. Although regulations are silent regarding any type of time frame for updates, it is expected that the schedule be correct/accurate. If there is a change in the infants feeding (example introduction of solid food) the schedule should be updated/amended to reflect the accurate information.

3. *Are children under the age of three restricted from wearing clips, beads, and barrettes in their hair?*

Children under the age of three are not restricted from wearing clips, beads and barrettes in their hair as long as these items are securely fastened and do not present a choking hazard to any child.

4. *Can Baby Backpacks or Baby Wrap Carriers be used by providers/staff in childcare?*

There is no regulation which prohibits the use of these items, however babies cannot sleep in this position, so these items cannot be used when an infant is asleep.

5. *Is a pacifier that has a soft stuffed animal attached, such as a Wubbanub, allowed to be used by an infant in a crib or playpen?*

Pacifiers themselves can be used by an infant in a crib or playpen. Pacifiers that are connected to a soft stuffed animal or other object are not allowed to be used in a crib or playpen.

6. *The Sixpence program requires child care programs to accept infants as young as two weeks of age whose mothers are teenagers returning to school. What would a program need to do to meet the requirements of the Sixpence program while still complying with Child Care Center regulations?*

Licenses cannot be issued for care of children under 6 weeks of age per Nebraska Statute. Programs that wish to accept infants into care below the age of 6 weeks must have a note from the child's physician that specifies that it is allowable for this infant to be in child care with other children. This note must be kept in the child's file for Department review.

7. *Do infants need to be "re-positioned" if they roll over on their tummy while sleeping?*

A common question among caregivers/teachers and parents/guardians is whether they should return the infant to the supine position if they roll onto their side or their tummies. Infants up to twelve months of age should be placed wholly supine for sleep every time. In fact, all children should be placed (or encouraged to lie down) on their backs to sleep. When infants are developmentally capable of rolling comfortably from their backs to their fronts and back again, there is no evidence to suggest that they should be re-positioned into the supine position.

According to the National Institute of Child Health and Human Development (NICHD) and the American Academy of Pediatrics (AAP), babies do not need to be repositioned after they start rolling over on their own. Most babies roll over on their own between 4 to 6 months of age. The important thing is that the baby starts every sleep time on his or her back to decrease the risk of SIDS, and that no soft, loose bedding is in the baby's sleep area.

8. *Can Centers use glass bottles for infants?*

"Caring for our Children" offers the following recommendation: "Only BPA – free plastic, plastic labeled #1, #2, #4, or #5 or glass bottles should be used."

There are no prohibitions to using glass bottles for infants.

9. *If highchairs are securely attached or built into the table, is a 3 point strap required?*

No, these types of built in infant chairs/tables are not considered a "high chair." If a child is in a "high chair" a 3 point strap is required.

### **Infant Care Rooms (3-006.23A, page 38)**

1. *I understand when infants are in care, at least one staff person who is qualified as a teacher must be in the room. Is it okay to have 5 infants in a room with one qualified teacher if the infants are napping?*

When infants are in a room the infant care room regulation is in force. This regulation requires that if 5 or more infants are in a room, at least two staff members (one must be a qualified teacher) would be required, regardless if the infants are napping or not.

2. *In a mixed age room that includes infants, (limited to no more than 12 children), and there are no more than 4 infants present in that room, can one staff member be responsible for those infants AND additional children as the ratios are then considered on the center wide basis?*

In any room that includes infants, the staff-to –child ratio for the infants is one staff to no more than four infants. If there are other children in addition to four infants, at least one additional staff must be in the room with the four infants and other children.

3. *Are pacifiers allowed in infant rooms?*

Nothing in our regulations prohibits the use of pacifiers for children of any age. Pacifiers may be used when a child is placed in a crib.

**Diapering and Toileting (3-006.23B, page 38-39) Food Safety (3-006.29, page 43)**

1. *Are Disinfectant Wipes, such as Clorox wipes approved for wiping down diaper changing surfaces?*

Disinfectant wipes can be used in child care because they are EPA approved. However, the use of these wipes is not recommended because they do not keep a surface visibly wet for the 4 to 10 minutes required to kill the norovirus. Check with your local health authority for appropriate disinfecting/sanitizing agents.

2. *I was wanting to start using my own homemade items such as hand soaps, sanitizers and cleaning products. I don't want to use bleach or Clorox any more as I am trying to be 100% chemical free in my home. I diffuse essential oils for calming or immune boosting within the daycare and am looking to use the oils more to replace our chemicals in personal products as well. What are the regulations on that, if there are any?*

A sanitizer or disinfectant that is not registered with the EPA and cannot be tested for strength cannot be used. Bleach or quaternary products are approved chemicals for use. Oils are not approved in the State of Nebraska for use as sanitizers or disinfectants.

Oils can be used in making homemade soap that is used for hand washing.

3. *Does soap used for hand washing need to be antibacterial?*

Antibacterial soap is not recommended for hand washing. (Caring for Our Children)

**Wading and Swimming Activities (3-006.25, page 39)**

1. *Several centers take children to city pools and in the past have used "parent helpers" to help them meet the swimming ratio. The new regulations would require that parent helpers be "staff" which would mean the parents need to meet all staff qualifications. Is there any way centers could use parents to meet swimming ratio without parents needing to meet staff qualifications?*

Uncompensated parent helper means the parent of a child enrolled in the center who without compensation, assists in the care of children, who does not count in the staff-to-child ratio, and who is not left alone with children other than his/her own at the center.

Thus, parents who are not "staff" could not be included in the staff-to-child ratio for swimming or any other activity.

2. *When a Child Care Center takes children to a swimming pool.....Can subs be used to meet ratio at the pool? Can a parent that is participating in Parent Training also go to the swimming pool?*

Substitutes can be used in the staff-child ratio for swimming or other activities on or off the premises of the Child Care Center. Typically, substitutes would be filling in for a staff who was ill or on vacation, but they can be used as extra staff when needed for an activity like swimming that requires more staff.

Parents who are receiving Parent Training and Education can participate in activities such as swimming but they do not count in staff-to-child ratio, must not be left alone with any children other than their own, and must be supervised by the director or a teacher at all times. (3-006.07 Parents Participating in Parent Training/Education)

3. *What are the requirements for a Swimming Pool permit?*

Here is the link to the NDEE permit requirements for swimming pools and swimming pool operators:

<http://dee.ne.gov/NDEQProg.nsf/OnWeb/SP>.

This web page includes the application forms and the regulations that govern swimming pools that require a permit, including those located on the premises of a licensed child care program used by the children enrolled in the program – Title 178 Nebraska Administrative Code Chapter 2.

Please feel free to contact NDEE at the Contact Information link at the bottom of the NDEE web page for more information about the process of obtaining a permit for a swimming pool.

## **Transportation (3-006.26, page 41)**

### **1. What are the requirements of the new Child Restraint Law which went into effect January 1, 2019? (NEW)**

Memo and attachment explaining the new law was mailed to all child care providers on December 17, 2018.

There are three major changes that went into effect January 1, 2019:

1. All children up to age eight must ride correctly secured in a federally approved child safety seat. This means a booster seat, car seat, or an alternative harness restraint. Age and weight guidelines must be followed.
2. Children ride rear-facing up to age two OR until they reach either the upper weight or height limit allowed by the car seat's manufacturer.
3. Children up to age eight must ride in the back seat as long as there is a back seat equipped with a seatbelt and is not already occupied by other children under eight years of age. This means IF all other seats are occupied by children under the age of eight, a child under the age of eight may ride properly restrained in the front seat.

Additional information specific to buses was provided:

1. Small or Mid-Size Bus:
  - a. If the bus has a lap belt only, the bus must have a supplemental restraint system such as a harness, Cam-wrap, or Easy-On vest.
  - b. If the bus has a lap and shoulder belt, then a supplemental restraint system should NOT be used. (Buses manufactured after 2011 were required to have a lap and shoulder belt).
  - c. If infants are transported they should be secured as described in Item 2 above.
2. Medium or Large Bus (over 10,000 lbs):
  - a. IF the bus is equipped with a lap and shoulder belt, a supplemental restraint system should NOT be used. (Not all buses are equipped with a restraint system).
  - b. Medium or large size buses are not designed to transport infants.
3. Rural or City Transit Bus
  - a. This type of bus is not "designed" to transport a group of child care children.
  - b. If a child care program chooses to use this type of bus to transport children, the bus must be equipped/modified with appropriate supplemental restraint systems, the same as those of a small or mid-size bus.

Information can also be found on the Nebraska Department of Education website at this link:

<https://www.education.ne.gov/fos/pupil-transportation/child-passenger-safety/>

*Does a Child Care Center have to require a teacher to be with the van driver or hire a driver that meets the qualifications of a teacher when transporting children? The definition of "Support Staff" includes transportation staff. However, 3-006.06 #2 states that "a teacher must be in the room with support staff at all times when children are in care".*

A "teacher" does not have to be in the vehicle when children are transported and the driver does not have to meet teacher qualifications. When children younger than school-agers are being transported, staff-to-child ratio does have to be met with the driver of the vehicle counting as one staff.

2. *If a Child Care Center rents/uses a school bus for field trips for school age, preschoolers and toddlers - is this allowed? The school bus does not have seat belts.*

Child Care Centers may transport school-age children in a bus of any size without booster seats or seat belts/lap belts.

When transporting children younger than school-age, the answer depends on the size of the bus.

- Child Care Centers cannot use buses that are under 10,000 lbs. to transport children under school age without having safety/booster seats and appropriate restraints.
- Child Care Centers can use buses that are over 10,000 lbs. to transport children of any age without having safety/booster seats or restraints.

Child Care Centers that elect to transport children in buses over 10,000 lbs. without safety/booster seats and restraints are encouraged to consult with their insurance carrier to insure coverage for transportation services.

3. *If a Child Care Center has a vehicle that carries more than 15 school-age children, how many staff are required in addition to the driver?*

In a Child Care Center, any number of school-age children may be transported with no staff in addition to the driver. There does not need to be an additional staff on the van/bus, regardless of the number of school-age children present. Only the driver needs to be on any vehicle that transports only school-age children. This only applies when ONLY school-age children are being transported.

4. *Are additional staff members required in each van when going on field trips, with the teacher driving? Example: Can 10 preschoolers be transported with one teacher, who is also driving the van?*

If children are going on a field trip, Child Care Center staff-to-child ratio needs to be met but not all the staff have to be "teachers".

5. *If a Child Care Center contracts with a company that provides transportation, what is required?*

When Centers use buses weighing over 10,000 lbs. or more that are not equipped with safety/booster seats and restraints to transport children on field trips and other activities and contract with a school or other entity to provide transportation services, the center has the option of having a staff who has completed Transportation Training ride with the children rather than requiring the bus driver to complete the Transportation Training.

6. *If a Child Care Center wants to transport kids to a field trip, can the Center provide transportation for 13 children and two staff in van that holds 15. Other parents that are coming drive separately and take their own children. Would this be acceptable?*

The answer depends on the ages of the children. This arrangement would be acceptable as long as staff-to child ratio is met with two staff based on the age of children who are being transported and participating in the field trip. Children who are being supervised by their own parents would not count in the staff-to-child ratio during the field trip.

7. *As I understand it, parents cannot drive children in care like they used to before, correct? Can parents take other daycare kids in the car or only their own children?*

Parents of enrolled children may transport their own children without any background checks. In order for parents to transport children other than their own, they must have the background checks required of a volunteer or meet staff requirements and background checks.

## **Medications (3-006.27, page 41)**

1. *Sometimes medication storage boxes in programs seem to be pretty full of meds. Is there a recommended time frame for programs to keep medications "on hand" for children?*

As long as a prescription or non-prescription medication is not expired AND there is written permission and instruction from the parent, the medication can continue to be kept. However, it is strongly recommended that when the child no longer needs the medication (i.e., Tylenol for teething) the medication be returned to the parent or destroyed if the parent refuses to take possession of the medication. When a child is no longer enrolled in the program, the medication should not be on site.

2. *I have some children enrolled in my program that may need medication in an emergency. One child is a diabetic; another child has a severe peanut allergy and must have access to an EPI pen. Is there an alternative to keeping these medications stored rather than under lock and key that will allow quick access in the event of a medical emergency?*

Regulations do require medications be kept in locked storage. The Department, however, recognizes the risk it could pose if children or adults in the programs do not have quick access to their emergency medications. If a program has children, staff, or household members who use some form of medication in an emergency, the program can request an Alternative Compliance. An Alternative Compliance allows a program to show the Department how they are meeting the intent of the regulation, just in a different manner than specifically indicated by the regulation. This Alternative Compliance will only apply to emergency medications and must be approved by the Department. Programs will be required to keep emergency medications out of the reach of children and provide appropriate supervision to ensure children do not have access at all times.

The following are considered emergency medications: EPI pens, and medications to treat diabetes, seizure disorders, and asthma.

**3. *Can providers use bug spray for children, and if so, what parental permission is required?***

Yes, providers may apply bug spray to children as the label directs. Parents must sign a permission form just as they do for medications.

**4. *Over the counter diaper cream and sunscreen - Do they need permission to put on child/is it considered a med?***

Over-the-counter, non-toxic topical ointments such as lip balm, petroleum jelly, sun block, diaper ointment, and essential oils must be kept out of the reach of children. (3-006.27G Medications)

These ointments are medications and parents must give permission for these ointments to be applied to their child.

**5. *Does the use of an EPI-pen in a child care program require a physician's note?***

No. An EPI-pen is considered an "emergency" medication, therefore, a physician's note is not required.

**6. *A doctor's note is required for over-the-counter medications that state on the label, "consult a physician," for dosage amount for children age two and under. If the child's doctor refuses to provide such a note can the medication be administered with parental permission?***

Child Care regulations state that the dosage for over-the-counter medications must not exceed that which is printed on the label. Therefore, if the child is under 2 years of age and the label states, "for children under 2, consult a physician," the child care program cannot give the medication without a note from a physician. Otherwise, the program would have no other way to verify that the parent had consulted a physician as required on the label of the medication.

**7. *Does staff have to take medication training to be determined to be competent or how does a CCC Director assess that staff is competent? IS there a form or training to take?***

The previous Child Care Center regulations required: "Center and preschool directors have the responsibility to assess the ability of staff to give or apply medication safely".

New regulations go a step further: #15 in the Director Requirements (3-006.02) requires the Director to, "Develop and use written criteria to assess the ability of staff to give or apply medication safely". Thus, Child Care Inspection Specialists will need to see the "written criteria" that the Director has developed and determine whether the criteria meets the criteria to assess the ability of staff to give or apply medications safely. Directors need to refer to the regulations for "Medications" when writing the criteria.

**8. *Can Child Care Centers provide non-prescription medications to children "as needed" (PRN)?***

Child Care programs cannot purchase non-prescription medications to be given to children "as needed" (PRN).

Parents may bring non-prescriptions to the Child Care program to be given to children "as needed" as long as the parent provides detailed written instructions that includes the symptoms, dosage, frequency, and any other relevant information.

**9. *Is an Emergency Medical Technician (EMT) one of the licenses included in the "Competence to Give or Apply Medication" under 3-006.27 B?***



No. Emergency Medical Technicians are not “licensed health care professionals” for whom administration of medications is included in their scope of practice. Licensed health care professionals who meet this criteria include: Medical Doctors, Physician’s Assistants, Advanced Practice Registered Nurses, and Registered Nurses.

### **Food Service (3-006.28, page 43)**

1. *Is home grown/butchered chicken, beef, pork, etc., allowed to be served to children in care?*

For safety reasons, home slaughter meat is not allowed by the USDA to be served to children in care. The meat would have to be processed in a facility that is inspected and approved by the appropriate federal or state agency.

2. *One of the changes in the new regulations deals with the number of meals and snacks that are required to be served when children are in care for 10 or more hours. Please explain the change in 3-006.28A which requires two meals and two snacks to be served when children are in care for 10 or more hours. The Child Care Food Program only reimburses a maximum of three meals and snacks each day a child is care.*

The requirement that children in care for 10 or more hours has been a requirement for Family Child Care Home I and II programs since May 1995. It was always the intent of the Child Care Licensing Program to make the Child Care Center regulations consistent with the requirements for Family Child Care Homes. This change in the Child Care Center regulations was included in the two drafts that were reviewed in the August 2011 and August 2012 Public Hearings.

The Child and Adult Care Food Program (CACFP) is not intended to cover the cost of all meals and snacks served to children in Child Care programs. Whether Child Care Centers are reimbursed for a meal or snack does not determine what is required. There are no USDA guidelines specific to the number of meals and snacks that are required to be served to children. CACFP references each state’s Child Care Licensing regulations regarding how often and what time frames meals and snacks must be provided.

The addition of a second meal or snack for children in care for 10 or more hours was made in 1995 to address the health and well - being of children. Most children are in child care in the range of 4 to 9 hours/day. However, there are situations where children are in care 10 to 18 hours a day. Two meals and two snacks is not an unreasonable expectation in these circumstances.

3. *If a child is fasting or has other food restrictions/limitations for religious or other non-medical reasons what does the child care provider need to do?*

Office of Children’s Services Licensing has no regulation which specifically addresses this issue. OCSL recommends the child care provider obtain a statement from the parent(s) which includes the date(s) of the fasting or other food limitation, and the general reason, i.e., religious practice.

### **Food Safety (3-006.29, pages 43 - 44)**

1. *What are the food storage safety issues I need to be aware of regarding breast milk?*

These answers are based upon recommendations from the Center for Disease Control, The Academy of Breastfeeding Medicine, and the Nebraska Food Code.

When using breast milk, remember:

- Breast milk can only be warmed once. It can’t be put back in the refrigerator once warmed.
- Breast milk that has not been offered to the baby can safely be kept out at room temperature for no more than 4 hours.
- Breast milk that has been offered and consumed by the baby, but not completely gone, may be left out for 1 hour. The milk must be disposed of after that time. The parent and provide may decide between themselves how breast milk is to be disposed. A parent may choose to have the breast milk returned to him/her, but the provider may not serve it back to the infant.

2. *If a physician approves the use of breast milk that has been frozen beyond three (3) months, can the Child Care Center accept a written doctor’s statement to use that breast milk?*

No. The regulation for frozen breast milk states a specific amount of time breast milk can be kept in a freezer. Breast milk that has been frozen three months must be returned to the parent or discarded.

3. *Breast milk can only be frozen for 3 months. Which date does the three months start from....date received, date expressed, or date frozen?*

The three (3) months begins the date the breast milk was frozen.

### **First Aid Kit (3-006.30F, page 45)**

1. *If soap is not found in the facility's First Aid Kit but is available at the facility, is this a violation?*

No, as long as there is soap at the facility this is not a violation. However, the First Aid Kit located in a vehicle used to transport children must contain soap.

### **Housekeeping and Maintenance (3-006.31A, page 46)**

1. *Would an alternative compliance be supported for a facility to not have 'tight/water tight fitting lids on garbage containers' inside of areas where food is served when there is a janitorial staff that gathers and disposes of food after meals and snacks?*

Since this would meet the intent of the regulation to minimize odor and transmission of infectious disease and prevents the attraction of rodents, flies and other insects or vermin, an alternative compliance could be supported.

2. *Regulations required using rubbish containers, both indoor and outdoor, for garbage and rubbish that have tight fitting cover. Is there any exception to this requirements?*

If the rubbish container/trash can contains ONLY paper items that do not have any bodily fluids on them (i.e., Kleenex), then they do not need to be covered. All other containers must be covered.

### **Animals/Pets (3-006.32C, page 47)**

1. *The regulation states "exotic/unusual animals...must not be allowed on the premises during the hours of operation". There are several programs in Omaha that provide educational presentations to schools/child care programs, such as the Henry Dorley Zoo, Fontenelle Forest, etc. that have exotic or unusual animals as part of their presentation to teach children not to judge or hate certain animals just based on their reputation and teaches them about kindness to all animals, etc. Some child care centers have the program come to the center/facility so that they do not have to transport young children. Usually these presentations occur one time in the summer. Can licensed programs allow exotic animals on the premises?*

The Center must not have any animal present on the premises that negatively affects the children in care. This includes, but is not limited to an animal that:

- Has bitten or attacked anyone without provocation;
- Has been determined to be dangerous;
- Causes or exacerbates a health condition of a child in care;
- Has fleas, ticks, or other parasites; and/or
- Is prohibited by city ordinance (i.e. pot-bellied pigs are prohibited in Lincoln, NE)

When pets are kept on the premises of a child care center, the licensee must:

1. Insure dogs, cats, and ferrets have an annual examination by a veterinarian;
2. Insure dogs, cats, and ferrets are vaccinated as recommended by the licensed veterinarian;
3. Insure dogs, cats, ferrets and any other animals that come in contact with children in care do not have fleas, ticks, and/or other parasites;
4. Insure animal is maintained in clean conditions, is fed properly, and waste is disposed of properly; and
5. Identify the individual who is responsible for the care and supervision of the pet, when the center is NOT located in a residence.

List of Prohibited Animals:

- All varieties of chickens, ducks, and geese (These animals excrete E. Coli O157:H7, Salmonella, Campylobacter, S. paratyphoid). Newborn baby chicks can be in incubation containers.
- All poisonous snakes and reptiles, including alligators and similar animals;

- All poisonous animals, including spiders and venomous insects-including tarantulas and scorpions;
- All wild canines and hybrids such as wolf crosses;
- All wild native and exotic animals such as raccoons, skunks, otters, opossums, bats, deer, bears, and antelopes;
- All wild or exotic cats, including hybrids;
- All apes, gorillas, and other lower primates; and
- Crocodiles, alligators, and any poisonous reptile or amphibian.

The following animals are not prohibited, but are not recommended to be on the premises of a child care program that serves infants, toddlers, and preschool age children:

- Stray animals-health and vaccination status of these animals is unknown;
- Psittacine birds unless tested for psittacosis-Includes of parrots, parakeets, budgies, and cockatiels (psittacine birds can carry diseases that can be transferred to humans);
- Ferrets-ferrets have a propensity to bite when startled;
- Animals in estrus (heat)-Female dogs and cats should be determined to not be in estrus when at the center; and
- Animals less than one year of age-Incorporating young animals (less than one year of age) into child care programs is not recommended because of issues of unpredictable behavior and elimination control. Additionally, the immune systems of very young puppies and kittens are not completely developed, thereby placing the health of these animals at risk.

The Child Care Center may take children to view any animals at the zoo with prior parental permission.

It is okay to bring a small farm animal to the Child Care Center as long as the animal is not on the list of prohibited animals. No paper work for the animal would be required unless there is an incident that resulted in the injury of a child.

2. *Is it ok for a parent to bring a lamb or other small farm animal for a visit? Do they need any paperwork?*

As long as the animal is not on the list of exotic/unusual animals, it is OK to bring a small farm animal to the Child Care Center. No paper work would be required unless there was an incident that resulted in the injury of a child.

3. *Can a parakeet be a pet in Child Care Center? Is this an animal that requires annual check-ups by a veterinarian and documentation of the examinations?*

Yes, while not recommended, a parakeet can be a pet in a Child Care Center. Birds are not required to have check-ups by veterinarians.

### **Other Environmental Safety Requirements (3-006.32E, page 47)**

1. *Is safety equipment required when licensees have hot tubs?*

No. Safety equipment is not required when a "hot tub" is on the premises. The hot tub must have a tight fitting cover which can be securely locked.

### **Water Supply (3-007.02B, page 49)**

1. *If a faucet has a filtration (i.e. reverse osmosis) system, is drinking water still required to be tested?*

Yes, water that comes from a source other than a public water supply system must be tested annually even if there is a filtration system present.

2. *Regulation require water to be tested for coliforms, nitrates, and lead, however some labs do NOT test for all of these. Where should providers obtain kits and send their samples to be tested for all substances?*

The state lab is located in Lincoln. Providers may obtain a kit by calling 402-471-2122.

### **Toilets/Sinks (3-007.04, page 51)**

1. *Do "toilet rooms" need to be fully enclosed or are half walls allowed?*

Children ages 3 and under can use toilet rooms with half walls. If children are age 4 and over, they need to have a toilet room that gives them privacy.

2. *Do “toilet rooms” need to have doors that are self-closing and tight fitting?*

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

## **OTHER ITEMS OF INTEREST**

1. *At an inspection, what specific information do Child Care Inspection Specialists want to see in regard to insurance coverage?*

Here is the link to the information on the Child Care Licensing Website which describes what Child Care Inspections Specialists want to see at the time of inspection:

<https://dhhs.ne.gov/licensure/Documents/LiabilityInsReqMemo.pdf>

Here is the language in the Child Care Licensing Act specific to Child Care Liability Insurance:

**Neb. Rev. Stat. §71-1911.03.** Applicant; liability insurance.

An applicant for a license under the Child Care Licensing Act shall provide to the department written proof of liability insurance coverage of at least one hundred thousand dollars per occurrence prior to issuance of the license. A licensee subject to the Child Care Licensing Act on July 1, 2014, shall obtain such liability insurance coverage and provide written proof to the department within thirty days after July 1, 2014. Failure by a licensee to maintain the required level of liability insurance coverage shall be deemed noncompliance with the Child Care Licensing Act. If the licensee is the State of Nebraska or a political subdivision, the licensee may utilize a risk retention group or a risk management pool for purposes of providing such liability insurance coverage or may self-insure all or part of such coverage.

All Child Care Programs are required to maintain Child Care Liability Insurance with a minimum coverage of \$100,000 per occurrence.

Here is the link to the statute: <https://nebraskalegislature.gov/laws/statutes.php?statute=71-1911.03>

2. *A person had their license revoked over two years ago and wants to now provide care by working in a center as a child care staff or caring for a few children in a license exempt status. Is this okay?*

Statute 71-1911 prohibits anyone having a child care license revoked for any reason other than non- payment of fees, from caring for ANY children, other than the children of that person, until the person becomes licensed. The two years refers to the time period that must elapse prior to re-applying for a license.

3. *Can the Office of Children’s Services Licensing release the name of my insurance carrier to others?*

Yes, minimum liability insurance is required to be maintained per Nebraska law, therefore, this information can be released.

4. *I have used my Social Security Number for my identifier for my license. Do I have to give that out to families that want to file for child care tax credits?*

Parents can be directed to this site to learn how to file if a number is not available.

<https://www.irs.gov/help-resources/tools-faqs/faqs-for-individuals/frequently-asked-tax-questions-answers/childcare-credit-other-credits>

5. *Will parent’s digital signature(s) be accepted by the Office of Children’s Services Licensing for acknowledging receipt of required information and material?*

Yes, digital signatures are acceptable.

If you have additional questions or want clarification on a question and answer in this document, please send an e-mail to Rita Krusemark at this link: [rita.krusemark@nebraska.gov](mailto:rita.krusemark@nebraska.gov)

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