Nutrition, Active Play & Screen Time Child Care Laws in Kansas

Child care providers are in a unique position to address the childhood obesity epidemic and tobacco-related health hazards. The Public Health Law Center has developed a series of resources designed to inform and support Kansas efforts to cultivate child care settings that promote healthy eating, positive exercise habits, reduced screen time, and support tobacco-free environments. This fact sheet outlines existing child care laws in Kansas dealing with these subjects.

Approximately one in three American kids and teens is overweight or obese, almost three times the rate in 1963.1 Weight issues should be addressed early in life because children who are obese in their preschool years are more likely to be obese through adolescence and into adulthood.2 These children are also more likely to develop diabetes, hypertension, hyperlipidemia, asthma, and sleep apnea.3 Promoting better nutrition and physical activity behaviors for children could reduce childhood obesity and improve immediate and long-term health outcomes.4

Child care settings are an integral part of American life. Over half of all preschool-aged children regularly spend significant time in non-parental child care.5 Child care providers are uniquely positioned
To help children cultivate healthy eating and positive exercise habits early in life.

The Kansas Legislature has enacted a series of statutes regulating the child care setting. These statutes establish a licensing structure and delegate authority to the Kansas Department of Health and Environment (KDHE) to create other rules relating to child care. There are no statutes directly regulating nutrition, physical activity, breastfeeding, or screen time. However, the power delegated to KDHE allows for the implementation of regulations to govern these areas.

Are the regulations the same for all child care settings?

No, different regulations apply to day care homes, child care centers, preschools, and school-age programs. While the regulations do overlap in some areas, there are many distinctions between the different sets of regulations. When analyzing a child care regulation, it is important to pay close attention to the specific setting the regulation addresses.

Does Kansas law have nutritional standards for child care facilities?

There are no Kansas statutes that specifically deal with healthy eating or nutrition for child care facilities. However, Kansas regulations do have minimum nutrition standards for day care homes, child care centers, and preschools (Table 1). The school age program regulations do not address nutrition standards. In addition to nutritional standards, Kansas regulations have other concepts that impact the food and beverage environment in child care settings (Table 2).

Are there special requirements for feeding infants?

There are no statutes or regulations setting specific nutritional standards for infants. But both day care homes and child care centers are required to hold infants during bottle feedings, and not allow infants to sleep with bottles in their mouth. Also, solid foods shall only be offered to infants when the provider and the parent or legal guardian of a child determine that the child is ready for solid foods.

Do the child care laws require that children have access to drinking water?

Yes, safe drinking water must be readily available to children in day care homes, child care centers, preschools, and school age programs.

Are there any limitations on whether food can be used for discipline?

Yes, withholding or forcing food as a form of punishment is prohibited. It is also unacceptable to place substances that sting, burn or have a bitter taste in the child’s mouth or on the tongue.

Must child care providers participate in training that deals with nutrition?

There are no training requirements related specifically to nutrition.

Are there laws specifically dealing with breast milk, nursing mothers, or breastfeeding as it relates to the child care setting?

Kansas law offers protection for nursing mothers in public. However, the law says very little about breastfeeding specific to child care settings. There is no mention of breastfeeding in the statutes, and
the only mention of breastfeeding in the regulations concerns properly handling and storing breast milk.  

What does Kansas law say about physical activity requirements in the child care setting?

The regulations for day care homes, child care centers, and preschools all require daily physical activity (Table 3). Day care homes are instructed to provide activities, supplies, and equipment to promote large motor skill development, and are specifically required to provide each child “the opportunity for at least one hour of physical activity daily.” Preschools and child care centers are required to plan program schedules to “provide a balance of active, quiet, individual and group activities,” and to offer daily opportunities to develop both large and small muscle skills. Unlike day care homes, preschools and child care centers do not have a specific physical activity time requirement, and neither set of regulations require a certain level of play (moderate-to-vigorous).

The school age program regulations do not specifically require that children participate in physical activities. However, child care centers that include school-age children must have an activity plan that includes sports.

Are providers required to have a written activity plan?

Day care homes are required to provide physical activity, including large and small motor activities, but there is no regulation requiring these are written down and posted. However, preschools and child care centers must develop a written program plan that provides a balance of active, quiet, individual and group activities. If the child care center cares for school-age children, the written program plan shall provide educational and recreational activities that meet the individual needs of the children, and include activities such as arts, crafts, music, reading, table games, and sports.

Does Kansas law require that children spend time outdoors?

Kansas regulations require day care homes and child care centers to offer daily opportunities for outdoor activities. Children in day care homes shall be taken outdoors daily, with children one-year and older being allowed outdoors for at least one hour daily. Child care centers must provide children with daily outdoor playtime, with children in care for four or more consecutive hours spending at least one hour outside.
Are there indoor physical space requirements?

Yes, day care homes are required to have a minimum of 25 square feet of available play space per child, while child care centers and preschools must provide a minimum of 35 square feet of floor space per child. School age programs must also provide 35 square feet of indoor space for activities. Outdoor summer camps that use shelter buildings must also meet this requirement. However, mobile summer programs must only have 20 square feet of available floor space.

Are there outdoor physical space requirements?

Day care homes licensed on or after March 1, 2012 must have “a designated area for outdoor play and large motor activities,” but are not required to provide a specific amount of space. Child care centers must have an outdoor play area that provides at least 75 square feet of space for each child using the play area at a given time. The play area must accommodate at least one-half of the licensed capacity of the center, or must provide a minimum of 750 square feet of play space, whichever is greater. Preschool programs are not required to provide outdoor play space unless outdoor play is included in the preschool program.

School age programs, including outdoor summer camps, must provide 75 square feet of outdoor space for activities. While the school age program regulations do not specifically require that children participate in physical activities, these space requirements may promote physical activity.

Does the law require child care providers have certain physical activity equipment?

There are no equipment standards for any of the child care settings in Kansas.

Are there special requirements for physical activity as it relates to infants and toddlers?

Yes, child care centers must provide infants and toddlers with daily activities that promote gross and fine motor development, as well as providing daily outdoor time. Day care homes have to provide children with one hour of physical activity per day, but not necessarily outdoors if the child is under 12 months of age.

Are there any limitations on withholding or using physical activity as a disciplinary measure?

Neither the statues nor regulations place restrictions on withholding physical activity opportunities as a means of punishment. However, school age programs are prohibited from using corporal punishment, which includes excessive exercise, to control a child’s behavior.

Must child care providers undergo training related to physical activity?

Child care providers must complete a certain number of in-service/professional development training hours each year. However, no training requirements are related specifically to physical activity.

Does Kansas law regulate screen time in child care settings?

Yes, the regulations for day care homes, child care centers, and school age programs all place some restrictions on screen time (Table 4). Day care homes must ensure that all content is age-appropriate, and that no child is required to participate in media viewing. Child care centers must also abide by content restrictions by only showing children’s programs. School age programs are only allowed to use electronic media for special occasions or educational purposes, and must also ensure that the
content is age-appropriate.\textsuperscript{52} Neither the statutes nor the regulations place any specific time restrictions on the use of electronic media, or restrict screen time based on age.

**Conclusion**

The Kansas Legislature has enacted relatively few statutes regulating child care, opting instead to delegate broad authority to the Secretary of the KDHE to regulate the child care setting. This situation allows for expansion of physical activity and nutrition requirements by adopting new regulations instead of enacting new statues. The regulations will carry the force of law as long as they are in line with the enabling statutes that granted KDHE the power to create the regulations.\textsuperscript{53}

<table>
<thead>
<tr>
<th>TABLE 1: Kansas Child Care Meal Plan Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Breakfast</strong></td>
</tr>
</tbody>
</table>
| **Day Care Homes\textsuperscript{54}** | Must include: 
- Fruit, vegetable, or full-strength fruit or vegetable juice\textsuperscript{55} 
- Bread or grain product 
- Milk\textsuperscript{56} | Must include: 
- Meat or meat alternative 
- Two fruits or vegetables, or one of each 
- Bread or grain product 
- Milk\textsuperscript{57} | Must include at least two of the following: 
- Milk\textsuperscript{58} 
- Fruit, vegetable, or full-strength fruit or vegetable juice\textsuperscript{59} 
- Meat or meat alternative 
- Bread or grain product |
| **Child Care Centers\textsuperscript{60}** | Must include: 
- Fruit, vegetable, or full-strength fruit or vegetable juice 
- Bread, bread product, or cereal 
- Milk | Must include: 
- Meat, poultry, fish, egg, cheese, cooked, dried peas or beans, or peanut butter 
- Two fruits or vegetables, or one of each 
- Bread, bread product, or cereal 
- Milk | Must include at least two of the following: 
- Milk, milk product, or food made with milk 
- Fruit, vegetable, or full-strength fruit or vegetable juice 
- Meat or meat alternative 
- Bread, bread product, or cereal |
| **Preschools\textsuperscript{61}** | | | Must include at least one of the following: 
- Milk, milk product, or food made with milk 
- Fruit, vegetable, or full-strength fruit or vegetable juice 
- Meat 
- Peanut butter 
- Bread or cereal product |
| **School Age Programs** | | | |
# TABLE 2: Food and beverages in child care

<table>
<thead>
<tr>
<th></th>
<th>Day Care Home Regulations</th>
<th>Preschool &amp; Child Care Center Regulations</th>
<th>School Age Program Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Meal Plan</strong></td>
<td>Each applicant with a temporary permit and each licensee shall develop and implement menu plans for meals and snacks that contain a variety of healthful foods, including fresh fruits, fresh vegetables, whole grains, lean meats, and low-fat dairy products. 62</td>
<td>Menus shall be posted where parents can see them. Copies of menus served the previous month shall be kept on file. 63</td>
<td></td>
</tr>
<tr>
<td><strong>Water</strong></td>
<td>Drinking water shall be available to each child at all times when the child is in care. 64</td>
<td>Infant and toddler programs. Drinking water shall be available to each child at all times when the child is in care. 65</td>
<td>Each operator shall ensure that safe drinking water is readily available at all times to each individual participating in the program. 66</td>
</tr>
<tr>
<td><strong>Dehydration</strong></td>
<td></td>
<td></td>
<td>Each staff member shall be sensitive to the health status of each child or youth and shall take precautions to prevent the following: (A) Dehydration. 67</td>
</tr>
<tr>
<td><strong>Food Service: Staff</strong></td>
<td></td>
<td>Staff shall sit at the table with the children, and socialization shall be encouraged. 68</td>
<td></td>
</tr>
</tbody>
</table>

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<table>
<thead>
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</tr>
</thead>
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<tr>
<td><strong>Food Service: Children</strong></td>
<td>Meals and snacks shall be served to each child using individual tableware that is appropriate for the food or beverage being served. Food shall be served on tableware appropriate for that food and shall not be served directly on a bare surface, including a tabletop.</td>
<td>Children shall be encouraged to serve themselves. Spoons and forks shall be provided for each child’s use. Appropriate service shall be used for meals and snacks. Children’s food shall not be placed on a bare table. Infant and toddler programs. Children not held for feeding shall have low chairs and tables, infant seats with trays, or high chairs with a wide base and a safety strap.</td>
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</tr>
<tr>
<td><strong>Quantity</strong></td>
<td>A sufficient quantity of food shall be prepared for each meal to allow each child to have a second portion of bread, milk, and either vegetables or fruits.</td>
<td>A sufficient quantity of food shall be prepared for each meal to allow the children second portions of vegetables or fruit, bread, and milk.</td>
<td></td>
</tr>
<tr>
<td><strong>Infant Feeding</strong></td>
<td>If children under 18 months of age are in care, the following requirements shall be met: (A) Each child shall be held when bottle-fed until the child can hold the child’s own bottle. (B) No child shall be allowed to sleep with a bottle in the mouth.</td>
<td>(3) Infants shall be held when bottle-fed until they can hold their own bottles. (4) Infants and toddlers shall not be allowed to sleep with bottles in their mouths. (5) Bottles must be covered, labeled with child’s name and dated.</td>
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</tr>
<tr>
<td><strong>Breast Milk</strong></td>
<td>(C) Each bottle that contains prepared formula or breast milk shall be stored in the refrigerator with the nipple covered. The bottle shall be labeled with the child’s name, the contents, and the date received and shall be used within 24 hours of the date on the label. … (E) No formula or breast milk shall be heated in a microwave oven.</td>
<td>Each bottle that contains prepared formula or breast milk shall be refrigerated with the nipple covered. The bottle shall be labeled with the child’s name, the contents, and the date received and shall be used within 24 hours of the date on the label. If a child does not finish a bottle, the contents of the bottle shall be discarded. No formula or breast milk shall be heated in a microwave oven.</td>
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<td><strong>Solid Foods</strong></td>
<td>Solid foods shall be offered when the provider and the parent or legal guardian of the child determine that the child is ready for solid foods. Opened containers of solid foods shall be labeled with the child's name, the contents, and the date opened. Containers shall be covered and stored in the refrigerator.</td>
<td>Solid foods shall be offered when the program director and the parent or legal guardian of a child determine that the child is ready for solid foods. Opened containers of solid foods shall be labeled with child's name, the contents, and the date opened. Containers shall be covered and refrigerated. The food shall be used within three calendar days of the date opened. Food in previously opened containers shall be reheated only once and shall not be served to another child.</td>
<td></td>
</tr>
<tr>
<td><strong>Behavior Management</strong></td>
<td>Punishment which is humiliating, frightening or physically harmful to the child shall be prohibited. Prohibited methods of punishment include: (D) withholding or forcing foods; (E) placing substances which sting or burn on the child's mouth or tongue.</td>
<td>Punishment which is humiliating, frightening or physically harmful to the child shall be prohibited. Prohibited methods of punishment include: (D) withholding or forcing foods; (E) placing substances which sting or burn on the child's mouth or tongue.</td>
<td>No operator or any staff member shall use any of the following methods of punishment: (E) withholding or forcing foods or liquids; and (F) placing soap, or other substances that sting, burn, or have a bitter taste, in the child's or youth's mouth or on the tongue.</td>
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</tbody>
</table>

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<table>
<thead>
<tr>
<th>Written Activity Plan</th>
<th>Preschool &amp; Child Care Center Regulations</th>
<th>School Age Program Regulations</th>
</tr>
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<tbody>
<tr>
<td></td>
<td>Learning experiences. (1) There shall be a written program plan which includes daily learning experiences appropriate to the developmental level of the children. Experiences shall be designed to develop: (E) large and small muscle skills; (2) The program schedule shall be planned to provide a balance of active, quiet, individual and group activities; (3) A written program plan shall be posted in each unit.</td>
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<tr>
<td>Physical Activity Time</td>
<td>Each child shall be given the opportunity for at least one hour of physical activity daily, either outdoors as described in paragraph (a)(7) or indoors.</td>
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**TABLE 3: Physical Activity**

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<th>Physical Activity Type</th>
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<th>School Age Program Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Physical Activity Type</strong></td>
<td>Each applicant with a temporary permit and each licensee shall provide daily activities that promote healthy growth and development, take into consideration the cultural background and traditions that are familiar to the children, and incorporate both indoor and outdoor activities that are appropriate for the ages and developmental levels of the children in care. The activities, supplies, and equipment shall be designed to promote the following: (A) Large motor and small motor development, which may include running, climbing, jumping, grasping objects, drawing, buttoning, and tying.</td>
<td>The program schedule shall be planned to provide a balance of active, quiet, individual and group activities. Learning experiences. (1) There shall be a written program plan which includes daily learning experiences appropriate to the developmental level of the children. Experiences shall be designed to develop: (E) large and small muscle skills. Infant and toddler programs. (o) Each licensee shall ensure that the following program requirements are met: (1) Daily activities shall contribute to the following: (A) Gross and fine motor development.</td>
<td>(1) Educational and recreational activities shall meet the individual needs of the children. … (3) Activities shall include arts, crafts, music, reading, table games, and sports.</td>
</tr>
<tr>
<td><strong>Outdoor Time</strong></td>
<td>Unless prohibited by the child’s medical condition or extreme weather conditions, each child in care shall be taken outdoors daily. Each child 12 months of age or older shall have the opportunity for at least one hour of outdoor play daily.</td>
<td>Unless extreme weather conditions prevail, children shall have a daily period of outdoor play under the supervision of an adult. Children spending more than four consecutive hours at the center shall play outdoors for at least one hour daily. Infant and toddler programs. (o) Each licensee shall ensure that the following program requirements are met: (2) Infants and toddlers shall spend time outdoors daily unless extreme weather conditions prevail.</td>
<td></td>
</tr>
<tr>
<td><strong>Indoor Space</strong></td>
<td>General environmental requirements. Each facility shall have 25 square feet of available play space per child and shall be constructed, arranged, and maintained to provide for the health and safety of children in care.</td>
<td>The designated area for children’s activities shall contain a minimum of thirty-five square feet of floor space per child, exclusive of kitchen, passageways, storage areas, and bathrooms.</td>
<td>Building-based programs. The license capacity of each building-based program shall be determined by the combined indoor and outdoor available space for activities. For each child or youth counted in the license capacity, each operator shall provide 35 square feet of indoor available space for activities.</td>
</tr>
</tbody>
</table>
### TABLE 3: Physical Activity

<table>
<thead>
<tr>
<th>Outdoor Space</th>
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<th>School Age Program Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Each facility licensed on and after March 1, 2012 shall have a designated area for outdoor play and large motor activities as part of the licensed premises.</td>
<td>Child care centers: outside area. There shall be at least 75 square feet of outdoor play space on the premises for each child using the space at a given time. The total outdoor space shall accommodate not less than one-half of the licensed capacity, or shall include a minimum of 750 square feet, whichever is greater. Preschools. Outdoor play space shall not be required. If outdoor play is included in the preschool program, the requirements of Kan. Admin. Regs. § 28-4-437 (2014) shall be met.</td>
<td>Building-based programs. The license capacity of each building-based program shall be determined by the combined indoor and outdoor available space for activities. [...] If outdoor space is used, the license capacity may be increased by one child or youth for each 75 square feet of outdoor available space for activities, with the total license capacity not to exceed 175% of the license capacity based on the indoor space.</td>
</tr>
</tbody>
</table>

| Behavior Management (Physical Activity) |  |
| Inactivity | Infant and toddler programs. When children are awake, they shall not be left unattended in cribs or other confinement for more than 30 minutes. |

| Infant/Toddler Physical Activity | Infant and toddler programs. When children are awake, they shall not be left unattended in cribs or other confinement for more than 30 minutes. |

Infant and toddler programs. Each licensee shall ensure that the following program requirements are met: (1) Daily activities shall contribute to the following: (A) Gross and fine motor development. |
<table>
<thead>
<tr>
<th>Kansas Day Care Home &amp; Group Day Care Home Regulations</th>
<th>Preschool &amp; Child Care Center Regulations</th>
<th>School Age Program Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Each applicant with a temporary permit and each licensee shall ensure that the following requirements are met if the daily activities include any media viewing: (A) Each program shall be age-appropriate and, if rated, shall have a rating appropriate for the ages and developmental levels of the children who view the program; (B) No child shall be required to participate in media viewing. Each child not engaged in media viewing shall be offered a choice of at least one other activity for that time period.</td>
<td>Child care centers: If television is on the premises, its use shall be limited to children’s programs.</td>
<td>Each operator shall ensure that television programs, videos, and movies are limited to those with age-appropriate content and are shown only for special occasions or educational instruction.</td>
</tr>
</tbody>
</table>

**TABLE 4: Screen Time**

*Last updated: November 2014*

The Public Health Law Center thanks the following people for their review and comments on drafts of this fact sheet: Mary A. Murphy, Director, Policy and Administration Section, Child Care Licensing Program Bureau of Family Health, Kansas Department of Health and Environment; Julie Melcher, Child Nutrition Consultant, Kansas State Department of Education, Child Nutrition & Wellness; Hilary Gee, Director of Health Policy, Kansas Action for Children; and Christi Smith, MBA, Early Childhood Wellness, Child Care Aware® of Kansas.

The Public Health Law Center provides information and technical assistance on issues related to public health. The Public Health Law Center does not provide legal representation or advice. This document should not be considered legal advice. For specific legal questions, consult with an attorney.
Endnotes


9 This factsheet uses the term “day care homes” to refer to both day care homes and group day care homes, which abide by the same set of regulations.


11 Kan. Admin. Regs. §§ 28-4-122–28-4-132 (2014); 28-4-420–28-4-440 (2014). (There are several overlapping sections that apply to both preschools and child care centers, as well as individual sections that apply to one or the other).

12 Kan. Admin. Regs. §§ 28-4-122–28-4-123 (2014); 28-4-420–28-4-440 (2014). (There are several overlapping sections that apply to both preschools and child care centers, as well as individual sections that apply to one or the other).


Nutrition, Active Play & Screen Time Child Care Laws in Kansas

Kan. Admin. Regs. § 28-4-116(a)(7) (2014). (This requirement can be negated by a child’s medical condition or extreme weather conditions).

Kan. Admin. Regs. § 28-4-438(b) (2014). (This requirement can be negated by extreme weather conditions).

Kan. Admin. Regs. § 28-4-115(c) (2014)


Kan. Admin. Regs. § 28-4-116(e)(8) (2014). If a fruit juice or a vegetable juice is served, the juice shall be pasteurized and full-strength.

Milk served to any child who is two years of age or older shall have a fat content of one percent or less, unless a medical reason is documented in writing by a licensed physician. Kan. Admin. Regs. § 28-4-116(e)(7) (2014).

Milk served to any child who is two years of age or older shall have a fat content of one percent or less, unless a medical reason is documented in writing by a licensed physician. Kan. Admin. Regs. § 28-4-116(e)(7) (2014).

Milk served to any child who is two years of age or older shall have a fat content of one percent or less, unless a medical reason is documented in writing by a licensed physician. Kan. Admin. Regs. § 28-4-116(e)(7) (2014).

Juice shall not be served when milk is served as the only other item. Kan. Admin. Regs. § 28-4-116(e)(3)(D) (2014). If a fruit juice or a vegetable juice is served, the juice shall be pasteurized and full-strength. Kan. Admin. Regs. § 28-4-116(e)(8) (2014).


Kan. Admin. Regs. § 28-4-441(c) (2014).