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Note: The following laws are not highlighted on this document because they were highlighted elsewhere:

- I. Kansas Child Care Licensing Laws (K.S.A. 65-501 through K.S.A. 65-535)
- Other Related Laws (K.S.A. 59-2123 and K.S.A. 72-8236 through K.S.A. 72-8238)
- II. General Regulation (K.A.R. 28-4-93)

To find these highlighted rules, please see “KS Day Care Homes and Group Day Care Homes”

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

KANSAS LAWS AND REGULATIONS FOR LICENSING SCHOOL AGE PROGRAMS

July 2015



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KANSAS CHILD CARE LICENSING LAWS Chapter 65. PUBLIC HEALTH

Article 5. MATERNITY CENTERS AND CHILD CARE FACILITIES

Not highlighted (To find these highlighted rules, please see “KS Day Care Homes and Group Day Care Homes”)

K.S.A. 65-501. License or temporary permit required; exemptions.

It shall be unlawful for any person, firm, corporation or association to conduct or maintain a maternity center or a child care facility for children under 16 years of age without having a license or temporary permit therefor from the secretary of health and environment. Nothing in this act shall apply to:

- (a) A residential facility or hospital that is operated and maintained by a state agency as defined in K.S.A. 75-3701 and amendments thereto; or
- (b) a summer instructional camp that:
 - (1) Is operated by a Kansas educational institution as defined in K.S.A. 74-32,120, and amendments thereto, or a postsecondary educational institution as defined in K.S.A. 74-3201b, and amendments thereto;
 - (2) is operated for not more than five weeks;
 - (3) provides instruction to children, all of whom are 10 years of age and older; and
 - (4) is accredited by an agency or organization acceptable to the secretary of health and environment.

History: L. 1919, ch. 210, § 1; R.S. 1923, 65-501; L. 1974, ch. 352, § 85; L. 1978, ch. 236, § 1; L. 1985, ch. 209, § 1; L. 1994, ch. 279, § 4; L. 2001, ch. 101, § 1; April 26.

K.S.A. 65-503. Definitions. As used in this act:

- (a) “Child placement agency” means a business or service conducted, maintained or operated by a person engaged in finding homes for children by placing or arranging for the placement of such children for adoption or foster care.
- (b) “Child care resource and referral agency” means a business or service conducted, maintained or operated by a person engaged in providing resource and referral services, including information of specific services provided by child care facilities, to assist parents to find child care.
- (c) “Child care facility” means:

- (1) A facility maintained by a person who has control or custody of one or more children under 16 years of age, unattended by parent or guardian, for the purpose of providing the children with food or lodging, or both, except children in the custody of the secretary for children and families who are placed with a prospective adoptive family pursuant to the provisions of an adoptive placement agreement or who are related to the person by blood, marriage or legal adoption;
- (2) a children's home, orphanage, maternity home, day care facility or other facility of a type determined by the secretary to require regulation under the provisions of this act;
- (3) a child placement agency or child care resource and referral agency, or a facility maintained by such an agency for the purpose of caring for children under 16 years of age; or
- (4) any receiving or detention home for children under 16 years of age provided or maintained by, or receiving aid from, any city or county or the state.
- (d) "Day care facility" means a child care facility that includes a day care home, preschool, child care center, school-age program or other facility of a type determined by the secretary to require regulation under the provisions of K.S.A. 65-501 et seq., and amendments thereto.
- (e) "Person" means any individual, association, partnership, corporation, government, governmental subdivision or other entity.
- (f) "Boarding school" means a facility which provides 24-hour care to school age children, provides education as its primary function, and is accredited by an accrediting agency acceptable to the secretary of health and environment.
- (g) "Maternity center" means a facility which provides delivery services for normal, uncomplicated pregnancies but does not include a medical care facility as defined by K.S.A. 65-425, and amendments thereto.

History: L. 1919, ch. 210, § 3; R.S. 1923, 65-503; L. 1978, ch. 236, § 2; L. 1978, ch. 237, § 2; L. 1980, ch. 184, § 1; L. 1983, ch. 140, § 45; L. 1994, ch. 279, § 6; L. 1998, ch. 166, § 1; L. 2007, ch. 130, § 1; L. 2010, ch. 161, § 4; L. 2012, ch. 99, § 1; L. 2014, ch. 115, § 248; July 1.

K.S.A. 65-504. Licenses; contents; limitations; posting; inspections; temporary permits; access to premises; temporary licenses; denial or revocation of license; procedure.

- (a) The secretary of health and environment shall have the power to grant a license to a person to maintain a maternity center or child care facility for children under 16 years of age. A license granted to maintain a maternity center or child care facility shall state the name of the licensee, describe the particular premises in or at which the business shall be carried on, whether it shall receive and care for women or children, and the number of women or children that may be treated, maintained, boarded or cared for at any one time. No greater number of women or children than is authorized in the license shall be kept on those

premises and the business shall not be carried on in a building or place not designated in the license. The license shall be kept posted in a conspicuous place on the premises where the business is conducted. A license granted to maintain a day care facility shall have on its face an expiration sticker stating the date of expiration of the license. The secretary of health and environment shall grant no license in any case until careful inspection of the maternity center or child care facility shall have been made according to the terms of this act and until such maternity center or child care facility has complied with all the requirements of this act. Except as provided by this subsection, no license shall be granted without the approval of the secretary for children and families. The secretary of health and environment may issue, without the approval of the secretary for children and families, a temporary permit to operate for a period not to exceed 90 days upon receipt of an initial application for license. The secretary of health and environment may extend, without the approval of the secretary for children and families, the temporary permit to operate for an additional period not to exceed 90 days if an applicant is not in full compliance with the requirements of this act but has made efforts towards full compliance.

- (b)
 - (1) In all cases where the secretary for children and families deems it necessary, an investigation of the maternity center or child care facility shall be made under the supervision of the secretary for children and families or other designated qualified agents. For that purpose and for any subsequent investigations they shall have the right of entry and access to the premises of the center or facility and to any information deemed necessary to the completion of the investigation. In all cases where an investigation is made, a report of the investigation of such center or facility shall be filed with the secretary of health and environment.
 - (2) In cases where neither approval or disapproval can be given within a period of 30 days following formal request for such a study, the secretary of health and environment may issue a temporary license without fee pending final approval or disapproval of the center or facility.
- (c) Whenever the secretary of health and environment refuses to grant a license to an applicant, the secretary shall issue an order to that effect stating the reasons for such denial and within five days after the issuance of such order shall notify the applicant of the refusal. Upon application not more than 15 days after the date of its issuance a hearing on the order shall be held in accordance with the provisions of the Kansas administrative procedure act.
- (d) When the secretary of health and environment finds upon investigation or is advised by the secretary for children and families that any of the provisions of this act or the provisions of K.S.A. 59-2123, and amendments thereto, are being violated, or that the maternity center or child care facility is maintained without due regard to the health, safety or welfare of any woman or child, the secretary of health and environment may issue an order revoking such license after giving notice and conducting a hearing in accordance with the provisions of the Kansas administrative procedure act. The order shall clearly state the reason for the revocation.

- (e) If the secretary revokes or refuses to renew a license, the licensee who had a license revoked or not renewed shall not be eligible to apply for a license for a period of one year subsequent to the date such revocation or refusal to renew becomes final. If the secretary revokes or refuses to renew a license of a licensee who is a repeat, three or more times, violator of statutory requirements or rules and regulations or is found to have contributed to the death or serious bodily harm of a child under such licensee's care, such licensee shall be permanently prohibited from applying for a new license to provide child care or from seeking employment under another licensee.
- (f) Any applicant or licensee aggrieved by a final order of the secretary of health and environment denying or revoking a license under this act may appeal the order in accordance with the Kansas judicial review act.

History: L. 1919, ch. 210, § 4; R.S. 1923, 65-504; L. 1951, ch. 358, § 1; L. 1961, ch. 285, § 1; L. 1974, ch. 352, § 86; L. 1978, ch. 236, § 3; L. 1982, ch. 258, § 3; L. 1983, ch. 147, § 2; L. 1984, ch. 313, § 93; L. 1985, ch. 209, § 2; L. 1988, ch. 239, § 1; L. 1989, ch. 188, § 1; L. 1990, ch. 145, § 37; L. 1991, ch. 184, § 1; L. 1994, ch. 279, § 7; L. 2000, ch. 137, § 1; L. 2010, ch. 161, § 5; L. 2012, ch. 99, § 2; L. 2014, ch. 115, § 249; July 1.

K.S.A. 65-505. License fees; maternity centers and child care licensing fee fund.

- (a) The annual fee for a license to conduct a maternity center or child care facility shall be fixed by the secretary of health and environment by rules and regulations in an amount not exceeding the following:
 - (1) For a maternity center, \$150;
 - (2) for a child placement agency, \$150;
 - (3) for a child care resource and referral agency, \$150; and
 - (4) for any other child care facility, \$75 plus \$1 times the maximum number of children authorized under the license to be on the premises at any one time.

The license fee shall be paid to the secretary of health and environment when the license is applied for and annually thereafter. The fee shall not be refundable. No fee shall be charged for a license to conduct a home for children which is a family foster home as defined in K.A.R. 28-4-311, and amendments thereto. Fees in effect under this subsection (a) immediately prior to the effective date of this act shall continue in effect on and after the effective date of this act until a different fee is established by the secretary of health and environment by rules and regulations under this subsection.

- (b) Any licensee who fails to renew such license within 30 days after the expiration of the license shall pay to the secretary the renewal fee plus a late fee in an amount equal to the fee for the renewal of a license.

- (c) Any licensee applying for an amended license shall pay to the secretary of health and environment a fee established by rules and regulations of the secretary in an amount not exceeding \$35.
- (d) The secretary of health and environment shall remit all moneys received by the secretary from fees under the provisions of this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer, notwithstanding any other law to the contrary, shall deposit the entire amount in the state treasury to the credit of the maternity centers and child care licensing fee fund. All expenditures from the maternity centers and child care licensing fee fund shall be made only for the purposes of article 5 of chapter 65 of the Kansas Statutes Annotated in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of health and environment or by a person or persons designated by the secretary. Notwithstanding any other law to the contrary, no moneys shall be transferred or otherwise revert from this fund to the state general fund by appropriation act or other act of the legislature. Moneys available under this section by the creation of the maternity centers and child care licensing fee fund shall not be substituted for or used to reduce or eliminate moneys available to the department of health and environment to administer the provisions of article 5 of chapter 65 of the Kansas Statutes Annotated. Nothing in this act shall be construed to authorize a reduction or elimination of moneys made available by the state to local units of government for the purposes of article 5 of chapter 65 of the Kansas Statutes Annotated.

History: L. 1919, ch. 210, § 5; R.S. 1923, 65-505; L. 1974, ch. 352, § 87; L. 1978, ch. 236, § 4; L. 1982, ch. 259, § 1; L. 1985, ch. 210, § 2; L. 1986, ch. 230, § 1; L. 1991, ch. 184, § 2; L. 1994, ch. 279, § 8; L. 2001, ch. 5, § 217; L. 2010, ch. 161, § 6; July 1.

K.S.A. 65-506. Notice of issuance, limitation, modification, suspension or revocation of license; notice to parents or guardians of enrollees of limitation, modification, suspension, revocation or denial; unlicensed placements prohibited.

The secretary of health and environment shall serve notice of the issuance, limitation, modification, suspension or revocation of a license to conduct a maternity center or child care facility to the secretary for children and families, juvenile justice authority, department of education, office of the state fire marshal, county, city-county or multi-county department of health, and to any licensed child placement agency or licensed child care resource and referral agency serving the area where the center or facility is located. A maternity center or child care facility that has had a license limited, modified, suspended, revoked or denied by the secretary of health and environment shall notify in writing the parents or guardians of the enrollees of the limitation, modification, suspension, revocation or denial. Neither the secretary for children and families nor any other person shall place or cause to be placed any woman or child under 16 years of age in any maternity center or child care facility not licensed by the secretary of health and environment.

History: L. 1919, ch. 210, § 6; R.S. 1923, 65-506; L. 1951, ch. 358, § 2; L. 1974, ch. 352, § 88; L. 1976, ch. 145, § 211; L. 1978, ch. 236, § 5; L. 1986, ch. 230, § 2; L. 1994, ch. 279, § 9; L. 2000, ch. 127, § 1; L. 2010, ch. 161, § 7; L. 2012, ch. 99, § 3; L. 2014, ch. 115, § 250; July 1.

K.S.A. 65-507. Records of maternity centers and child care facilities; confidentiality.

- (a) Each maternity center licensee shall keep a record upon forms prescribed and provided by the secretary of health and environment and the secretary for children and families which shall include the name of every patient, together with the patient's place of residence during the year preceding admission to the center and the name and address of the attending physician. Each child care facility licensee shall keep a record upon forms prescribed and provided by the secretary of health and environment which shall include the name and age of each child received and cared for in the facility; the name of the physician who attended any sick children in the facility, together with the names and addresses of the parents or guardians of such children; and such other information as the secretary of health and environment or secretary for children and families may require. Each maternity center licensee and each child care facility licensee shall apply to and shall receive without charge from the secretary of health and environment and the secretary for children and families forms for such records as may be required, which forms shall contain a copy of this act.
- (b) Information obtained under this section shall be confidential and shall not be made public in a manner which would identify individuals.

History: L. 1919, ch. 210, § 7; R.S. 1923, 65-507; L. 1951, ch. 358, § 3; L. 1974, ch. 352, § 89; L. 1978, ch. 236, § 6; L. 1994, ch. 279, § 10; L. 2014, ch. 115, § 251; July 1.

K.S.A. 65-508. Equipment, supplies, accommodations; competent supervision and care of children; rules and regulations; immunizations.

- (a) Any maternity center or child care facility subject to the provisions of this act shall:
 - (1) Be properly heated, plumbed, lighted and ventilated;
 - (2) have plumbing, water and sewerage systems which conform to all applicable state and local laws; and
 - (3) be operated with strict regard to the health, safety and welfare of any woman or child.
- (b) Every maternity center or child care facility shall furnish or cause to be furnished for the use of each resident and employee individual towel, wash cloth, comb and individual drinking cup or sanitary bubbling fountain, and toothbrushes for all other than infants, and shall keep or require such articles to be kept at all times in a clean and sanitary condition. Every maternity center or child care facility shall comply with all applicable fire codes and rules and regulations of the state fire marshal.
- (c) (1) The secretary of health and environment with the cooperation of the secretary for children and families shall develop and adopt rules and regulations for the operation and maintenance of maternity centers and child care facilities. The rules and regulations for operating and maintaining maternity centers and child care facilities shall be designed to

promote the health, safety and welfare of any woman or child served in such facilities by ensuring safe and adequate physical surroundings, healthful food, adequate handwashing, safe storage of toxic substances and hazardous chemicals, sanitary diapering and toileting, home sanitation, supervision and care of the residents by capable, qualified persons of sufficient number, after hour care, an adequate program of activities and services, sudden infant death syndrome and safe sleep practices training, prohibition on corporal punishment, crib safety, protection from electrical hazards, protection from swimming pools and other water sources, fire drills, emergency plans, safety of outdoor playground surfaces, door locks, safety gates and transportation and such appropriate parental participation as may be feasible under the circumstances. Boarding schools are excluded from requirements regarding the number of qualified persons who must supervise and provide care to residents.

- (2) Rules and regulations developed under this subsection shall include provisions for the competent supervision and care of children in day care facilities. For purposes of such rules and regulations, competent supervision as this term relates to children less than five years of age includes, but is not limited to, direction of activities, adequate oversight including sight or sound monitoring, or both, physical proximity to children, diapering and toileting practices; and for all children, competent supervision includes, but is not limited to, planning and supervision of daily activities, safe sleep practices, including, but not limited to, visual or sound monitoring, periodic checking, emergency response procedures and drills, illness and injury response procedures, food service preparation and sanitation, playground supervision, pool and water safety practices.
- (d) Each child cared for in a child care facility, including children of the person maintaining the facility, shall be required to have current such immunizations as the secretary of health and environment considers necessary. The person maintaining a child care facility shall maintain a record of each child's immunizations and shall provide to the secretary of health and environment such information relating thereto, in accordance with rules and regulations of the secretary, but the person maintaining a child care facility shall not have such person's license revoked solely for the failure to have or to maintain the immunization records required by this subsection.
- (e) The immunization requirement of subsection (d) shall not apply if one of the following is obtained:
 - (1) Certification from a licensed physician stating that the physical condition of the child is such that immunization would endanger the child's life or health; or
 - (2) a written statement signed by a parent or guardian that the parent or guardian is an adherent of a religious denomination whose teachings are opposed to immunizations.

History: L. 1919, ch. 210, § 8; R.S. 1923, 65-508; L. 1951, ch. 358, § 4; L. 1974, ch. 352, § 90; L. 1978, ch. 236, § 7; L. 1992, ch. 55, § 2; L. 1994, ch. 279, § 11; L. 1995, ch. 183, § 9; L. 1998, ch. 166, § 2; L. 2010, ch. 161, § 8; L. 2012, ch. 99, § 4; L. 2014, ch. 115, § 252; July 1.

K.S.A. 65-510. Unlawful for child care facility to care for adults; exceptions. It shall be unlawful for any child care facility to receive or care for any adult except as authorized by rules and regulations adopted by the secretary of health and environment.

History: L. 1919, ch. 210, § 10; R.S. 1923, 65-510; L. 1965, ch. 369, § 2; L. 1972, ch. 228, § 17; L. 1978, ch. 236, § 8; L. 1988, ch. 240, § 1; L. 1994, ch. 279, § 12; July 1.

K.S.A. 65-512. Inspections.

- (a) It is hereby made the duty of the secretary of health and environment to inspect or cause to be inspected at least once every 15 months prior to July 1, 2012, and once every 12 months thereafter, every maternity center or child care facility, unless otherwise provided in subsections (b) and (c). For the purpose of inspection the secretary or the secretary's authorized agent shall have the right of entry and access thereto in every department and to every place in the premises, shall call for and examine the records which are required to be kept by the provisions of this act and shall make and preserve a record of every inspection. The licensee shall give all reasonable information to the authorized agent of the secretary of health and environment and shall afford every reasonable facility for viewing the premises and seeing the patients or children therein. No such patient or child without the consent of the patient or child shall be required to be interviewed by any agent unless the agent is an authorized person or a licensed physician.
- (b) (1) On or after the effective date of this act, the secretary of health and environment shall commence the inspection of registered family day care homes pursuant to K.S.A. 2012 Supp. 65-533, and amendments thereto.
- (2) The secretary of health and environment shall conduct an inspection of any child care facility upon receiving a complaint. Any new child care facility shall be inspected prior to issuance of a license. The secretary may conduct an inspection of any child care facility that has a record of repeated complaints or serious violations at any time. The secretary shall inspect any child care facility that provides services to military families receiving military assistance for child care every 12 months.
- (c) (1) Except as provided in subsection (b)(2), the following categories of child care facilities which were in compliance on the effective date of this act are not required to be inspected until July 1, 2011: Day care homes, as defined in K.A.R. 28-4-113; group day care homes, as defined in K.A.R. 28-4-113; child care centers, as defined in K.A.R. 28-4-420; preschools, as defined in K.A.R. 28-4-420; school-age programs, as defined in K.A.R. 28-4-576; and drop-in programs, as defined in K.A.R. 28-4-700.
- (2) The provisions of this subsection shall expire on July 1, 2011.

History: L. 1919, ch. 210, § 12; R.S. 1923, 65-512; L. 1974, ch. 352, § 91; L. 1975, ch. 52, § 22; L. 1978, ch. 236, § 9; L. 1986, ch. 230, § 5; L. 1994, ch. 279, § 13; L. 2010, ch. 161, § 9; July 1.

K.S.A. 65-513. Changes or alterations required to comply with law; notice; duty of licensee.

Whenever an authorized agent of the secretary of health and environment or secretary for children and families finds a maternity center or child care facility is not being conducted according to law, it shall be the duty of such agent to notify the licensee in writing of such changes or alterations as the agent determines necessary in order to comply with the requirements of the law, and the agent shall file a copy of such notice with the secretary of health and environment. It shall thereupon be the duty of the licensee to make such changes or alterations as are contained in the written notice within five days from the receipt of such notice. Notice shall be given in accordance with the provisions of the Kansas administrative procedure act.

History: L. 1919, ch. 210, § 13; R.S. 1923, 65-513; L. 1951, ch. 358, § 5; L. 1974, ch. 352, § 92; L. 1978, ch. 236, § 10; L. 1984, ch. 313, § 94; L. 1994, ch. 279, § 14; L. 2014, ch. 115, § 253; July 1.

K.S.A. 65-514. Violations of article 5 of chapter 65; penalties; notice and hearing.

Any person, firm, corporation or association who violates the provisions of article 5 of chapter 65 of the Kansas Statutes Annotated and acts amendatory of the provisions thereof or supplemental thereto shall be guilty of a misdemeanor, and upon conviction shall be fined not less than \$5 nor more than \$50. Each and every day that the person fails or refuses to comply shall be deemed a separate offense under the provisions of article 5 of chapter 65 of the Kansas Statutes Annotated and acts amendatory of the provisions thereof or supplemental thereto. If for 30 days after any final conviction for such violation or revocation of license the person still fails or refuses to comply with the orders in the notice under K.S.A. 65-513 and amendments thereto, upon notice and a hearing in accordance with the provisions of the Kansas administrative procedure act, the building or premises where such home is conducted may be closed until all provisions of this act shall have been complied with.

History: L. 1919, ch. 210, § 14; R.S. 1923, 65-514; L. 1974, ch. 352, § 93; L. 1984, ch. 313, § 95; L. 1989, ch. 189, § 1; July 1.

K.S.A. 65-515. Prosecutions.

The county attorney of each county in this state is hereby authorized and required, upon complaint of any authorized agent of the secretary of health and environment, to file complaint and prosecute to the final determination all actions or proceedings against any person under the provisions of this act.

History: L. 1919, ch. 210, § 15; R.S. 1923, 65-515; L. 1974, ch. 352, § 94; July 1.

K.S.A. 65-516. Restrictions on persons maintaining or residing, working or volunteering at child care facility; criminal history check by secretary of health and environment; information to be provided sponsoring child placement agency.

- (a) No person shall knowingly maintain a child care facility if, there resides, works or regularly volunteers any person who in this state or in other states or the federal government:
 - (1) (A) Has a felony conviction for a crime against persons;

- (B) has a felony conviction under K.S.A. 2010 Supp. 21-36a01 through 2136a17, prior to their transfer, or article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, or any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009;
 - (C) has a conviction of any act which is described in articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2013 Supp. 21-6104, 21-6325, 21-6326 or 21-6418 through 216421, and amendments thereto, or a conviction of an attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A. 2013 Supp. 21-5301, and amendments thereto, to commit any such act or a conviction of conspiracy under K.S.A. 21-3302, prior to its repeal, or K.S.A. 2013 Supp. 21-5302, and amendments thereto, to commit such act, or similar statutes of other states or the federal government; or
 - (D) has been convicted of any act which is described in K.S.A. 21-4301 or 21-4301a, prior to their repeal, or K.S.A. 2013 Supp. 21-6401, and amendments thereto, or similar statutes of other states or the federal government;
- (2) has been adjudicated a juvenile offender because of having committed an act which if done by an adult would constitute the commission of a felony and which is a crime against persons, is any act described in articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2013 Supp. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-6421, and amendments thereto, or similar statutes of other states or the federal government, or is any act described in K.S.A. 21-4301 or 21-4301a, prior to their repeal, or K.S.A. 2013 Supp. 21-6401, and amendments thereto, or similar statutes of other states or the federal government;
- (3) has committed an act of physical, mental or emotional abuse or neglect or sexual abuse and who is listed in the child abuse and neglect registry maintained by the Kansas department for children and families pursuant to K.S.A. 2013 Supp. 382226, and amendments thereto, and
- (A) the person has failed to successfully complete a corrective action plan which had been deemed appropriate and approved by the Kansas department for children and families, or
 - (B) the record has not been expunged pursuant to rules and regulations adopted by the secretary for children and families;
- (4) has had a child removed from home based on a court order pursuant to K.S.A. 2013 Supp. 38-2251, and amendments thereto, in this state, or a court order in any other state based upon a similar statute that finds the child to be deprived or a child in

need of care based on a finding of physical, mental or emotional abuse or neglect or sexual abuse and the child has not been returned to the home or the child reaches majority before being returned to the home and the person has failed to satisfactorily complete a corrective action plan approved by the department of health and environment;

- (5) has had parental rights terminated pursuant to the Kansas juvenile code or K.S.A. 2013 Supp. 38-2266 through 38-2270, and amendments thereto, or a similar statute of other states;
 - (6) has signed a diversion agreement pursuant to K.S.A. 22-2906 et seq., and amendments thereto, or an immediate intervention agreement pursuant to K.S.A. 2013 Supp. 38-2346, and amendments thereto, involving a charge of child abuse or a sexual offense; or
 - (7) has an infectious or contagious disease.
- (b) No person shall maintain a child care facility if such person has been found to be a person in need of a guardian or a conservator, or both, as provided in K.S.A. 59-3050 through 59-3095, and amendments thereto.
 - (c) Any person who resides in a child care facility and who has been found to be a person in need of a guardian or a conservator, or both, shall be counted in the total number of children allowed in care.
 - (d) In accordance with the provisions of this subsection, the secretary of health and environment shall have access to any court orders or adjudications of any court of record, any records of such orders or adjudications, criminal history record information including, but not limited to, diversion agreements, in the possession of the Kansas bureau of investigation and any report of investigations as authorized by K.S.A. 2013 Supp. 38-2226, and amendments thereto, in the possession of the Kansas department for children and families or court of this state concerning persons working, regularly volunteering or residing in a child care facility. The secretary shall have access to these records for the purpose of determining whether or not the home meets the requirements of K.S.A. 59-2132, 65-503, 65-508 and 65-516, and amendments thereto.
 - (e) In accordance with the provisions of this subsection, the secretary is authorized to conduct national criminal history record checks to determine criminal history on persons residing, working or regularly volunteering in a child care facility. In order to conduct a national criminal history check the secretary shall require fingerprinting for identification and determination of criminal history. The secretary shall submit the fingerprints to the Kansas bureau of investigation and to the federal bureau of investigation and receive a reply to enable the secretary to verify the identity of such person and whether such person has been convicted of any crime that would prohibit such person from residing, working or regularly volunteering in a child care facility. The secretary is authorized to use information obtained

from the national criminal history record check to determine such person's fitness to reside, work or regularly volunteer in a child care facility.

- (f) The secretary shall notify the child care applicant or licensee, within seven days by certified mail with return receipt requested, when the result of the national criminal history record check or other appropriate review reveals unfitness specified in subsection (a)(1) through (7) with regard to the person who is the subject of the review.
- (g) No child care facility or the employees thereof, shall be liable for civil damages to any person refused employment or discharged from employment by reason of such facility's or home's compliance with the provisions of this section if such home acts in good faith to comply with this section.
- (h) For the purpose of subsection (a)(3), a person listed in the child abuse and neglect central registry shall not be prohibited from residing, working or volunteering in a child care facility unless such person has:
 - (1) Had an opportunity to be interviewed and present information during the investigation of the alleged act of abuse or neglect; and
 - (2) been given notice of the agency decision and an opportunity to appeal such decision to the secretary and to the courts pursuant to the Kansas judicial review act.
- (i) In regard to Kansas issued criminal history records:
 - (1) The secretary of health and environment shall provide in writing information available to the secretary to each child placement agency requesting information under this section, including the information provided by the Kansas bureau of investigation pursuant to this section, for the purpose of assessing the fitness of persons living, working or regularly volunteering in a family foster home under the child placement agency's sponsorship.
 - (2) The child placement agency is considered to be a governmental entity and the designee of the secretary of health and environment for the purposes of obtaining, using and disseminating information obtained under this section.
 - (3) The information shall be provided to the child placement agency regardless of whether the information discloses that the subject of the request has been convicted of any offense.
 - (4) Whenever the information available to the secretary reveals that the subject of the request has no criminal history or record, the secretary shall provide notice thereof in writing to each child placement agency requesting information under this section.

- (5) Any staff person of a child placement agency who receives information under this subsection shall keep such information confidential, except that the staff person may disclose such information on a need-to-know basis to:
- (A) The person who is the subject of the request for information;
 - (B) the applicant or operator of the family foster home in which the person lives, works or regularly volunteers;
 - (C) the department of health and environment;
 - (D) the Kansas department for children and families;
 - (E) the juvenile justice authority; and (F) the courts.
- (6) A violation of the provisions of subsection (i)(5) shall be an unclassified misdemeanor punishable by a fine of \$100 for each violation.

- (j) No person shall maintain a day care facility unless such person is a high school graduate or the equivalent thereof, except where extraordinary circumstances exist, the secretary of health and environment may exercise discretion to make exceptions to this requirement. The provisions of this subsection shall not apply to any person who was maintaining a day care facility on the day immediately prior to July 1, 2010 or who had an application for an initial license or the renewal of an existing license pending on July 1, 2010.

History: L. 1980, ch. 184, § 2; L. 1982, ch. 259, § 2; L. 1983, ch. 140, § 46; L. 1984, ch. 225, § 1; L. 1985, ch. 210, § 1; L. 1987, ch. 233, § 1; L. 1988, ch. 232, § 10; L. 1991, ch. 185, § 1; L. 1994, ch. 279, § 15; L. 1996, ch. 229, § 117; L. 2002, ch. 114, § 74; L. 2006, ch. 169, § 116; L. 2007, ch. 147, § 1; L. 2009, ch. 32, § 53; L. 2010, ch. 74, § 13; L. 2010, ch. 155, § 18; L. 2011, ch. 30, § 235; L. 2012, ch. 99, § 5; L. 2012, ch. 166, § 10; L. 2014, ch. 115, § 254; July 1.

K.S.A. 65-523. Grounds for limitation, modification or suspension of license or temporary permit.

The secretary may limit, modify or suspend any license or temporary permit issued under the provisions of K.S.A. 65-501 through 65-516, and amendments thereto, upon any of the following grounds and in the manner provided in this act:

- (a) Violation by the licensee or holder of a temporary permit of any provision of this act or of the rules and regulations promulgated under this act;
- (b) aiding, abetting or permitting the violating of any provision of this act or of the rules and regulations promulgated under this act;
- (c) conduct in the operation or maintenance, or both the operation and maintenance, of a maternity center or child care facility which is inimical to the health, safety or welfare of

any woman or child receiving services from such maternity center or child care facility, or the public;

- (d) the conviction of a licensee or holder of a temporary permit, at any time during licensure or during the time the temporary permit is in effect, of crimes as defined in K.S.A. 65516, and amendments thereto; and
- (e) a third or subsequent violation by the licensee or holder of a temporary permit of subsection (b) of K.S.A. 65-530, and amendments thereto.

History: L. 1985, ch. 209, § 3; L. 1994, ch. 279, § 20; L. 2010, ch. 161, § 11; L. 2012, ch. 99, § 6; July 1.

K.S.A. 65-524. Suspension, limitation or modification of license or temporary permit prior to hearing; procedure.

The secretary may limit, modify or suspend any license or temporary permit issued under the provisions of K.S.A. 65-501 through 65-516, and amendments thereto, prior to any hearing when, in the opinion of the secretary, the action is necessary to protect any child in the child care facility from physical or mental abuse, abandonment or any other substantial threat to health, safety or welfare. Administrative proceedings under this section shall be conducted in accordance with the emergency adjudicative proceedings of the Kansas administrative procedure act and in accordance with other relevant provisions of the Kansas administrative procedure act.

History: L. 1985, ch. 209, § 4; L. 1994, ch. 279, § 21; L. 2010, ch. 161, § 12; L. 2012, ch. 99, § 7; July 1.

K.S.A. 65-525. Disclosure of certain information prohibited, exceptions; consent to disseminate certain information required.

- (a) Records in the possession of the department of health environment or its agents regarding child care facilities or maternity centers shall not be released publicly in a manner that would identify individuals, except individual names of licensees, applicants, facilities and maternity centers may be released. Nothing in this section prohibits release of any information as required by law.
- (b) Records in the possession of the department of health and environment or its agents regarding child care facilities or maternity centers may be released to:
 - (1) An agency or organization authorized to receive notice under K.S.A. 65-506, and amendments thereto;
 - (2) any local, state or federal government entity or subdivision thereof;
 - (3) any child and adult care food program sponsoring agency; or
 - (4) any disaster or emergency entity.

- (c) The secretary of health and environment shall prohibit the release of the name, address and telephone number of a maternity center or child care facility when the secretary determines that prohibition of the release of the information is necessary to protect the health, safety or welfare of the public or the patients or children enrolled in the maternity center or child care facility.
- (d) Any records under subsection (a), (b) or (c) shall be available to any member of the standing committee on appropriations of the house of representatives or the standing committee on ways and means of the senate carrying out such member's or committee's official functions in accordance with K.S.A. 75-4319, and amendments thereto, in a closed or executive meeting. Except in limited conditions established by 2/3 of the members of such committee, records received by the committee shall not be further disclosed. Unauthorized disclosure may subject such member to discipline or censure from the house of representatives or senate. Such records shall not identify individuals but shall include data and contract information concerning specific facilities.
- (e) In any hearings conducted under the licensing or regulation provisions of K.S.A. 65-501 et seq., and amendments thereto, the presiding officer may close the hearing to the public to prevent public disclosure of matters relating to persons restricted by other laws.

History: L. 1985, ch. 201, § 1; L. 1996, ch. 229, § 157; L. 2000, ch. 127, § 2; L. 2001, ch. 190, § 1; L. 2004, ch. 145, § 19; L. 2010, ch. 161, § 13; July 1, 2011.

K.S.A. 65-526. Civil fine assessed against licensee; limitations.

- (a) The secretary of health and environment, in addition to any other penalty prescribed under article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, may assess a civil fine, after proper notice and an opportunity to be heard in accordance with the Kansas administrative procedure act, against a licensee for each violation of such provisions or rules and regulations adopted pursuant thereto which affect significantly and adversely the health, safety or sanitation of children in a child care facility. Each civil fine assessed under this section shall not exceed \$500. In the case of a continuing violation, every day such violation continues shall be deemed a separate violation.
- (b) All fines assessed and collected under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

History: L. 1988, ch. 239, § 3; L. 1994, ch. 279, § 22; L. 1999, ch. 19, § 1; L. 2001, ch. 5, § 219; L. 2004, ch. 145, § 20; L. 2010, ch. 161, § 14; July 1.

K.S.A. 65-527. Child care programs in recreation centers and schools; licensing of.

- (a) As used in this section:

- (1) “Child care program” means a day care center, group day care home or day care home.
 - (2) “Recreation center” means any building used by a political or taxing subdivision of this state, or by an agency thereof, for recreation programs which serve children who are 16 years of age or younger.
 - (3) “School” means any building used by a unified school district or an accredited nonpublic school for student instruction or attendance of pupils enrolled in kindergarten or any of the grades 1 through 6.
- (b) No license for a child care program for school age children shall be denied on the basis that the building does not meet requirements for licensure if the building:
- (1) Is a recreation center or school;
 - (2) complies, during all hours of operation of the child care program, with the Kansas fire prevention code or a building code compliance with which is by law deemed to be compliance with the Kansas fire prevention code;
 - (3) subject to subsection (c), complies, during all hours of operation of the child care program, with all local building code provisions that apply to recreation centers, if the building is a recreation center, or schools, if the building is a school; and
 - (4) as a recreation center or school, is used by school age children and the same age children are cared for in the child care program.
- (c) In the case of an inconsistency in standards with which a building is required to comply pursuant to subsections (b)(2) and (b)(3), the standards provided by subsection (b)(2) shall control.

History: L. 1992, ch. 125, § 1; July 1.

K.S.A. 65-528. Child care policy of state; desired outcome.

- (a) The desired outcome of the child care policy of the state of Kansas is that families be able to fulfill their roles as primary child care givers and educators of young children by having access to high quality, affordable child care. The following principles shall guide development and implementation of state policy to achieve that outcome:
 - (1) Family self-sufficiency. A stable source of child care is a critical ingredient to economic self-sufficiency. Child care policies and programs must facilitate a smooth transition into the work force for parents and a rich and stable environment for children.

- (2) Investment in children. Child care is a critical investment that affects a child's readiness to learn. High quality child care programs recognize and implement good early childhood practices.
 - (3) Consumer orientation and education. Child care policies and programs must be responsive to the changing needs of families and educate families about available options, identifying quality programs and selecting appropriate care.
 - (4) **Accessibility. High quality child care must be available to any family seeking care regardless of where the family lives or the special needs of the child. A centralized place in local communities must be available to facilitate parents' access to child care.**
 - (5) **Affordability. High quality child care must be available on a sliding scale basis, with families contributing based on ability to pay.**
 - (6) **Diversity. It is the goal of the state to strive wherever possible to provide child care in an integrated setting where children with various needs and of various income levels and cultures are cared for together.**
 - (7) Efficient, coordinated administration and support for infrastructure. Child care programs must be coordinated to ensure the most effective use of federal, state, local and private funds. State child care agencies and policies must support the orderly development of a high quality child care system working with local and private providers.
- (b) Any state agency involved in implementing any part of the state's child care policy shall develop appropriate measures of progress toward achievement of the stated outcome under the oversight of the joint committee on children and families in accordance with K.S.A. 46-2001 et seq. and amendments thereto.

History: L. 1994, ch. 279, § 1; July 1.

K.S.A. 65-529. Continuation of effect of license, registration or permit.

Any license, certificate of registration or temporary permit which was issued prior to the effective date of this act and which is in effect on the effective date of this act shall continue in effect until the expiration thereof, unless suspended or revoked prior to such time.

History: L. 1994, ch. 279, § 23; July 1.

K.S.A. 65-530. Smoking prohibited in day care homes.

- (a) As used in this section:

- (1) “Day care home” means a day care home as defined under Kansas administrative regulation 28-4-113 and a group day care home as defined under Kansas administrative regulation 28-4-113.
- (2) “Smoking” means possession of a lighted cigarette, cigar, pipe or burning tobacco in any other form or device designed for the use of tobacco.
- (b) Smoking within any room, enclosed area or other enclosed space of a facility or facilities of a day care home during a time when children who are not related by blood, marriage or legal adoption to the person who maintains the home are being cared for, as part of the operation of the day care home, within the facility or facilities is hereby prohibited. Nothing in this subsection shall be construed to prohibit smoking on the premises of the day care home outside the facility or facilities of a day care home, including but not limited to porches, yards or garages.
- (c) Each child care license shall contain a statement in bold print that smoking is prohibited within a room, enclosed area or other enclosed space of the facility or facilities of the day care home under the conditions specified in subsection (b). **The statement shall be phrased in substantially the same language as subsection (b).** The license shall be posted in a conspicuous place in the facility or facilities.
- (d) Each day care home shall be equipped with a fire extinguisher which shall be maintained in an operable condition in a readily accessible location.
- (e) The secretary of health and environment may levy a civil fine under K.S.A. 65-526, and amendments thereto, against any day care home for a first or second violation of this section. A third or subsequent violation shall be subject to the provisions of K.S.A. 65-523, and amendments thereto.
- (f) In addition to any civil fine which may be levied pursuant to subsection (d), any day care home that violates any provision of this section may also be subject to criminal punishment pursuant to K.S.A. 21-4012 and amendments thereto.

History: L. 1994, ch. 279, § 26; L. 2010, ch. 8, § 7; L. 2011, ch. 91, § 28; July 1.

K.S.A. 65-531. Immunization information and records; disclosure. On and after July 1, 1996:

- (a) Except as provided further, information and records which pertain to the immunization status of persons against childhood diseases as required by K.S.A. 65-508, and amendments thereto, may be disclosed and exchanged without a parent or guardian's written release authorizing such disclosure, to the following, who need to know such information to assure compliance with state statutes or to achieve age appropriate immunization status for children:
 - (1) Employees of public agencies or departments;

- (2) health records staff of child care facilities, including, but not limited to, facilities licensed by the secretary of health and environment;
 - (3) persons other than public employees who are entrusted with the regular care of those under the care and custody of a state agency including, but not limited to, operators of day care facilities, group homes, residential care facilities and adoptive or foster homes; and
 - (4) health care professionals.
- (b) Notwithstanding K.S.A. 60-427, and amendments thereto, or any other Kansas statute which provides for privileged information between a patient and a health care provider, there shall be no privilege preventing the furnishing of information and records as authorized by this section by any health care provider.
 - (c) Information and records which pertain to the immunization status of persons against childhood diseases as required by K.S.A. 65-508, and amendments thereto, whose parent or guardian has submitted a written statement of religious objection to immunization as provided in K.S.A. 65-508, and amendments thereto, may not be disclosed or exchanged without a parent or guardian's written release authorizing such disclosure.

History: L. 1996, ch. 229, § 156; L. 2010, ch. 161, § 16; July 1.

K.S.A. 65-532. Lexie's law. The changes to law in this act shall be known as Lexie's law.

History: L. 2010, ch. 161, § 1; July 1.

K.S.A. 65-534. Online information dissemination system; rules and regulations. On or before July 1, 2011, the secretary of health and environment shall establish or cause to be established an online information dissemination system that is accessible to the public, including names of licensees, applicants and history of citations and substantiated findings. The secretary of health and environment shall adopt rules and regulations which are consistent with the requirements for the receipt of child care ARRA funds and which provide for the establishment of an online information dissemination system in accordance with the provisions of this subsection. The notice of hearing on the initial rules and regulations proposed to be adopted under this subsection shall be published in the Kansas register after February 14, 2011, but prior to March 11, 2011.

History: L. 2010, ch. 161, § 18; July 1.

K.S.A. 65-535. Staff secure facility; requirements; services; rules and regulations.

- (a) A staff secure facility shall:
 - (1) Not include construction features designed to physically restrict the movements and activities of residents, but shall have a design, structure, interior and exterior environment, and furnishings to promote a safe, comfortable and therapeutic environment for the residents;

- (2) implement written policies and procedures that include the use of a combination of supervision, inspection and accountability to promote safe and orderly operations;
 - (3) rely on locked entrances and delayed-exit mechanisms to secure the facility, and implement reasonable rules restricting entrance to and egress from the facility;
 - (4) implement written policies and procedures for 24-hour-a-day staff observation of all facility entrances and exits;
 - (5) implement written policies and procedures for the screening and searching of both residents and visitors;
 - (6) implement written policies and procedures for knowing the whereabouts of all residents at all times and for handling runaways and unauthorized absences; and
 - (7) implement written policies and procedures for determining when the movements and activities of individual residents may, for treatment purposes, be restricted or subject to control through the use of intensive staff supervision.
- (b) A staff secure facility shall provide the following services to children placed in such facility:
- (1) Case management;
 - (2) life skills training;
 - (3) health care;
 - (4) mental health counseling;
 - (5) substance abuse screening and treatment; and
 - (6) any other appropriate services.
- (c) Service providers in a staff secure facility shall be trained to counsel and assist victims of human trafficking and sexual exploitation.
- (d) If the staff secure facility is on the same premises as that of another licensed facility, the living unit of the staff secure facility shall be maintained in a separate, self-contained unit. No staff secure facility shall be in a city or county jail.
- (e) The secretary of health and environment, in consultation with the attorney general, shall promulgate rules and regulations to implement the provisions of this section on or before January 1, 2014.

- (f) This section shall be part of and supplemental to article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

History: L. 2013, ch. 120, § 6; L. 2014, ch. 28, § 7; July 1.

OTHER RELATED LAWS

Not highlighted (To find these highlighted rules, please see “KS Day Care Homes and Group Day Care Homes”)

Chapter 59. PROBATE CODE

Article 21. ADOPTION

K.S.A. 59-2123. Certain advertisements and offers relating to adopting and placing children prohibited; licensure of person placing advertisement; definitions.

- (a) Except as otherwise provided in this section:
- (1) Any person who advertises that such person will adopt, find an adoptive home for a child or otherwise place a child for adoption shall state in such advertisement

whether or not such person is licensed and if licensed, under what authority such license is issued and in what profession;

- (2) no person shall offer to adopt, find a home for or otherwise place a child as an inducement to a woman to come to such person's maternity center during pregnancy or after delivery; and
- (3) no person shall offer to adopt, find a home for or otherwise place a child as an inducement to any parent, guardian or custodian of a child to place such child in such person's home, institution or establishment.
- (b) The provisions of subsection (a)(1) shall not apply to the Kansas department for children and families or to an individual seeking to adopt a child.
- (c) As used in this section:
 - (1) "Advertise" means to communicate by newspaper, radio, television, handbills, placards or other print, broadcast, telephone directory or electronic medium.
 - (2) "Person" means an individual, firm, partnership, corporation, joint venture or other association or entity.
 - (3) "Maternity center" means the same as provided in K.S.A. 65-502, and amendments thereto.
- (d) Any person who violates the provisions of this section shall be guilty of an unclassified misdemeanor and shall be fined not more than \$1,000 for each violation.

History: L. 1990, ch. 145, § 13; L. 1994, ch. 279, § 3; L. 2008, ch. 140, § 1; L. 2014, ch. 115, § 202; July 1.

Not highlighted (To find these highlighted rules, please see "KS Day Care Homes and Group Day Care Homes")

Chapter 72. SCHOOLS

Article 82. ORGANIZATION, POWERS AND FINANCES OF BOARDS OF EDUCATION

K.S.A. 72-8236. Child care facilities; authority to establish, operate, and maintain; fees, collection and disposition.

- (a) The board of education of any school district may:
 - (1) Establish, operate and maintain a child care facility;

- (2) enter into cooperative or interlocal agreements with one or more other boards for the establishment, operation and maintenance of a child care facility;
 - (3) contract with private, nonprofit corporations or associations or with any public or private agency or institution, whether located within or outside the state, for the establishment, operation and maintenance of a child care facility; and
 - (4) prescribe and collect fees for providing care at a child care facility.
- (b) Fees for providing care at a child care facility established under authority of this section shall be prescribed and collected only to recover the costs incurred as a result of and directly attributable to the establishment, operation and maintenance of the child care facility. Revenues from fees collected by a board under this section shall be deposited in the general fund of the school district and shall be considered reimbursements to the district for the purpose of the classroom learning assuring student success act, section 4 et seq., and amendments thereto, and may be expended whether the same have been budgeted or not and amounts so expended shall not be considered operating expenses.
 - (c) Every school district which establishes, operates and maintains a child care facility shall be subject to the provisions contained in article 5 of chapter 65 of Kansas Statutes Annotated, and amendments thereto.
 - (d) As used in this section, the term “child” means any child who is three years of age or older, and any infant or toddler whose parent or parents are pupils or employees of a school district which establishes, operates and maintains, or cooperates in the establishment, operation and maintenance of, a child care facility under authority of this act.

History: L. 1993, ch. 186, § 1; L. 2015, ch. 4, § 53; July 1.

K.S.A. 72-8237. Summer programs; establishment; fees, limitation; summer program fund; use of money, unencumbered balance in fund.

- (a) The board of education of any school district may:
 - (1) Establish, operate and maintain a summer program for pupils;
 - (2) enter into cooperative or interlocal agreements with one or more other boards of education for the establishment, operation and maintenance of a summer program for pupils; and
 - (3) prescribe and collect fees for providing a summer program for pupils or provide such program without charge.

- (b) Fees for providing a summer program for pupils shall be prescribed and collected only to recover the costs incurred as a result of and directly attributable to the establishment, operation and maintenance of the program.
- (c) No school district may collect fees for providing a summer program for pupils required to attend such a program in accordance with the provisions of law, rules and regulations of the state board of education, policy of the board of education, or an individualized education plan developed for an exceptional child.
- (d) There is hereby established in every district which establishes, operates and maintains a summer program a fund which shall be called the summer program fund, which fund shall consist of all moneys deposited therein or transferred thereto according to law. All moneys received by a district from fees collected under this section or from any other source for summer programs shall be credited to the summer program fund. Amounts deposited in the summer program fund may be used for the payment of expenses directly attributable to the program or may be transferred to the general fund of the school district as approved by the board of education.
- (e) As used in this section, the term “summer program” means a program which is established by the board of education of a school district and operated during the summer months for the purpose of giving remedial instruction to pupils or for the purpose of conducting special projects and activities designed to enrich and enhance the educational experience of pupils, or for both such purposes.

History: L. 1993, ch. 264, § 15; L. 2011, ch. 107, § 12; L. 2012, ch. 155, § 14; L. 2013, ch. 121, § 13; L. 2015, ch. 4, § 54; July 1.

K.S.A. 72-8238. Extraordinary school programs; authority to establish, operate and maintain; fees, collection, limitations, disposition; fund.

- (a) The board of education of any school district may:
 - (1) Establish, operate and maintain an extraordinary school program for pupils who meet the district's criteria for attendance of such programs;
 - (2) enter into cooperative or interlocal agreements with one or more other boards of education for the establishment, operation and maintenance of an extraordinary school program for pupils; and
 - (3) prescribe and collect fees for providing an extraordinary school program for pupils or provide such program without charge.
- (b) Fees for providing an extraordinary school program for pupils shall be prescribed and collected only to recover the cost incurred as a result of and directly attributable to the establishment, operation and maintenance of the program.

- (c) No school district may collect fees for providing an extraordinary school program for pupils who are required to attend such a program in accordance with the provisions of law, rules and regulations of the state board of education, policy of the board of education, or an individualized education plan developed for an exceptional child or who are eligible for free or reduced price meals under the national school lunch act.
- (d) There is hereby established in every district which establishes, operates and maintains an extraordinary school program a fund which shall be called the extraordinary school program fund, which fund shall consist of all moneys deposited therein or transferred thereto according to law. All moneys received by a district from fees collected under this section or from any other source for extraordinary school programs shall be credited to the extraordinary school program fund. The expenses of a district directly attributable to extraordinary school programs shall be paid from the extraordinary school program fund.
- (e) As used in this section, the term “extraordinary school program” means a program which is established by the board of education of a school district, operated before or after regular school hours during the regular school term, and maintained for any or all of the following purposes:
 - (1) Providing pupils with additional time to achieve learner exit or improvement plan outcomes;
 - (2) giving pupils remedial instruction or independent study assistance;
 - (3) affording pupils an opportunity to strengthen or attain mastery of basic or higher order thinking skills; and
 - (4) conducting special projects and activities designed to enrich and enhance the educational experience of pupils.

History: L. 1994, ch. 310, § 1; July 1.

Not highlighted (To find these highlighted rules, please see “KS Day Care Homes and Group Day Care Homes”)

GENERAL REGULATION

K.A.R. 28-4-93. Online information dissemination system. This regulation shall apply to the department’s online information dissemination system for child care facilities, as defined in K.S.A. 65-503 and amendments thereto.

- (a) Definitions. The following terms shall have the meanings specified in this regulation:
 - (1) “Applicant” means a person who has applied for a license to operate a child care facility but who has not yet been granted the license.

- (2) “Applicant with a temporary permit” means a person who has been granted a temporary permit to operate a child care facility.
- (3) “Department” means Kansas department of health and environment.
- (4) “Licensee” means a person who has been granted a license to operate a child care facility.
- (5) “Online information dissemination system” means the electronic database of the department that is accessible to the public.
- (b) Identifying information. Each applicant, each applicant with a temporary permit, and each licensee that wants the department to display the address and the telephone number of the child care facility on the online information dissemination system shall notify the department on a form provided by the department.

(Authorized by and implementing K.S.A. 2010 Supp. 65-534; effective Feb. 3, 2012.)

REGULATIONS FOR LICENSING SCHOOL AGE PROGRAMS

K.A.R. 28-4-576. Definitions.

green, yellow, orange

- (a) “Academic credit hour” means credit earned for coursework through an accredited postsecondary educational institution.
- (b) “Administrative order” means an order that is issued by the secretary as specified in K.S.A. 65-501 et seq., and amendments thereto, and that is subject to the Kansas administrative procedures act.
- (c) “Administrator” means the staff member who is responsible for the general and fiscal management of the program.
- (d) “Adult responsible for a child or youth” means any of the following adults who is other than the child's or youth's legal parent and who is responsible for the care and upbringing of the child or youth:
 - (1) A stepparent;
 - (2) a grandparent;
 - (3) another relative; or
 - (4) a foster parent.
- (e) “Animal” means any living creature, other than a human being, that has the ability to move voluntarily and shall include mammals, rodents, fish, reptiles, insects, spiders, and birds.
- (f) “Annual renewal date” means the date assigned to each licensee for the submission of the documents required to renew the license and payment of the annual license fee.
- (g) “Applicant” means any person who has submitted an initial application for a license to operate a school-age program but has not received a temporary permit or license.
- (h) “Available space for activities” means the indoor and outdoor space on the premises that is used by children and youth during the hours of operation in carrying out the program of activities. The following shall not be counted as available space for activities:
 - (1) Kitchens;
 - (2) rest rooms;
 - (3) hallways and passageways;

- (4) storage areas;
- (5) offices;
- (6) teacher or employee lounges and workrooms; and
- (7) any other space not used by the children or youth for activities.
- (i) “Basement” means an area with a floor level more than 30 inches below ground level on all four sides.
- (j) “Building” means a structure used for shelter that has a roof and is enclosed by walls on all sides.

(k) “Child or youth with special needs” means a child or youth who requires specialized programs, services, interventions, or technologies while attending the program, due to any of the following conditions:

- (1) A developmental disability;
- (2) mental retardation;
- (3) mental illness;
- (4) an emotional or behavioral difficulty;
- (5) sensory or motor impairment; or
- (6) a chronic illness.

(l) “Day reporting program” means a program that provides specialized services designed to enable juvenile offenders 10 years of age and older to remain offense-free while living in the community.

(m) “Department” means the Kansas department of health and environment.

(n) “Drop-in program” means a child care facility as defined in K.A.R. 28-4-700(e).

(o) “Group” means a limited number of children or youth assigned to a staff member or team of staff members.

(p) “High-risk sport or recreational activity” means a sport or recreational activity that poses a significant risk of injury to the participant. Safe participation in the activity shall require specialized instruction and may require protective safety gear.

(q) “Individualized program plan” and “IPP” mean a written, goal-oriented plan of specialized services for each child or youth with special needs or for each juvenile

offender attending a day reporting program. Each operator shall ensure that the IPP assigns responsibility for the delivery of the specialized services.

- (r) “Job-related experience” means experience approved by the secretary that includes teaching, working, and volunteering with school-age children and youth.
- (s) “Kindergarten-age child” means a child who is attending kindergarten or who has completed kindergarten and has not entered first grade.
- (t) “License” means the document issued by the secretary that authorizes a person to operate a school-age program.
- (u) “License capacity” means the maximum number of children or youth, or both, authorized by the temporary permit or license to attend the program at any one time.
- (v) “Meal” means breakfast, lunch, or dinner.
- (w) “Mobile summer program” means a program that operates only during the summer months. Children and youth meet at a designated pick-up and drop-off site, and are transported daily to locations off the premises for program activities.
- (x) “Notice of survey findings” means a written record documenting the results of an inspection or investigation conducted by the secretary’s designee to determine compliance with applicable statutes and regulations.
- (y) “Operator” means a person who holds a temporary permit or license to conduct a school-age program.
- (z) “Outdoor summer camp” means a program that operates only during the summer months and is conducted at an outdoor location for the duration of the program, but does not include any summer instructional camps as defined in K.S.A. 65-501, and amendments thereto.
- (aa) “Premises” means the location, including the building or buildings and adjoining grounds, for which the operator has a temporary permit or license to conduct a school-age program.
- (bb) “Professional development training” means training approved by the secretary that is related to working with school-age children and youth.
- (cc) “Program director” means the staff member who is approved by the secretary as meeting the qualifications specified in K.A.R. 28-4-587 and who is responsible for implementing and supervising the program of activities.
- (dd) “Program director designee” means the staff member whom the operator designates to conduct the program in the temporary absence of the program director for a period not to

exceed two consecutive weeks, or at the beginning and end of any day that exceeds eight hours.

- (ee) “Program of activities” means a comprehensive and coordinated plan of activities that meets the following criteria:
 - (1) Promotes cognitive, emotional, social, and physical development;
 - (2) supports the well-being of each child or youth; and
 - (3) protects the safety of each child and youth in attendance.
- (ff) “Public recreation center” means any building used by a political or taxing subdivision of this state, or by an agency of a state subdivision, for recreation programs that serve children and youth.
- (gg) “Regularly volunteering” means working in a program on a recurring basis and without compensation. This term shall not apply to guest speakers and to persons who make one or more presentations on a specific subject.

(hh) “School-age child” and “child” mean an individual who is of kindergarten age through the academic year in which the child is in the sixth grade and who is attending the program. Each school-age child shall be included in the license capacity.

(ii) “School-age program” and “program” mean a child care facility that serves exclusively school-age children and youth, but shall not include a drop-in program as defined in this regulation.

(jj) “School-age youth” and “youth” mean an individual who meets the following conditions:

- (1) Has completed sixth grade or is 12 years of age or older;
- (2) is less than 18 years of age;
- (3) is attending the program; and
- (4) is not a volunteer or employee.

Each school-age youth shall be included in the license capacity.

(kk) “Secretary” means the secretary of the Kansas department of health and environment.

(ll) “Secretary's designee” means the person designated by the secretary to assess compliance with program regulations.

(mm) “Snack” means supplemental food served between meals.

(nn) “Specialized services” means additional services provided by the program to meet the special needs identified in the IPP for a specific child or youth.

(oo) “Staff member” means both of the following:

- (1) All personnel, including employees, substitutes, and volunteers, who provide administrative or direct services to children and youth; and
- (2) auxiliary personnel, including cooks, drivers, office workers, and housekeeping staff, who provide indirect services.

(pp) “Supervisory ratio” means the ratio consisting of the number of staff members required to provide direct services and supervision to a specified number of children or youth.

(qq) “Temporary permit” means the document issued pursuant to K.S.A. 65-504, and amendments thereto, that authorizes a person to operate a school-age program before receiving a license as required by K.S.A. 65-501, and amendments thereto.

(rr) “Time-out area” means a designated, supervised space in the activity area that is used to separate a child or youth from the group for a limited period of time, to allow the child or youth to regain self-control.

(ss) “Use zone” means the surface under and around a piece of equipment onto which a child or youth falling from or exiting the equipment would be expected to land.

(Authorized by and implementing K.S.A. 65-508; effective, T-28-4-1-02, April 1, 2002; effective Jan. 10, 2003; amended, T-28-3-19-04, March 19, 2004; amended Sept. 10, 2004.)

K.A.R. 28-4-577. Terms of temporary permit or license.

(a) License capacity.

(1) 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. 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.

(2) Outdoor summer camps. The license capacity of each outdoor summer camp shall be determined by the available space for activities. For each child or youth counted in the license capacity, the operator shall provide 75 square feet of available space for activities.

(3) Mobile summer programs. The license capacity of each mobile summer program shall be determined by the available space for activities at the drop-off and pick-up site. Each

operator shall provide 20 square feet of available space for activities at the site for each child and youth.

- (b) Posting temporary permit or license. Each operator shall post each temporary permit or license in a conspicuous place on the premises that is visible to parents.
- (c) License capacity not to be exceeded. Each operator shall limit the number of children and youth attending the program at any one time within the license capacity specified on the license.
- (d) Provisions for issuing license. No license shall be issued by the secretary until all the applicable provisions of the following have been met:
 - (1) K.S.A. 65-501 through K.S.A. 65-516, and amendments thereto;
 - (2) K.S.A. 65-523 through K.S.A. 65-529, and amendments thereto;
 - (3) K.S.A. 65-531, and amendments thereto; and
 - (4) all applicable regulations.
- (e) Validity of temporary permit or license.
 - (1) Each temporary permit or license shall be valid only for the person and the address specified on the temporary permit or license.
 - (2) When an initial or amended license becomes effective, all temporary permits, licenses, or certificates of registration previously issued to the operator at the same address shall become invalid.
- (f) Withdrawal of application. Any applicant or operator may, at any time, submit a request to withdraw the application for a license or a license renewal. If an application for license or license renewal is withdrawn, each temporary permit or license issued to the operator based on that application shall become invalid.

(Authorized by K.S.A. 65-508; implementing K.S.A. 65-504; effective, T-28-4-1-02, April 1, 2002; effective Jan. 10, 2003; amended, T-28-3-19-04, March 19, 2004; amended Sept. 10, 2004.)

K.A.R. 28-4-578. Licensure; amended license; exceptions; notification; renewal. Each person shall have a temporary permit or license to operate a school-age program before children or youth are in attendance.

- (a) Temporary permit or license required. Each person desiring to operate a school-age program that meets one or more of the following criteria shall obtain a temporary permit or license from the secretary to operate a child care facility as specified in K.S.A. 65-503, and amendments thereto:

- (1) The program is designed to allow two or more school-age children on a drop-in or enrolled basis to attend 12 hours a week or more for more than two consecutive weeks, and is not an instructional class or activity as specified in paragraph (b)(3) of this regulation.
- (2) The public agency providing funding to the program requires the program to be licensed as a child care facility.
- (3) The program is a day reporting program for children 10 years of age or older and youth.
- (4) The program is a specialized treatment, therapeutic, correctional, or rehabilitative program for school-age children or youth that children or youth attend 12 hours a week or more for more than two consecutive weeks.

(b) Exclusions. The following shall not be considered child care facilities:

- (1) An “extraordinary school program,” as defined in K.S.A. 72-8238, and amendments thereto, or a similar extended school day program that is conducted on the premises of an accredited non-public school, is attended only by pupils enrolled in the school in which the program is being conducted, and is staffed by certified elementary school teachers;
- (2) a “summer program,” as defined in K.S.A. 72-8237, and amendments thereto;
- (3) an instructional class or activity in which a child or youth is enrolled for the purpose of participating in only one specific subject or skill-building area, including religious instruction in a specific doctrine or tenet, academic or remedial instruction, a basketball clinic, a baseball league, dance or drama class, or a class in martial arts;
- (4) a program of activities that serves exclusively school-age youth and that is not required to be licensed as specified in subsection (a) of this regulation;
- (5) a program of activities that serves exclusively youth who are 16 years of age and older; and
- (6) a program that is operated by a local unit of government or school district and that operates for no more than four consecutive hours per day or for no more than two consecutive weeks.

(c) New temporary permit or license required. Each operator shall submit a new application, the required forms, and the license fee, and shall obtain a new temporary permit or license from the secretary, as follows:

- (1) Before a program that has been closed is reopened;

- (2) if there is a change in the location of the program; or
- (3) if there is a change of ownership of the program.
- (d) Amended temporary permit or license.
 - (1) Each operator who intends to change the terms of the temporary permit or license, including the license capacity or the age of children and youth served, shall submit an application for an amended temporary permit or license on a form supplied by the department, and a non-refundable \$35 amendment fee. An amendment fee shall not be required if the request to change the terms of license is made at the time of the annual review of the program.
 - (2) The operator shall not consider the amendment granted until the amended temporary permit or license is issued by the secretary.
- (e) Exceptions.
 - (1) Any operator may submit a written request for an exception to a school-age program regulation on a form supplied by the department.
 - (2) An exception may be granted if the secretary determines that the exception is in the best interest of the child's or youth's health, safety, or well-being, serves the needs of the child's or youth's family, and does not violate statutory requirements.
 - (3) If an exception is granted, each operator shall receive written notice of the approval of the exception and its duration. The approval shall be posted with the temporary permit or license. The exception shall not be considered granted until written approval is given by the secretary.
- (f) Notification requirements. Each applicant or operator shall notify the secretary in writing before withdrawing the application, closing the program, or changing any of the following:
 - (1) High-risk sports or recreational activities offered by the program;
 - (2) the program director;
 - (3) the physical structure of the program site due to new construction or substantial remodeling that affects the license capacity; or
 - (4) the use of any part of the premises that affects the license capacity.
- (g) Annual renewal.

- (1) Before the annual renewal date, each licensee wishing to renew the license shall submit the annual nonrefundable license fee and shall complete and submit the following to the secretary on forms supplied by the department:
 - (A) An application to renew the license;
 - (B) the program director's annual report; and
 - (C) a request to conduct a criminal history and child abuse registry background check.

- (2) Failure to submit the annual renewal documents and fee as required by paragraph (g)(1) of this regulation shall result in an assessment of a \$10.00 late renewal fee payable to the secretary and may result in suspension of the license. Each late renewal fee assessed shall be paid upon request.

(Authorized by K.S.A. 65-508; implementing K.S.A. 65-501, 65-504, 65-505, and 65-516; effective, T-28-4-1-02, April 1, 2002; effective Jan. 10, 2003; amended, T-28-3-19-04, March 19, 2004; amended Sept. 10, 2004.)

K.A.R. 28-4-579. Applicant requirements.

- (a) Each individual submitting an application for a license shall be 21 years of age or older at the time of application.
- (b) Each corporation applying for a license shall be in good standing with the Kansas secretary of state.

(Authorized by K.S.A. 2001 Supp. 65-508; implementing K.S.A. 2001 Supp. 65-504 and 65-508; effective, T-28-4-1-02, April 1, 2002; effective Jan. 10, 2003.)

K.A.R. 28-4-580. Application procedures; advertising.

- (a) Application procedures.
- (1) Each person wishing to conduct a school-age program shall submit a complete application on forms supplied by the department. The application shall be submitted at least 90 calendar days before the planned opening date of the program and shall include the following:

(A) A description of the program of activities and services to be offered, including the following:

- (i) A statement of the program's purpose and goals;
- (ii) the number and ages of children and youth for whom the program is designed; and
- (iii) the anticipated opening date and the projected hours and months of operation;

(B) a request for a criminal history and child abuse registry background check as specified in K.A.R. 28-4-584; and

(C) a nonrefundable license fee of \$20.00.

(2) If an existing building is to be used, the applicant shall submit a detailed floor plan describing all of the following:

- (A) The intended use of the space;
- (B) the location of each activity area within the building;
- (C) the measurements for each room used by children and youth for activities;
- (D) the location of each rest room designated for use, including the number of toilets, urinals, and hand sinks; and
- (E) the location of entrances and exits.

(3) If new construction or remodeling is planned, the applicant shall submit a building and site plan to the secretary at least 45 calendar days before the construction or remodeling is scheduled to begin. Each building and site plan shall include all of the information listed in paragraph (a)(2) of this regulation. Each applicant shall obtain approval of the plan from the secretary before beginning construction or remodeling. If changes are made to the building or site plan following the secretary's approval, the applicant shall submit a description of the proposed changes to the secretary for approval before construction or remodeling begins.

(4) If outdoor activities are conducted on the premises, the applicant shall include a diagram of the outside activity area for approval by the secretary. The diagram shall include the following:

- (A) Measurements of the space to be used;

- (B) the location relative to the building;
 - (C) the means of access to the area from the building;
 - (D) the placement of anchored equipment; and
 - (E) the location of any hazards adjacent to the outside activity area, including heavily traveled streets, railroad tracks, and bodies of water.
- (5) Each applicant for a license to conduct an outdoor summer camp shall submit documentation of site approval as specified in K.A.R. 28-4-586.
- (b) Advertising. If an applicant advertises the availability of the program, the advertisement shall not contradict the written description of the program of activities and services submitted with the application. The applicant shall not make a claim of “state approval” until the secretary issues a temporary permit or license.

(Authorized by K.S.A. 2001 Supp. 65-508; implementing K.S.A. 2001 Supp. 65-505 and 65-508; effective, T-28-4-1-02, April 1, 2002; effective Jan. 10, 2003.)

K.A.R. 28-4-581. Inspections; surveys; investigations; posting administrative order.

- (a) Entry and access. Each applicant and each operator shall give the secretary or the secretary's designee immediate entry and access to the premises and to any records required to be kept, to determine compliance with applicable statutes and school-age program regulations. To ensure access, the applicant or operator shall authorize the program director or program director's designee to grant to the secretary, or the secretary's designee, immediate entry and access to the premises and required records.
- (b) Notification of noncompliance.
- (1) Applicant. If an applicant is notified in writing that the applicant is not in compliance with statutes or regulations governing school-age programs, the applicant shall make any changes or alterations identified in the notice before a temporary permit or license is issued by the secretary.
- (2) Operator. If, following an inspection or complaint investigation, the operator is notified in writing that the program is not being conducted in compliance with statutes or regulations governing school-age programs, the operator shall make any changes or alterations identified in the notice necessary to achieve and maintain compliance.

- (3) Explanation of findings. If an applicant or operator disagrees with a notice documenting any finding of noncompliance with licensing statutes or regulations, the applicant or operator may request an explanation of the finding from the secretary's designee. If the explanation is not satisfactory to the applicant or operator, the applicant or operator may submit a written request to the department for reconsideration of the finding. The written request shall identify the finding in question and explain why the applicant or operator believes that the finding should be changed. This request shall be made to the department within 10 calendar days after receiving the explanation.
- (c) Posting of an administrative order. Each applicant or operator receiving an administrative order from the secretary shall post the order in a conspicuous place on the premises that is accessible to parents or potential users of the program. Each order shall be posted for 90 calendar days following the date the order becomes final.

(Authorized by K.S.A. 2001 Supp. 65-508 and 65-513; implementing K.S.A. 2001 Supp. 65-504, 65-508, and 65-512; effective, T-28-4-1-02, April 1, 2002; effective Jan. 10, 2003.)

K.A.R. 28-4-582. Administration; training; recordkeeping.

- (a) Building compliance. Before receiving a temporary permit or license, each applicant shall obtain documentation that the building complies with applicable building codes, fire safety requirements, and zoning codes. This documentation shall be on file on the premises or at a designated central office location that is accessible for review by the secretary's designee:
- (b) Financial resources. Each operator shall have the financial resources necessary to maintain the program in compliance with licensing regulations.
- (c) Lines of authority. Each operator shall define in writing the lines of authority governing the operation of the program.
- (d) Delegation of authority. Each operator shall delegate administrative authority so that each program has a program director or a program director designee in charge during all hours of operation.
- (e) Children and youth records.
- (1) Each operator shall obtain the following information for each child or youth before or on the first day of attending the program:
 - (A) The first and last name, date of birth, and gender;
 - (B) a health history, as specified in K.A.R. 28-4-590(d);
 - (C) the anticipated schedule of hours and days of attendance or a notation that attendance is on a drop-in basis; and

- (D) the name, address, and telephone number of each parent or other adult responsible for the child or youth, the names of any other persons authorized to pick up the child or youth, and emergency contact information.
- (2) Each operator shall obtain written authorization for emergency medical care, signed by the parent or legal guardian of each child or youth, before attending the program or within the first week of attendance.
- (3) Except as specified in paragraph (4) of this subsection, each operator shall obtain written permission signed by the parent or other adult responsible for the child or youth before participating in the activity that will allow each child or youth to participate in the following activities, as applicable:
 - (A) Swimming and water activities;
 - (B) high-risk sports and recreational activities, as specified in K.A.R. 28-4-588;
 - (C) transportation provided by the program; and
 - (D) off-premises activities.
- (4) If an operator is unable to obtain written information and records required for the child's or youth's participation in the program, the operator shall document that a reasonable effort has been made to obtain the necessary information and records.

The operator shall develop and implement a plan, approved by the secretary, that provides the following information:

 - (A) Reasonable assurance that medical treatment can be obtained for each child or youth in case of emergency;
 - (B) reasonable assurance that each child or youth has permission to participate in the program of activities as specified in paragraph (e)(3) of this regulation; and
 - (C) reasonable assurance that each child or youth has current immunizations and has no allergies or other health conditions that would interfere with participation in program activities.
- (5) Each health history and parental or other adult permission, as specified in this subsection, shall be recorded on forms provided by the department or approved by the secretary.
- (6) Each child's or youth's record shall be confidential. Each operator shall have a written confidentiality policy, which shall be shared with each staff member and each parent or other adult responsible for the child or youth and which shall be followed. Nothing in

this regulation shall limit access to confidential records by the secretary, the secretary's designee, the secretary of social and rehabilitation services, or law enforcement personnel.

- (f) Staff records. Each operator shall have the following information on file on the premises or at a designated central office location that is accessible for review by the secretary's designee:
 - (1) If applicable, documentation of the required health information as specified in K.A.R. 28-4-590, and the date of participation in program orientation for each staff member as specified in K.A.R. 28-4-587;
 - (2) a copy of the identifying information submitted to the secretary for the completion of the criminal history and child abuse registry background check as specified in K.A.R. 28-4-584;
 - (3) a copy of current certification for first aid and certification for CPR as specified in K.A.R. 28-4-592; and
 - (4) if applicable, a copy of the program director's approval letter and documentation of professional development training for each director as specified in K.A.R. 28-4-587.
- (g) Attendance of children and youth.
 - (1) Each operator shall maintain a daily attendance record that shall include each child's or youth's name, daily arrival time, and daily departure time. This record may be completed by a staff member or by each child or youth when arriving at or departing the premises. Each attendance record shall be kept on file for one year on the premises or at a designated central office location and shall be accessible for review by the secretary's designee.
 - (2) No operator shall allow any child or youth to attend the program for more than 16 hours in a 24-hour period, unless the program of activities includes overnight activities. The operator shall ensure that children and youth do not attend more than two consecutive weeks of overnight activities.
- (h) Each operator shall make the records and reports of the child or youth available to the parent or other adult responsible for the child or youth, on request.

(Authorized by K.S.A. 2001 Supp. 65-508; implementing K.S.A. 2001 Supp. 65-507 and 65-508; effective, T-28-4-1-02, April 1, 2002; effective Jan. 10, 2003.)

K.A.R. 28-4-583. Access to the premises; safety of off-premises activities.

- (a) Access to the premises. Each operator shall give each custodial parent or other adult responsible for a child or youth attending the program immediate access to the premises during all hours of operation.

- (b) Arrivals and departures. Each operator of a program in which children and youth attend on a regular basis shall meet the following requirements:
 - (1) Each operator shall develop and implement a policy regarding the hours of operation, the times for arrival and departure of each child and youth, and supervision during arrival and departure. The operator shall define in the policy the supervisory and notification responsibilities of each staff member if a child or youth does not arrive at the established time or if a parent or other authorized individual is late picking up the child or youth.
 - (2) Each operator shall inform each parent or other adult responsible for a child or youth of the policy specified in paragraph (b)(1) and shall ensure that each staff member complies with the policy.
- (c) Program-sponsored off-premises activities.
 - (1) Each operator shall obtain prior written permission, as specified in K.A.R. 28-4582, for each child or youth to go off the premises for program-sponsored activities.
 - (2) Each off-premises location and activity shall be related directly to the program of activities and the goals and purpose of the program. Each location shall be used with strict regard for the health and safety of each child or youth, shall be ageappropriate, and shall have sufficient space and equipment for the activities being conducted at that location.
 - (3) Each operator shall maintain on the premises a record of the following information:
 - (A) Each destination;
 - (B) the time at which the children or youth leave the premises;
 - (C) the name of each adult supervising the children or youth while the children or youth are off the premises;
 - (D) a telephone number for reaching an adult supervising the children or youth, in case of emergency; and
 - (E) the estimated time of return.
 - (4) Each operator shall ensure that a method is in place for notifying each parent or other adult responsible for the child or youth before each off-premises activity occurs. These methods for notification may consist of any of the following:
 - (A) Posting the notification in a place accessible to the parent or other adult responsible for each child or youth;

- (B) providing a calendar of scheduled off-premises activities to the parent or other adult responsible for each child or youth; or
 - (C) providing a written notification to the parent or other adult responsible for each child or youth before each off-premises activity.
- (5) Each operator and each staff member shall have a method of accounting for each child or youth while off the premises to ensure that no child or youth is forgotten or left behind.

(Authorized by and implementing K.S.A. 65-508; effective, T-28-4-1-02, April 1, 2002; effective Jan. 10, 2003; amended, T-28-3-19-04, March 19, 2004; amended Sept. 10, 2004.)

K.A.R. 28-4-584. Criminal history and child abuse registry background check.

- (a) (1) Each applicant and each operator shall submit the identifying information that is necessary to complete a criminal history and child abuse registry background check for each individual 14 years of age or older who works, substitutes, or regularly volunteers in the program, as follows:
 - (A) When applying for a license;
 - (B) when submitting an application to renew the license; and
 - (C) before allowing each new individual to work, substitute, or regularly volunteer in the program.
- (2) The identifying information shall be submitted on a form supplied by the department.
- (b) Each operator, upon receipt of notification that an individual is prohibited from working, substituting, or regularly volunteering in the program, shall take the steps necessary to comply with K.S.A. 65-516, and amendments thereto. The operator shall, within five days of receipt of the notice, notify the secretary of the steps taken.
- (c) Each operator shall maintain, for one year from the date of submission, a copy of each form submitted to the secretary requesting a criminal history or child abuse registry check. All copies shall be on file on the premises or at a designated central office location and shall be accessible for review by the secretary's designee.

(Authorized by K.S.A. 2001 Supp. 65-508; implementing K.S.A. 2001 Supp. 65-516, as amended by L. 2002, ch. 114, sec. 74; effective, T-28-4-1-02, April 1, 2002; effective Jan. 10, 2003.)

K.A.R. 28-4-585. Building and outdoor premises.

purple, pale yellow, green

- (a) Safety and maintenance of each building.

- (1) Each operator shall ensure that the program is located in a building that meets the requirements specified in K.S.A. 65-508 and amendments thereto, the applicable building code, and any applicable local ordinances. Each operator shall ensure that no child or youth is knowingly exposed to environmental hazards, including asbestos, lead paint, and pesticides.
- (2) Hot and cold running water shall be supplied to hand sinks except as specified in this paragraph. The hot water temperature shall not exceed 120° F. Outdoor summer camps and mobile summer programs shall be exempt from the requirement to provide hot running water to hand sinks.
- (3) (A) Each operator shall ensure that each building shall have a minimum of one working flush toilet and one working hand sink for each 30 children or youth in the license capacity. One urinal may be substituted for each additional toilet in the boys' rest room.
 - (B) Each operator shall designate the rest rooms to be used by the program. A separate rest room shall be provided for each gender unless the rest room is designated for single occupancy.
 - (C) Each rest room shall be located to allow for the following:
 - (i) Supervision of children and youth;
 - (ii) immediate access to the rest room facilities by children, youth, and adults; and
 - (iii) privacy while using the toilet.
 - (D) If the rest rooms are also used by non-program participants during the hours of operation of the program, the operator shall develop and implement policies for rest room use for the protection of children and youth attending the program.
 - (E) Toilet paper, soap, and either paper towels or hand dryers shall be available in each rest room.
- (4) Each operator shall provide adequately for the health, safety, and comfort of each child, youth, and adult by maintaining the space used by the program according to the following requirements:
 - (A) The space shall be uncluttered and free from accumulated dirt, trash, vermin, and rodent infestation.
 - (B) Each indoor trash container shall be emptied daily or more often if the contents are overflowing or the removal is needed to control odor.

- (C) Floors shall not be slippery or cracked.
 - (D) Each rug or carpet used as a floor covering shall be slip-resistant and free from tripping hazards. A floor covering, paint, or sealant shall be required over concrete floors for all buildings.
 - (E) Each exit shall be marked. No exit shall be blocked at any time.
 - (5) Heating appliances shall be vented, used as intended, safely located, and maintained in operating condition. Power strips, if used, shall have a UL rating.
 - (6) Each operator shall safely store toxic substances and materials, including cleaning supplies, pesticides, and poisons, in a locked janitor's closet, locked room, or other locked area. No child or youth shall have unsupervised access to toxic substances and materials.
- (b) Public and accredited non-public school buildings.
 - (1) Inside premises. If a program is located in a public or accredited non-public school building, the operator shall ensure that the building complies with subsection (a) of this regulation and with fire safety and building code requirements applicable to schools as required by K.S.A. 65-527, and amendments thereto.
 - (2) Outside premises.
 - (A) Each existing outside playground or activity area and equipment acceptable for use by students of the same age during the academic day may be used by children and youth in the program if the equipment is in sound condition.
 - (B) Additional impact-absorbent surfacing material shall not be required under anchored climbing equipment, slides, and swings if the equipment is acceptable for use by students of the same age during the academic day.
 - (c) Public recreation center buildings. If the program is located in a public recreation center, the operator shall ensure that the building complies with subsection (a) of this regulation and with fire safety and building code requirements applicable to public recreation centers as specified in K.S.A. 65-527, and amendments thereto.
 - (d) Buildings that are not public or accredited non-public school buildings or public recreation centers.
 - (1) If the program is located in a building that is not a public or accredited non-public school or a public recreation center, the operator shall ensure that the following requirements are met for the building used:
 - (A) The building shall meet the requirements in subsection (a) of this regulation.

- (B) The building shall not be a residence or a single-family dwelling.
 - (C) Each stairway with more than two steps shall be railed.
 - (D) If windows and doors are left open, they shall be screened, with each screen in good condition to prevent insects from entering the premises.
- (2) If a program uses a non-public source for the water supply, the water shall be safe for drinking and shall be tested annually by a department-certified laboratory. The well shall be approved by the local environmental protection program (LEPP).
- (e) Outside premises of public recreation centers and of other programs, including outdoor summer camps that are not conducted in public schools or accredited non-public schools.
 - (1) General requirements.
 - (A) Each operator shall ensure that the outdoor activity area meets the following requirements:
 - (i) The area shall be located and arranged to reduce the risk of injury and to enable staff to provide close visual supervision at all times.
 - (ii) Each area shall be well drained and free of known health and environmental hazards.
 - (iii) There shall be no tall weeds or grass, untrimmed shrubbery, or trash in the activity area.
 - (iv) Each outdoor trash and garbage container shall be covered, and the contents shall be removed weekly.
 - (B) If the outdoor activity area is accessible to the public, each operator shall define boundaries for the children and youth attending the program and, to the extent possible, use space reserved exclusively for the program.
- (2) Safety of outdoor equipment and the activity area. Each operator shall comply with the following safety requirements in the outside activity area:
- (A) Equipment shall be safely located, age-appropriate, and in good repair. Equipment that is broken, hazardous, or unsafe or that does not have adequate impact-absorbent surfacing material in the use zone as specified in this regulation shall not be used.
 - (B) Impact-absorbent surfacing material shall be installed in each use zone under and around anchored play or recreational equipment over four feet in height, including climbing equipment, slides, and swings.
 - Impact-absorbent surfacing material shall consist of any loose fill material specified in paragraph (e)(2)(G) of this regulation, unitary surfacing material, or synthetic impact material. Before any equipment over 11 feet

in height is used, the operator shall meet the requirements specified in K.A.R. 28-4-588(e).

- (C) Each use zone shall be at least six feet from all sides of the structure. However, the side of some equipment, including a swing, shall not be required to have impact-absorbent surfacing material on each side if the potential for a fall to the side is minimal.
- (D) Hard-surfacing materials, including asphalt, concrete, and hard-packed dirt, shall not be used in any use zone under and around climbing equipment, slides, and swings. This requirement shall apply regardless of the height of the climbing equipment, slides, and swings.
- (E) If unitary surfacing material or synthetic impact material, including rubber mats, rubber tiles, and poured-in-place material, is installed in the use zone, the material shall be used and maintained according to the manufacturer's recommendations. The manufacturer's recommendations shall be on file on the premises or at a designated central office location and shall be accessible for review by the secretary's designee.
- (F) Surfaces made of loose materials shall be maintained by replacing, leveling, or raking the material.
- (G) If loose fill material is installed in the use zone, the material shall be specifically developed for playground use, and the type and depth of material used shall conform to the following chart:

Required depth of impact-absorbent surfacing material for the height of equipment

Maximum height of equipment	Type of material	Minimum depth of material
6 feet 10 feet 11 feet	shredded bark mulch	6 inches 9 inches 12 inches
7 feet 10 feet 11 feet	wood chips	6 inches 9 inches 12 inches
6 feet 9 feet	fine sand	6 inches 12 inches
7 feet 10 feet	fine gravel	9 inches 12 inches
10 feet or less	shredded rubber	6 inches

- (3) Protection from environmental hazards. Each operator shall ensure that each child or youth is protected from environmental hazards as follows:

- (A) If a small fish pond or decorative pool with water 24 inches deep or less is on the premises, no child shall have unsupervised access to it.
- (B) Each outdoor activity area shall have a fence, partial fence, or other barrier to reduce the safety risk to children and youth, and to prevent chance access to any adjacent hazard, including the following:
 - (i) A busy street;
 - (ii) railroad tracks; or
 - (iii) a water hazard, including a ditch, irrigation ditch, pond, lake, and any standing water over 24 inches deep. Each public recreation center shall be exempt from paragraph (e)(3) of this regulation.

(Authorized by K.S.A. 65-508; implementing K.S.A. 65-508 and K.S.A. 65-527; effective, T-28-4-1-02, April 1, 2002; effective Jan. 10, 2003; amended, T-28-3-19-04, March 19, 2004; amended Sept. 10, 2004.)

K.A.R. 28-4-586. Outdoor summer camps and mobile summer programs.

blue, purple, pale yellow, green

- (a) (1) Each operator conducting an outdoor summer camp or mobile summer program shall meet the requirements specified in this regulation and the requirements in K.A.R. 28-4-577 through K.A.R. 28-4-584, K.A.R. 28-4-587 through K.A.R. 28-4-590, and K.A.R. 28-4-592.
- (2) Each operator shall meet the following requirements if the secretary determines that they are applicable to the program and services:
 - (A) K.A.R. 28-4-576;
 - (B) K.A.R. 28-4-585;
 - (C) K.A.R. 28-4-591; and
 - (D) K.A.R. 28-4-593 through K.A.R. 28-4-596.

(b) Outdoor summer camps.

blue, purple, pale yellow, green

(1) Premises.

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- (A) Each outdoor summer camp shall be held in a city or county park or park-like setting that has at least 75 square feet of available space for each child or youth for the program of activities. Each operator shall use the premises according to its intended purpose, with strict regard for the

health, safety, and well-being of each child or youth who attends the outdoor summer camp. No child or youth shall be exposed to environmental hazards, including asbestos, lead paint, and pesticides.

blue & purple

(B) If a lake, pond, river, or other large body of water is located within 100 yards of the premises, each operator shall ensure that the water hazard is physically separated from the activity area to prevent access by each child or youth, or shall submit to the secretary a plan for protecting each child and youth from unsupervised access. The plan, which shall be approved by the secretary before the premises are used for an outdoor summer camp, shall include the following:

- (i) A description of any natural barriers separating the activity area from the water;
- (ii) the approximate distance from the activity area to the water; and
- (iii) a plan for increased supervision.

(C) Each outdoor summer camp shall have access to the following:

- (i) A shelter or permanent building for protection from inclement weather and for dining purposes, as needed, that is large enough to accommodate the number of children and youth in attendance and for each child and youth to be comfortably sheltered without being crowded; and
- (ii) rest room and hand-washing facilities as specified in K.A.R. 28-4-585.

(D) Rest room facilities shall be located in visual proximity to each program activity area.

(E) Each shelter structure shall be in sound condition and good repair and shall be free from accumulated dirt and trash.

(F) If a building is used, the operator shall ensure that the building meets the requirements specified in K.A.R. 28-4-585. A shelter house that has a roof and is enclosed by walls on all sides shall be considered a building and shall be included in determining the license capacity based on 35 square feet of available space for each child or youth.

(G) Each outdoor summer camp shall have facilities for sanitary dish washing available as specified in K.A.R. 28-4-591. If hot water is not available to the sink or if the dish-washing facilities do not meet the requirements specified in K.A.R. 28-4-591, each operator shall obtain approval from the

secretary's designee for the use of alternate methods for sanitary dish washing.

- (H) Each operator of an outdoor summer camp shall conduct a daily safety assessment of the premises to ensure that the premises are maintained to protect the health, safety, and well-being of each child and youth.
- (2) Policies. Each operator of an outdoor summer camp shall develop and implement policies for the following:
- (A) The protection and shelter of children and youth in case of inclement weather; and
 - (B) the use and maintenance of the shelter and rest room facilities, including policies for use and maintenance if the shelter and rest room facilities are owned and operated by another entity.
- (3) Transportation. If the operator transports children and youth to and from the outdoor summer camp premises to a designated pick-up and drop-off location, the operator shall meet the requirements specified in K.A.R. 28-4-583, K.A.R. 28-4-593, and paragraph (c)(4) and (5) of this regulation.
- (c) Mobile summer programs.
- (1) Each license for a mobile summer program shall be issued for the address of the designated drop-off and pick-up site. Each operator shall submit a new application for each change of location in the drop-off and pick-up site, and for any change in the license capacity.
 - (2) Each drop-off and pick-up site shall contain a shelter or a permanent building that provides adequate protection from inclement weather for each child or youth.
 - (3) Each operator shall ensure that no child or youth waits at the drop-off or pick-up site for more than one hour at the beginning of the program day or for more than one and one-half hours at the end of the program day.
 - (4) Each operator shall ensure that children or youth do not board the transporting vehicle until immediately before it is time to leave.
 - (5) Each operator of a mobile summer program shall ensure that the program has exclusive use of the licensed area during the entire time that children or youth involved in the program are present.
 - (6) Each operator of a mobile summer program shall meet the transportation requirements specified in K.A.R. 28-4-593 and the requirements for off-premises activities specified in K.A.R. 28-4-583.

- (d) Staff records. Any operator of an outdoor summer camp or a mobile summer program may keep the staff records specified in K.A.R. 28-4-582 at a designated central office location. Each operator shall make these records available to the secretary or the secretary's designee upon request. Each operator shall keep health records and contact information for emergency notification immediately available in case of emergency.
- (e) Children and youth records. Any operator may keep children and youth records as specified in K.A.R. 28-4-582 on file at a designated central office location. Each operator shall make these records available to the secretary or the secretary's designee upon request. Each operator shall ensure that the following records for each child or youth are immediately available in case of emergency:
 - (1) Health history;
 - (2) authorization for emergency medical care; and
 - (3) emergency contact information.

(Authorized by and implementing K.S.A. 2001 Supp. 65-508; effective, T-28-4-1-02, April 1, 2002; effective Jan. 10, 2003.)

K.A.R. 28-4-587. Staff qualifications; professional development; staffing requirements.

- (a) Staff qualifications. Each operator and each staff member in contact with children or youth shall demonstrate emotional maturity, sound judgment, and an understanding of children and youth.
- (b) Program director qualifications.
 - (1) Each program shall have a program director who meets the following qualifications:
 - (A) Is 18 years of age or older, and is at least three years older than the oldest youth in the program;
 - (B) demonstrates the following:
 - (i) Knowledge of child and youth development;
 - (ii) knowledge of licensing regulations applicable to the program;
 - (iii) administrative and supervisory skills;
 - (iv) the ability to communicate clearly; and
 - (v) the competence to manage the program in compliance with the program policies, the program plan, and these regulations; and

- (C) has either a high school diploma or a general equivalency diploma (GED).
- (2) In addition to meeting the requirements specified in paragraph (1) of this subsection, each program director shall meet one of the following qualifications, as appropriate to the license capacity of the program:
- (A) For a license capacity of 30 or fewer children or youth, has been approved as a program director as specified in K.A.R. 28-4-429(b) or (c), or has at least three months of job-related experience;
 - (B) for a license capacity of 31 through 60 children or youth, meets one of the following requirements:
 - (i) Has been approved as a program director as specified in K.A.R. 28-4-429(d) or (e);
 - (ii) has 15 academic credit hours; or
 - (iii) has six months of job-related experience;
 - (C) for a license capacity of 61 through 120 children or youth, meets one of the following requirements:
 - (i) Has been approved as a program director as specified in K.A.R. 28-4-429(e);
 - (ii) has 60 academic credit hours;
 - (iii) has 12 months of job-related experience; or
 - (iv) has a combination of 30 academic credit hours and six months of job-related experience; or
 - (D) for a license capacity of 121 or more children and youth, has a minimum of a four-year bachelor's degree from an accredited college or university and job-related experience.
- (3) Within 10 calendar days after hiring each program director, each operator shall comply with one of the following:
- (i) Obtain a copy of the approval letter issued by the secretary to document that the program director is qualified for the license capacity of the program; or

- (ii) submit a request to the secretary for program director's approval of the program director who has been hired.
 - (4) Each approval letter shall be kept on file in the program director's personnel file and shall be accessible for review by the secretary's designee.
 - (5) Each program director designee shall meet the requirements specified in paragraphs (b)(1) and (2)(A).
- (c) Administrator qualifications. Each operator of a program that has a license capacity of 91 or more children or youth shall employ an administrator who meets the following qualifications:
- (1) Is not the program director or a group leader;
 - (2) is 18 years of age or older, and has either a high school diploma or GED; and
 - (3) demonstrates administrative ability, knowledge of regulations governing school-age programs, and the skill to supervise the business operation of the program.
- (d) Group leader qualifications.
- (1) Each person designated as group leader shall meet the following qualifications:
 - (A) Is 18 years of age or older and is at least three years older than the oldest youth in the group; and
 - (B) has either a high school diploma or GED and has job-related experience working with school-age children or youth.
 - (2) Each group leader shall demonstrate the following:
 - (A) Knowledge of child and youth development;
 - (B) knowledge of licensing regulations for school-age programs;
 - (C) an understanding of age-appropriate activities and services;
 - (D) the ability to communicate clearly;
 - (E) skills and abilities to implement the program of activities; and
 - (F) the ability to foster positive, healthy relationships with children or youth.
 - (3) Each group leader shall provide supervision and direction to the children and

youth assigned to the group, shall supervise group activities during all hours children and youth are present, and shall provide supervision and direction to an assistant group leader.

(e) Assistant group leader qualifications.

(1) Each person designated as assistant group leader shall meet the following qualifications:

- (A) Is 16 years of age or older and is at least three years older than the oldest youth in attendance in the group; and
- (B) demonstrates the ability to provide supervision and guidance to a group of children or youth under the direction of a group leader, the skill and ability to carry out the program of activities, and the capability to foster positive, healthy relationships with children and youth.

(2) Each assistant group leader shall be under the direct supervision and direction of a group leader.

(f) Qualifications for substitute staff. Each program shall have substitutes who are available to work in case of illness or emergency. Each substitute shall meet the requirements for the staff person whom the substitute is temporarily replacing. The name and telephone number of each substitute shall be immediately available to the program director or the program director's designee.

(g) Qualifications for volunteers. Each volunteer shall be 14 years of age or older and, if working directly with the children and youth, shall be at least three years older than the oldest youth in the group. No volunteer shall be counted in the supervisory ratio unless the volunteer meets all the requirements of a group leader or assistant group leader and is designated as a group leader or assistant group leader by the program director.

(h) Professional development.

(1) Orientation training. Each operator shall provide orientation training to each program director and each staff member who is counted in the supervisory ratio. The operator shall offer the training before or within the first week of working with children or youth. The training shall be related to work duties and responsibilities and shall include the following:

- (A) The mission and goals of the program;
- (B) licensing regulations;
- (C) the program policies and practices, including security and behavior management;

- (D) the program of activities;
 - (E) supervision;
 - (F) health and safety practices;
 - (G) confidentiality;
 - (H) handling emergencies; and
 - (I) recognizing and reporting symptoms of illness, child abuse, child neglect, and critical incidents as specified in K.A.R. 28-4-592.
- (2) Ongoing professional development training.
- (A) Each program director shall annually obtain 15 clock-hours of professional development training as defined in K.A.R. 28-4-576. Documentation of the training attended and the number of clock-hours received for the training shall be kept in the program director's personnel file on the premises or at a designated central office location. This documentation shall be accessible for review by the secretary's designee.
 - (B) Each operator or program director shall assess the training needs of the staff members and shall provide staff training as needed to maintain the program in compliance with licensing regulations. Documentation of training shall be kept in the staff member's personnel file on the premises or at a designated central office location. This documentation shall be accessible for review by the secretary's designee.
- (i) Staffing requirements.
- (1) Staff coverage. Each operator shall have a sufficient number of staff members on duty to supervise the children and youth during all hours of operation and to provide for their health, safety, and well-being. Each operator shall provide staff coverage in case of emergencies and staff absences.
 - (2) Supervision.
 - (A) Each operator shall ensure that the program has a qualified group leader for each 30 children or youth attending the program, except as specified in K.A.R. 28-4-596.
 - (B) Each operator shall maintain additional qualified staff to ensure that the supervisory ratio of one staff member for each 15 children and youth is not exceeded.

- (C) Each staff member counted in the supervisory ratio shall comply with the following:
 - (i) Meet the applicable qualifications for a group leader or assistant group leader;
 - (ii) be assigned responsibility for the supervision of children and youth; and
 - (iii) be physically present with the children or youth.
- (3) Grouping. Except as specified in K.A.R. 28-4-596, the number of children and youth in a group shall be limited by the following:
 - (A) The available space for activities; and
 - (B) the type of program activity.
- (4) Each staff member working with children and youth shall provide attentive supervision to protect the health, safety, and welfare of the children and youth, and to reduce the risk of injury, illness, or abuse.
- (5) Each staff member shall encourage the development of positive adult-to-child and adult-to-youth relationships and shall be actively engaged with the children or youth under their supervision.
- (6) Each group leader or assistant group leader shall know the location of each child or youth under the supervision of that group leader or assistant group leader, at all times.
- (7) Any group leader or assistant group leader may, based on the policy of the program and the age and responsibility level of the child or youth, give a child or youth permission to walk unescorted from one supervised activity area to another supervised activity area or to the rest room.

(Authorized by and implementing K.S.A. 65-508; effective, T-28-4-1-02, April 1, 2002; effective Jan. 10, 2003; amended T-28-3-19-04, March 19, 2004; amended Sept. 10, 2004.)

K.A.R. 28-4-588. Program plan, program of activities, and use of space.

- (a) Program plan. Each operator shall develop and implement a written program plan that includes a program of activities, services, and schedules in keeping with the overall mission, goals, and purpose of the program and the developmental needs and interests of the children and youth.

(b) Program of activities.

- (1) Each operator shall ensure that each activity is adapted to the number of children and youth participating in the activity and the space available. Whenever possible, each operator shall encourage each child and youth to participate in planning the program of activities.
- (2) Each operator shall ensure that each activity meets the following conditions:
 - (A) Is developmentally appropriate and age-appropriate;
 - (B) helps each child or youth develop useful skills, a positive self-concept, a sense of independence, and positive relationships;
 - (C) provides a variety of structured, unstructured, and self-directed activities in keeping with the goals and purpose of the program and the hours of operation; and
 - (D) is scheduled to allow adequate time to transition from one activity to another.
- (3) 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.

(c) Use of available space for activities.

- (1) If activities that are not part of the school-age program are conducted on the same premises as those for the school-age program, each operator shall designate space for exclusive use by the program during the hours of operation.
- (2) Each operator shall provide sufficient space in each area for children and youth to engage comfortably in the activity without being crowded.

(d) Materials, equipment, and furnishings.

- (1) Each operator shall provide a sufficient quantity of program materials, equipment, furnishings, and supplies to keep each child and youth engaged and to carry out the program of activities.
- (2) Each operator shall ensure compliance with the following safety requirements:
 - (A) Equipment, furnishings, and supplies shall be used as intended and shall be safely stored to prevent injury or misuse.

- (B) Equipment shall be maintained in good repair.
- (C) If bedding is used, it shall be stored in a sanitary manner.
- (3) Each operator shall ensure that there are no firearms, ammunition, hunting knives, and other weapons on the premises. Archery equipment and air-powered guns, including BB guns and pellet guns, shall be prohibited unless both of the following conditions are met:
 - (A) The equipment and guns are used as part of an instructional activity that meets the requirements for high-risk sports and recreational activities specified in subsection (e) of this regulation.
 - (B) The equipment and guns are kept in locked storage, and no child or youth has unsupervised access to the equipment and guns.
- (e) High-risk sports and recreational activities.
 - (1) Before any high-risk sport or recreational activity is included in the program, each operator shall submit a description of the sport or activity to the secretary for written approval. Each description shall include the following information:
 - (A) The required qualifications for the instructor of the sport or activity;
 - (B) the goals of the instruction;
 - (C) the protective measures that will be followed to conduct the activity safely;
 - (D) the plans for increased staff supervision;
 - (E) the type of protective gear, if required for the activity;
 - (F) the operator's written assurance that each sport or activity will be age-appropriate; and
 - (G) any special procedures to be followed in conducting the sport or activity.
 - (2) Each operator shall keep the written approval from the secretary on file on the premises or at a designated central office location. This approval shall be accessible for review by the secretary's designee.
 - (3) Only an instructor who meets the qualifications for conducting a high risk sport or recreational activity shall instruct and supervise the children and youth engaged in that sport or activity.

(4) Before participating in a high-risk sport or recreational activity, each child or youth shall have written permission, as specified in K.A.R. 28-4-582, on file on the premises or at a designated central office location. Each written permission shall be accessible for review by the secretary's designee.

(f) Children or youth with special needs.

(1) If the operator and the parent or other adult responsible for a child or youth agree that the child or youth will be provided with specialized services while attending the program, an IPP shall be developed and implemented by the following individuals:

(A) The program director and each staff member of the program who is responsible for implementing the IPP;

(B) the parent or other adult responsible for the child or youth;

(C) a professional who is licensed or credentialed and who is qualified to work with the child or youth regarding the child's or youth's special need; and

(D) the child or youth, as appropriate.

(2) Each IPP shall contain the following information:

(A) The date each IPP is developed and updated;

(B) each special need identified as requiring specialized services;

(C) each specialized service to be provided while the child or youth is attending the program and the name of the person who will provide each service;

(D) the anticipated goal of each specialized service; and

(E) the name and position of each person participating in the development of the IPP.

(3) Each operator shall ensure that each IPP is reviewed and updated annually to meet the special needs of the child or youth.

(4) Each operator shall provide a copy of each IPP and each updated IPP to the participants who developed the IPP. The operator shall keep a copy in the child's or youth's file.

(5) Each program operating concurrently under a school-age program license issued by the secretary and a license issued by the secretary of social and rehabilitation services as specified in K.S.A. 75-3307b, and amendments thereto, shall be

exempt from the following regulations if the program is in compliance with the licensing requirements of the secretary of social and rehabilitation services:

- (A) K.A.R. 28-4-587;
- (B) subsection (b), subsection (e), and paragraphs (f)(1) through (4) of this regulation; and
- (C) any IPP requirements specified in K.A.R. 28-4-589(d).

(Authorized by and implementing K.S.A. 2001 Supp. 65-508; effective, T-28-4-1-02, April 1, 2002; effective Jan. 10, 2003.)

K.A.R. 28-4-589. Behavior management.

- (a) Behavior management practices.
 - (1) Behavior management practices shall be consistent with the goals and purposes of the program and appropriate to the age and developmental level of the child or youth.
 - (2) Each staff member shall practice methods of behavior management that are designed to help each child or youth develop inner controls and manage the child's or youth's own behavior in a socially acceptable manner.
- (b) Time-out. If time-out is used to manage behavior, the child or youth shall remain in time-out only long enough to regain self-control. Each child or youth in timeout shall be kept under visual staff supervision. If a separate room is used, the door shall remain open, or the staff member responsible for providing supervision shall remain in the room with the child or youth.

(c) Prohibited punishment.

- (1) No operator or any staff member shall use any of the following methods of punishment:
 - (A) Punishment that is humiliating, frightening, or physically harmful to the child or youth;
 - (B) corporal punishment, including spanking with the hand or any implement, slapping, swatting, pulling hair, yanking the arm, excessive exercise, exposure to extreme temperatures, and any other measure that produces physical pain or threatens the child's or youth's health or safety;
 - (C) verbal abuse, threats, or derogatory remarks about the child or youth or the child's or youth's family;
 - (D) enclosing the child or youth in a confined space, including any closet, box, and locked room;

(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, or placing substances that sting or burn on other parts of the child's or youth's body.

(2) Each operator and each staff member shall be prohibited from giving medications, herbal or folk remedies, and drugs to control or manage behavior except as prescribed by the child's or youth's licensed physician or licensed nurse practitioner.

(3) Each operator and each staff member shall be prohibited from using physical restraint to manage behavior unless all of the requirements of subsection (d) of this regulation are met.

(d) Physical restraint.

(1) Before physical restraint is used, de-escalation methods shall be attempted. If de-escalation methods fail and the behavior of a child or youth makes physical restraint necessary for the child's or youth's own protection or the protection of others, the child or youth shall be held as gently as possible to manage the behavior. If physical restraint is used, two staff members shall be present and shall remain with the child or youth until physical restraint is no longer necessary.

(2) The child or youth shall be restrained no longer than necessary for the child or youth to gain self-control. No bonds, ties, or straps shall be used to restrict movement.

(3) Each staff member using physical restraint shall have a current certificate on file documenting training in de-escalation methods and specific restraint procedures or techniques. The physical restraint training curriculum shall be approved by the secretary before the curriculum is used to train the staff members.

(4) Each child or youth whose behavior cannot be managed by other less intrusive methods and whose behavior requires the use of ongoing physical restraint for the child's or youth's protection or the protection of others shall have on file an IPP authorizing the use of physical restraint.

(e) Notification requirements. Each operator shall inform the parent or other adult responsible for a child or youth each time that physical restraint is used. The operator shall document each use of physical restraint on a critical incident report form supplied by the department.

(Authorized by and implementing K.S.A. 2001 Supp. 65-508; effective, T-28-4-1-02, April 1, 2002; effective Jan. 10, 2003.)

K.A.R. 28-4-590. Health-related requirements.

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(a) Tobacco use prohibited. Each operator shall ensure that tobacco products are not used during the hours of operation of the program and while children or youth are in attendance.

(b) Health of individuals working or volunteering in the program.

- (1) Each operator and each staff member shall be free from physical, mental, and emotional handicaps as necessary to protect the health, safety, and welfare of the children or youth.
- (2) No individual working or volunteering in a program shall be under the influence of alcohol or illegal substances, or impaired due to the use of prescription or nonprescription drugs.
- (3) Each individual working or volunteering in the program shall be free from any infectious or contagious disease, as specified in K.A.R. 28-1-6.
- (4) Each operator and each staff member who has regular, ongoing contact with children or youth shall attest to that individual's health status on a form supplied by the department or approved by the secretary. The health status form shall indicate if the individual has been exposed to an active case of tuberculosis or has been diagnosed with suspect or confirmed active tuberculosis. Each individual shall update the health status form annually or more often if there is a change in the health status or if the individual has been exposed to an active case of tuberculosis.
- (5) If an operator or staff member in contact with children or youth experiences significant changes in physical, mental, or emotional health or if the individual has been exposed to an active case of tuberculosis, an assessment of the individual's current health status may be required by the secretary. A licensed health care provider qualified to diagnose and treat the condition shall conduct the health assessment. Each assessment shall be kept in the individual's file and shall be submitted to the secretary on request.

(c) Tuberculin testing.

- (1) If an operator, program director, staff member, child, or youth is exposed to an active case of tuberculosis or if the location of the program is in an area identified by the local health department or the secretary as a high-risk area for tuberculosis exposure, that individual shall obtain a Mantoux test or a chest x-ray.
- (2) Each individual diagnosed with suspected or confirmed active tuberculosis shall be excluded from the program until the operator receives authorization from the secretary for the individual to return.

- (3) Each operator shall notify the secretary if any individual identified in paragraph (c)(1) of this regulation indicates exposure to an active case of tuberculosis, has a diagnosis of suspected or confirmed active tuberculosis, or has a positive Mantoux test or positive chest x-ray indicating active disease.
- (d) Health of children and youth.
- (1) Each operator shall obtain a health history for each child or youth, on a form supplied by the department or approved by the secretary. Each health history shall be maintained in the child's or youth's file on the premises.
 - (2) Each operator shall require that each child or youth attending the program has current immunizations as specified in K.A.R. 28-1-20 or has an exemption for religious or medical reasons.
 - (3) An exemption from immunization requirements shall be granted if one of the following is obtained:
 - (A) A written statement, submitted on a form supplied by the department and signed by a parent of the child or youth, that the parent is an adherent of a religious denomination whose teachings are opposed to health assessments or immunizations; or
 - (B) a certification from a licensed physician that the physical condition of the child or youth is such that immunizations would endanger the child's or youth's life or health.
 - (4) Children or youth who are currently attending or who had attended in the preceding school year a public or accredited non-public school in Kansas, Missouri, or Oklahoma shall not be required to provide documentation of current immunizations or exemptions from immunizations.
- (e) Administration of medication.
- (1) Nonprescription medication. If nonprescription medication is to be administered during the time children or youth are attending the program, each operator shall ensure compliance with the following procedures:
 - (A) Obtain written permission from the child's or youth's parent or other adult responsible for the child or youth before administering nonprescription medication to that child or youth;
 - (B) administer each medication from the original container and according to instructions on the label; and

- (C) require that each nonprescription medication supplied by a parent or other adult responsible for the child or youth be in the original container that is labeled with the first and last name of the child or youth for whom the medication is intended.
- (2) Prescription medication. If prescription medication is administered during the time children or youth are attending the program, each operator shall ensure compliance with the following procedures:
 - (A) Obtain written permission from the child's or youth's parent or other adult responsible for the child or youth before administering prescription medication to that child or youth;
 - (B) administer medication ordered by a licensed physician or licensed nurse practitioner only to the designated child or youth and in the dosage recommended;
 - (C) keep each prescription medication in the original container labeled by a pharmacist with the following information:
 - (i) The first and last name of the child or youth;
 - (ii) the date the prescription was filled;
 - (iii) the name of the licensed physician or licensed nurse practitioner who wrote the prescription;
 - (iv) the expiration date of the medication; and
 - (v) specific, legible instructions for administration and storage of the medication;
 - (D) consider the instructions on each label to be the order from the licensed physician or licensed nurse practitioner; and
 - (E) administer the medication in accordance with the instructions on the label.
- (3) Requirements for administering medication.
 - (A) If nonprescription or prescription medication is administered, each operator shall designate staff members to administer the medication. Before administering medication, each designated staff member shall receive training in medication administration approved by the secretary.
 - (B) Each operator shall record in the file of each child or youth who is scheduled to receive medication the following identifying information, on forms supplied by the department:
 - (i) The name of each staff member who administered each medication;

- (ii) the date and time the medication was given;
- (iii) any change in the child's or youth's behavior, response to the medication, or adverse reaction; and
- (iv) any change in the administration of the medication from the instructions on the label or a notation about each missed dose.
- (C) Each record shall be signed by the individual who was responsible for administering the medication, and a copy of the record shall be made available to the parent or other adult responsible for the child or youth.
- (4) Storage of medication. Each operator shall keep all medication at the recommended temperature and, except as specified in paragraph (e)(5)(D) of this regulation, in locked storage. Each medication container shall have a child-protective cap.
- (5) Self-administration of medication.
 - (A) Any operator may permit each child or youth with a chronic illness, a condition requiring prescription medication on a regular basis, or a condition requiring the use of an inhaler to administer the medication under staff supervision. The operator shall obtain written permission for the child or youth to self-administer medication from the child's or youth's parent or other adult responsible for the child or youth, and from the licensed physician or nurse practitioner treating the condition of the child or youth.
 - (B) Written permission for self-administration of medication shall be kept in the child's or youth's file.
 - (C) Self-administration of each medication shall follow the procedures specified in paragraphs (e)(2)(B), (C), (D), and (E) of this regulation.
 - (D) Each child or youth who is authorized to self-administer medication shall have immediate access to that child's or youth's medication for administration purposes. Each operator shall safely store each medication to prevent unauthorized access by others.
 - (E) Each operator shall record the date and time each medication was self-administered.
- (f) Health care practices.
 - (1) Hand washing.
 - (A) Each operator shall encourage each child and youth to wash the hands with soap and water before and after eating and after toileting.
 - (B) Each staff member shall wash the hands with soap and water before and after eating and after toileting.

- (C) Waterless sanitizing cleanser or sanitizing wipes shall not be used as a substitute for soap and running water. Individuals shall not share towels or washcloths.
- (2) 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;
 - (B) heat exhaustion;
 - (C) sunburn;
 - (D) frostbite;
 - (E) allergic reactions; and
 - (F) other preventable conditions hazardous to a child's or youth's health.

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K.A.R. 28-4-591. Food preparation, service, safety, and nutrition.

- (a) If meals or snacks are served in the program, the operator shall ensure that the following requirements are met:
 - (1) Sanitary practices.
 - (A) Each individual engaged in food preparation and food service shall know and use sanitary methods of food handling, food service, and storage.
 - (B) No individual shall be in the food preparation area who is vomiting, has diarrhea, or has other signs, symptoms, or positive laboratory tests indicative of an infectious illness that can be transmitted through food handling.
 - (C) No individual shall handle or serve food until the individual is no longer infectious as required by K.A.R. 28-1-6.
 - (D) Each individual involved in food handling shall comply with all of the following requirements:
 - (i) Hands shall be washed with soap and running water in a

designated hand-washing sink immediately before the individual engages in food preparation and before the individual serves food.

- (ii) If the food preparation sink is used for hand washing, the sink shall be sanitized before using it for food preparation.
- (iii) Individual towels, disposable paper towels, or air dryers shall be used to dry hands.
- (iv) Each individual serving food shall use utensils or single-use gloves.
- (v) Each individual with infectious skin sores or with open or infected injuries on the hands or forearms shall cover the sores or injuries with a bandage when handling or serving food.

(2) Food service and preparation area. If food is prepared on the premises, each operator shall provide a food preparation area that is separate from the eating area, activity area, laundry area, and rest rooms and that is not used as a passageway during the hours of food preparation and cleanup.

- (A) Surfaces used for food preparation and dining shall be made of smooth, nonporous material and shall be cleaned and sanitized before and after use.
- (B) The floors shall be swept daily and mopped when spills occur.
- (C) Garbage shall be disposed of in a garbage disposal or in a covered container. If a container is used, the container shall be removed at the end of the day or more often as needed to prevent overflowing or to control odor.

(3) Food storage and refrigeration.

- (A) Food shall be stored at least six inches above the floor in a clean, dry, well-ventilated area that is free from vermin and rodent infestation. Dry bulk foods that are not in their original, unopened containers shall be stored in metal, glass, or food-grade plastic containers with tightly fitting covers and shall be labeled.
- (B) Food shall not be stored with poisonous or toxic materials. If cleaning agents cannot be stored in a room separate from food storage areas, the cleaning agents shall be clearly labeled and kept in locked cabinets not used for the storage of food.
- (C) Each refrigerator and freezer used by the operator for food storage and refrigeration shall be kept clean inside and out and shall have an interior

thermometer. The temperature shall be maintained at 40°F or lower in the refrigerator, and food stored in the freezer shall be maintained frozen.

(D) Hot foods that are to be refrigerated and stored shall be transferred to shallow containers in food layers less than three inches deep and shall not be covered until cool.

(E) All food stored in the refrigerator shall be covered, wrapped, or otherwise protected from contamination. Unserved, leftover perishable foods shall be dated, refrigerated immediately after service, and eaten within three days.

(F) Ready-to-eat commercially processed foods, including luncheon meats, cream cheese, and cottage cheese, shall be eaten within five days after opening the package.

(G) Hot foods shall be maintained at temperatures of at least 140°F.

(H) Cold foods shall be maintained at temperatures of 40°F or less.

(b) Table service.

(1) Each operator shall provide clean forks, spoons, and knives as appropriate for the food being served and shall provide one of the following:

(A) Clean cups and dishes that have smooth, hardglazed surfaces and are free from cracks or chips; or

(B) disposable, single-use table service that is of food grade, medium weight, and disposed of after each use.

(2) If nondisposable table service and cooking utensils are used, each operator shall use one of the following methods to clean them:

(A) A commercial dishwasher for programs serving more than 30 children, or a domestic dishwasher for programs with 30 or fewer children;

(B) a three-compartment sink; or

(C) a two-compartment sink and a basin for sanitizing the table service and cooking utensils.

(c) Meals or snacks prepared on the premises.

- (1) Food safety requirements. Each operator shall comply with the following requirements:
 - (A) Dairy products shall be pasteurized.
 - (B) Meat shall be from government-inspected sources.
 - (C) Raw fruits and vegetables shall be washed thoroughly before being eaten or used for cooking.
 - (D) Frozen foods shall be defrosted in the refrigerator, under cold running water, in a microwave oven using the defrost setting, or during the cooking process. Frozen foods shall not be defrosted by leaving them at room temperature or in standing water.
- (2) Each operator shall ensure that the following foods are prohibited:
 - (A) Home-canned food;
 - (B) food from dented, rusted, bulging, or leaking cans; and
 - (C) food from cans without labels.
- (d) Meals or snacks not prepared on the premises.
 - (1) If the operator serves a meal or snack that is not prepared on the premises, the meal shall be obtained from a food service establishment, summer feeding program, or catering service licensed by the secretary. If perishable food is transported to the premises, each operator shall serve only food that has been transported promptly in temperature-controlled, clean, covered containers.
 - (2)
 - (A) Any operator may permit parents or other adults responsible for a child or youth to provide snacks and sack lunches.
 - (B) If sack lunches are provided either by the operator or by the parent or other adult responsible for each child or youth, each operator shall ensure that all of the following requirements are met:
 - (i) Each sack lunch shall be labeled with the name of the child or youth, and sack lunches shall not be shared.
 - (ii) Perishable foods and drinks shall be kept at the temperatures specified in paragraph (a)(3)(H) through the use of insulated sacks and either a coolant or refrigeration.
 - (iii) Each sack lunch shall be positioned so that neither ice nor water causes the food in the sack to become wet or contaminated.

(iv) Ice that will be ingested shall be kept wrapped and shall not come in contact with sack lunches, food, cans, or other substances.

(e) Nutrition.

- (1) Each operator shall ensure that safe drinking water is readily available at all times to each individual participating in the program.
- (2) Each operator shall ensure that meals and snacks are available to each child or youth according to the following schedule:

Length of time at the program	Food served
at least 2 ½ hours but fewer than 4 hours	1 snack
at least 4 hours but fewer than 8 hours	1 snack and 1 meal
at least 8 hours but fewer than 10 hours	2 snacks and 1 meal or 1 snack and 2 meals
10 hours or more	2 meals and 2 snacks

(3) Each operator of a school-age program that meets after school during the school year shall ensure that at least one snack is served daily to each child or youth who attends the program after school.

(Authorized by and implementing K.S.A. 65-508; effective, T-28-4-1-02, April 1, 2002; effective Jan. 10, 2003; amended, T-28-3-19-04, March 19, 2004; amended Sept. 10, 2004.)

K.A.R. 28-4-592. Safety and emergency procedures.

(a) Telephone.

- (1) Each operator shall ensure that there is a working telephone readily available to the operator and staff members to receive all incoming calls and make outgoing calls during all hours of operation.
- (2) A working cellular phone that is turned on during the hours of operation may be substituted for a wired telephone.
- (3) Each operator shall post emergency telephone numbers for the police, fire department, ambulance, hospital or hospitals, and poison control center next to the telephone, or shall have the numbers immediately accessible to each wired or cellular phone.

(b) Emergency plans and evacuation procedures.

- (1) Emergency plans.

- (A) Each operator shall develop and implement an emergency plan to provide for the safety of children, youth, and staff in emergencies including fire, tornadoes, storms, floods, serious injury, and other types of emergency specific to the geographic area in which the program is conducted.
 - (B) Each emergency plan shall be posted in a conspicuous place in each indoor activity area.
 - (C) Each staff member shall be informed of and shall follow the emergency plans.
- (2) Evacuation procedures. Each operator shall practice both of the following evacuation procedures with the children and youth:
- (A) Fire drills shall be conducted monthly. A record of the date and time of each fire drill and a record of each evacuation time shall be kept on file for one year.
 - (B) Tornado drills shall be conducted monthly during April through September. A record of the date and time of each tornado drill and a record of each evacuation time shall be kept on file for one year.
- (c) First aid and cardiopulmonary resuscitation (CPR).
- (1) Each operator shall ensure that there is at least one staff member on the premises who is readily available to each child or youth at all times and who has a current certification in first aid and a current certification in CPR appropriate to the age of children and youth attending the program.
- (2) Each record of certification shall be kept in the staff member's file. Equivalent training or certification may be substituted for the required training or certification if approved by the secretary.
- (3) First-aid supplies. Each operator shall maintain first-aid supplies in a first-aid kit, carrying case, box, or other container. The first-aid supplies shall include the following:
- (A) First-aid manual;
 - (B) single-use gloves;
 - (C) adhesive bandages of assorted sizes;
 - (D) adhesive tape;
 - (E) a roll of sterile gauze;
 - (F) sharp scissors;

- (G) packages of four-inch sterile gauze squares;
 - (H) a cleansing agent or pump soap;
 - (I) an elastic bandage;
 - (J) tweezers; and
 - (K) a bottle of water for washing and cleansing.
- (d) Standard precautions for handling blood and other bodily fluids or waste. Each operator shall ensure that each staff member complies with the following standard precautions:
- (1) Each individual shall wear single-use gloves in the following situations:
 - (A) When cleaning contaminated surfaces or areas;
 - (B) before dressing a cut or sore that is leaking body fluids; and
 - (C) when cleaning up each spill, including urine, feces, blood, saliva, vomit, and tissue discharge.
 - (2) Each contaminated surface or area on which a spill occurs shall be cleaned with a disinfectant solution of one-quarter cup of unscented chlorine bleach to one gallon of cool water, or an appropriate commercial disinfectant used according to the manufacturer's instructions.
 - (3) Care shall be taken to avoid splashing any contaminated material onto any mucous membrane, including eyes, nose, and mouth.
 - (4) Each mop used to clean up a contaminated area shall be cleaned and rinsed in a disinfecting solution, wrung as dry as possible, and hung to dry.
 - (5) Each paper towel, sponge, or other material used for cleaning up a contaminated area shall be placed in a plastic bag with a secure tie and thrown away in a covered container.
- (e) Emergency medical care.
- (1) If a child or youth needs emergency medical care and is taken to an emergency care source, each operator shall ensure that the parent or other adult responsible for the child or youth is notified immediately and shall make the following documents and information immediately available to emergency care personnel:
 - (A) The child's or youth's health history;

- (B) the name, address, and telephone number of the following individuals:
 - (i) The parent or other adult responsible for the child or youth;
 - (ii) a designated emergency contact; and
 - (iii) the physician designated by the parent or other adult to be called in case of emergency; and
 - (C) authorization for emergency medical care.
- (2) If the operator has been unable to obtain the necessary documents as specified in K.A.R. 28-4-582, the operator shall follow the plan approved by the secretary.
 - (3) A staff member shall accompany a child or youth to the source of emergency care and shall remain with the child or youth until a parent or other responsible adult assumes responsibility for the child or youth. When a staff member goes to the source of emergency care with a child or youth, the operator shall ensure that there is an adequate number of staff members available to supervise the remaining children and youth in the program.
- (f) Reporting illnesses.
 - (1) If a child or youth becomes ill while attending the program, the operator shall immediately notify the parent or other adult responsible for the child or youth.
 - (2) If an operator, staff member, child, or youth in a program contracts a reportable infectious or contagious disease specified in K.A.R. 28-1-2 and K.A.R. 28-1-18, the operator shall report the disease to the local county health department by the next working day. The operator shall follow the protocol recommended by the county health department and shall cooperate fully with any investigation, disease control, or surveillance procedures initiated by the county health department or the department of health and environment.
 - (g) Reporting critical incidents.
 - (1) Each operator shall report the following critical incidents immediately to each parent or other adult responsible for a child or youth affected by the critical incident, on a form supplied by the department:
 - (A) Fire damage or other damage to the building, or damage to the property that affects the structure of the building or safety of the children and youth;
 - (B) a vehicle accident involving children or youth;
 - (C) a missing child or youth;

- (D) physical restraint of a child or youth by staff members;
 - (E) the injury of a child or youth that requires medical attention;
 - (F) the death of a child, youth, or staff member; and
 - (G) any other incident that jeopardizes the safety of any child or youth.
- (2) Each operator shall report each critical incident specified in paragraph (g)(1) of this regulation to the secretary's designee by the next working day, on a form supplied by the department. However, the use of physical restraint shall be reported to the secretary if an injury or bruising occurs. A copy of each critical incident report shall be kept on file for not less than one year on the premises or at a designated central office location and shall be accessible for review by the secretary's designee.
- (3) Each operator shall ensure that a report is made to the secretary's designee of all known facts concerning the time, place, manner, and circumstances of the death of a child or a youth attending the program when submitting a critical incident report as specified in paragraph (g)(1) of this regulation.
- (4) Each operator and each staff member shall report suspected child abuse or child neglect, as follows:
- (A) Immediately, by telephone or in writing, to the secretary of the department of social and rehabilitation services; and
 - (B) by the next working day to the secretary's designee, on a form supplied by the department.

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K.A.R. 28-4-593. Program-sponsored transportation.

- (a) If the operator provides or arranges for transportation for children and youth to and from the premises or for program-sponsored activities, the operator shall ensure that prior written permission is obtained for each child or youth to be transported as specified in K.A.R. 28-4-582. The operator shall ensure that the authorization for emergency medical care for each child or youth is in the vehicle in which the children or youth are being transported or is immediately available to emergency personnel. If the operator is unable to obtain written permission or authorization for emergency medical care, the operator shall follow the plan approved by the secretary as specified in K.A.R. 28-4-582.
 - (b) Transportation safety.
- (1) Each operator shall ensure that the following transportation safety requirements are met while transporting children or youth:

- (A) No child or youth under 13 years of age shall be seated in the front seat of a vehicle that is equipped with a passenger air bag.
- (B) No child or youth shall be transported in a trailer pulled by another vehicle, a camper shell, or a truck bed.
- (C) Each vehicle that is owned or leased by the operator and is used to transport children or youth shall be maintained in safe operating condition and shall contain a first-aid kit.
- (2) Each driver shall comply with the following safety requirements:
 - (A) Be 18 years of age or older, hold an operator's license of the type appropriate for the vehicle being used, and observe all traffic laws;
 - (B) not allow the capacity of the transporting vehicle to be exceeded;
 - (C) remove accumulated trash from the transporting vehicle daily;
 - (D) lock or have under control each vehicle door while the vehicle is in motion;
 - (E) maintain order in the vehicle and ensure that all parts of each passenger's body remain inside the vehicle at all times;
 - (F) not permit any child or youth to enter the vehicle from or exit the vehicle into a traffic lane;
 - (G) leave no child or youth unattended in the vehicle at any time and, when the vehicle is vacated, ensure that no child or youth is left in the vehicle;
 - (H) prohibit smoking in the vehicle while children or youth are in the vehicle;
 - (I) not use a cellular phone while the vehicle is in motion; and
 - (J) transport each child or youth directly to the location designated by the operator and make no unauthorized stops along the way except in an emergency.
- (d) Vehicle seat belt restraints.
 - (1) Except as specified in paragraph (d)(2), each operator shall ensure that each driver and each child or youth uses an individual seat belt restraint and that no more than one child or youth is restrained in each seat belt.
 - (2) If buses of the type used by schools are used to transport children and youth and are not equipped with individual restraints, no operator shall be required to install individual restraints.

(Authorized by and implementing K.S.A. 2001 Supp. 65-508; effective, T-28-4-1-02, April 1, 2002; effective Jan. 10, 2003.)

K.A.R. 28-4-594. Swimming, wading, and water activities.

(a) General.

- (1) Each operator shall have written permission on file as specified in K.A.R. 28-4-582 for each child or youth participating in water activities.
 - (2) Each operator shall ensure that an individual who can swim and who has a current certificate in first aid and a current certificate in CPR appropriate to the age of the children and youth attending the program is in attendance if children or youth are participating in water activities.
 - (3) Each activity shall be conducted with strict regard for the life and safety of each child and youth.
 - (4) Each staff member responsible for the supervision of children or youth who are participating in swimming, wading or water activities shall review the safety rules with each child or youth before the child or youth participates in the activity.
 - (5) Each operator shall ensure that no child or youth is permitted to dive from a diving board unless the requirements governing high-risk sports and recreational activities as specified in K.A.R. 28-4-588 are met.
- (b) Swimming pools on the premises.
- (1) Safety and maintenance. Each operator shall ensure that the following requirements for safety and maintenance are met:

(A) The water in each swimming pool shall be maintained between pH 7.2 and pH 7.6. The available free chlorine content shall be between 1.0 and 3.0 parts per million.

(B) Each swimming pool shall be cleaned daily, and the chlorine level and pH level shall be tested daily during the swimming season. The results of these tests shall be recorded and kept on file at the premises.

(C) Each swimming pool more than six feet in width, length, or diameter shall be provided with a ring buoy and rope or with a shepherd's hook. This equipment shall be long enough to reach the center of the pool from the edge of the pool.

(D) A sensor or a remote monitor shall not be used in lieu of a fence around each swimming pool.

- (E) During the months a swimming pool is not in use, the pool shall be covered with a safety cover.
 - (F) If a swimming pool on the premises is to be used by children or youth enrolled in the program, the operator shall ensure that legible safety rules for the use of the pool are posted in a conspicuous location.
- (2) In-ground swimming pools. Each operator shall ensure that the following requirements are met:
- (A) Each in-ground swimming pool located outdoors shall be enclosed by a five-foot fence on all four sides to prevent chance access by children and youth. The fence shall have a gate that has a self-closing latch with a locking device.
 - (B) If an in-ground swimming pool is within a building, the building shall be designed to prevent unsupervised access to the pool by each child and youth.
 - (C) Each in-ground swimming pool shall be surrounded by a nonskid surface that is at least four feet wide, is in good repair, and is free of tears, breaks, and splinters.
- (3) Aboveground swimming pools. Each operator shall ensure that the following requirements are met:
- (A) Each aboveground swimming pool shall have sides at least five feet high or shall be enclosed by a five-foot fence. Side extenders may be installed to increase the height of the sides of the swimming pool.
 - (B) Ladders shall be removed when the aboveground pool is not in use.
- (4) Swimming pools operated by governmental entity. Each swimming pool operated by a governmental entity for public use shall be governed by the entity's policies and regulations on pool safety and maintenance and shall meet the regulations applicable to swimming pools included in this regulation, with the exception of paragraphs (b)(1)(A) and (B).
- (c) Wading pools. The water in each wading pool shall be emptied immediately after use.
- (d) Spas and hot tubs. Each spa or hot tub shall be covered with an insulated cover, which shall be secured by locks when the spa or hot tub is not in use.
- (e) Ponds, rivers, and lakes on or off the premises. If a pond, river, or lake is used for swimming, the operator shall ensure that the body of water is approved for swimming by one of the following:

- (1) The local health department of the county in which the swimming site is located, if the swimming site is in Kansas;
- (2) the secretary; or
- (3) the designated authority in the state in which the swimming site is located, if the swimming site is not in Kansas.

(Authorized by and implementing K.S.A. 2001 Supp. 65-508; effective, T-28-4-1-02, April 1, 2002; effective Jan. 10, 2003.)

K.A.R. 28-4-595. Animals on the premises.

- (a)
 - (1) If animals are kept on the premises, each operator shall ensure that each area in which an animal is permitted is maintained in a clean and sanitary manner, with no evidence of flea, tick, or worm infestation in the area.
 - (2) Each operator shall prohibit poisonous animals, pit bulls, and other animals that present a health or safety hazard to children and youth on the premises, unless the animals are displayed as part of an animal exhibit and are supervised at all times by trained animal care personnel.
- (b) Each operator shall ensure that animals are not present in the following areas:
 - (1) The kitchen while food is being prepared;
 - (2) the dining area while children or youth are eating; and
 - (3) each food storage area.
- (c) Each staff member and each child or youth shall wash that individual's hands with soap and water after handling animals, animal food, and animal wastes.
- (d) Each operator shall ensure that each domesticated cat, dog, or ferret on the premises has a current rabies vaccination. A record of each vaccination shall be kept on file on the premises or at a designated central office location and shall be available for review by the secretary's designee.
- (e) Each operator shall ensure that each child or youth is taught safe procedures to follow when handling animals. The operator or staff member supervising the activity shall separate a child or youth from an animal immediately if either of the following occurs:
 - (1) The animal shows signs of distress or aggression.
 - (2) The child or youth shows signs of treating the animal inappropriately.

- (f) If a child or youth is injured by an animal, the operator shall immediately notify the parent or other adult responsible for the child or youth about the injury. The operator shall submit a critical incident report about the injury to the secretary's designee by the next working day. The operator shall keep a copy of the incident report in the child's or youth's file.

(Authorized by and implementing K.S.A. 2001 Supp. 65-508; effective, T-28-4-1-02, April 1, 2002; effective Jan. 10, 2003.)

K.A.R. 28-4-596. Day reporting program.

- (a) (1) Each operator conducting a day reporting program shall comply with the requirements specified in this regulation and the requirements in K.A.R. 28-4-577 through K.A.R. 28-4-584, K.A.R. 28-4-587, and K.A.R. 28-4-589 through K.A.R. 28-4-592.
- (2) Each operator shall meet the following requirements if the secretary determines that they are applicable to the program and services:
 - (A) K.A.R. 28-4-576;
 - (B) K.A.R. 28-4-585 through K.A.R. 28-4-586; and
 - (C) K.A.R. 28-4-593 through K.A.R. 28-4-595.
- (3) If the requirements of this regulation appear to conflict with any other regulation governing school-age programs, the more stringent regulation shall apply.
- (b) (1) Each operator shall ensure that the program is administered by an individual with job-related experience working with juvenile offenders, and with a knowledge of laws and standards governing programs for juvenile offenders.
- (2) Each operator shall ensure that each child or youth who attends the program is 10 years of age or older and meets one of the following criteria:
 - (A) The child or youth is in the custody of the juvenile justice authority.
 - (B) The child or youth is court-ordered to attend.
 - (C) The child or youth is required to attend as a condition of diversion, probation, or release from a juvenile correctional facility, or diverted by the court from direct commitment to a juvenile correctional program.
- (c) Each operator conducting a day reporting program shall develop and implement an IPP for each child or youth, which shall include any combination of the following:
 - (1) Assistance to each child or youth in organizing a daily schedule of activities;

- (2) monitoring the child's or youth's court orders;
 - (3) situational counseling and referrals, if needed;
 - (4) conflict resolution and crisis intervention;
 - (5) contact with each child's or youth's parent or other adult responsible for the child or youth;
 - (6) drug testing and substance abuse education;
 - (7) pregnancy prevention and human sexuality education;
 - (8) assistance with educational and vocational needs;
 - (9) employment training, as appropriate; and
 - (10) community service work.
- (d) Each operator shall keep the following in the child's or youth's file:
- (1) The information required by K.A.R. 28-4-582;
 - (2) the child's or youth's legal status as specified in paragraph (b)(2);
 - (3) the date the child or youth was admitted to the program;
 - (4) intake information for each child or youth gathered at the time of admission;
 - (5) a summary of the child's or youth's daily activities;
 - (6) the IPP, progress reports, and any changes made in the plan;
 - (7) the discharge summary; and
 - (8) any critical incident reports.
- (e)
- (1) Each operator shall establish written rules of child and youth conduct that define expected behaviors and related consequences. Each operator shall give each child or youth attending the program a rule book specifying the expected behaviors, ranges of consequences, and disciplinary procedures.
 - (2) Each operator shall obtain a signed acknowledgment from each child or youth that the child or youth has received a copy of the rule book and understands it. The signed acknowledgment shall be kept in the child's or youth's file.

- (f) Each operator shall ensure that child and youth services are coordinated with the referring agency or the court, the local mental health center, the local school district, and the local health department, as necessary to implement the day reporting program.
 - (g) The supervisory ratio shall be one staff member for every 10 children and youth attending the day reporting program. The maximum group size shall not exceed 20 children or youth.
- (1) Each operator shall ensure that each group has a program director who meets the following qualifications:
- (A) Is 21 years of age or older;
 - (B) meets the staff qualifications for a program director for the licensed capacity of the program, as specified in K.A.R. 28-4-587; and
 - (C) has knowledge and experience working with juvenile offenders, high-risk children and youth, community youth programs, or social service programs serving children and youth.
- (3) Each operator shall ensure that each group has a group leader who meets the following qualifications:
- (A) Is 21 years of age or older;
 - (B) meets the staff qualifications for group leader as specified in K.A.R. 28-4-587; and
 - (C) has knowledge and experience working with juvenile offenders, high-risk children and youth, community youth programs, or social service programs serving children and youth.
- (4) Each operator shall ensure that each group has an assistant group leader who meets the following qualifications:
- (A) Is 18 years of age or older and at least three years older than the oldest child and youth in the group to which the assistant group leader is assigned;
 - (B) meets the qualifications for an assistant group leader as specified in K.A.R. 28-4-587; and
 - (C) has experience working with children and youth.

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