

# QUESTIONS AND ANSWERS

## Family Child Care Home I (FCCH I) and Family Child Care Home II (FCCH II) (391 NAC Chapters 1 and 2)

REVISED 7/5/2019

### Acronyms Defined

AAP means American Academy of Pediatrics

CCIS means Child Care Inspection Specialist

CPR means Cardiopulmonary resuscitation

ELG means Early Learning Guidelines

FCCH I means a Family Child Care Home I

FCCH II means a Family Child Care Home II

NELG means Nebraska's Early Learning Guidelines

NICHD means National Institute of Child Health and Human Development

SIDS means Sudden Infant Death Syndrome

### Temporary and Voluntary Cease of Operation (1-003.03, page 8; 2-003.04, page 9)

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

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

2. *If a licensee has been placed on Temporary Cease of Operation what are the restrictions for providing care to his/her grandchildren or foster children?*

**A licensee who is on Temporary and Voluntary Cease of Operation status may provide child care to his/her grandchildren as long as s/he is not being compensated to do so. S/he may also provide child care for his/her foster children as the foster care maintenance payment itself is not considered compensation for child care.**

3. *My license is on inactive status, can I care for three or fewer children while on inactive status?*

**No. A condition of being inactive is that no children are in care. Temporary and Voluntary Cease of Operation, formerly known as "inactive status," is used when a licensee is not able to provide care due to health or other qualifying reasons.**

### Change of Ownership (2-003.03, page 8)

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

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

### Notification of Changes (FCCH I: 1-004.04, pages 11-12; FCCH II: 2-004.05, pages 12-13)

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

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

2. *Does every license amendment require a fire safety and licensing inspection, zoning, etc.?*

The amendments to a Family Child Care Home I or II license that require a Fire Safety Inspection and a licensing inspection include: change in location/address, use of space that was not approved by the Fire Marshal, expanding the hours of care to include care after 9:00 p.m., and increase in license capacity.

Zoning approval for Family Child Care Home I or II is required per city ordinances and will vary per city/town.

3. *I have changed my location of business. I understand I am not licensed at my new location. Can I care for three or fewer children until I get my paperwork in and get an inspection done? If not, why not?*

No. A licensee who is not licensed at a new location is not to provide any care to children at the new location until licensed at that location. The new location needs to have the appropriate inspections to ensure the health and safety of children in care. The licensee can surrender the license they have for the previous address and if accepted, can then provide care to three or fewer children from more than one family. However if a license is applied for in the future all licensing requirements would need to be met, including, beginning at the provisional level.

4. *Foster Care homes have to submit amendment for new kids-submit within 2 days? Does a person just need to call in and get like 10 packets....so you can submit within 2 days? Foster kids come and go-sometimes they are not there for 24 hrs.*

Family Child Care Home I licensees must submit an Amendment to Application "before the change" when there is a new household member age 13 or older. If the new household member is age 12 or younger, the licensee must submit an Amendment to Application within two working days of the change.

Family Child care Home II licensee must submit an Amendment to Application "at least five working days before the planned change" when there is a new household member age 13 or older. If the new household member is age 12 or younger, the licensee must submit an Amendment to Application within two working days of the change.

### **Inspections and Complaint Investigations (FCCH I: 1-005, pages 13 – 14; FCCH II: 2-005, pages 15 – 16)**

1. *Will a checklist be available to the providers that Child Care Inspection Specialists use when conducting inspections?*

Yes, licensees will be given a copy of the checklist a Child Care Inspection Specialist uses after the inspection is conducted.

### **Licensee Qualifications and Requirements 1-006.01, page 15; 2-006.01, page 17)**

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

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

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

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

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

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

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

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

## **Background Checks (FCCH I: 1-006.02, pages 16-20; FCCH II: 2-006.02, pages 18-22)**

### **1. What is considered a "minor" traffic violation which would not be required to be reported to Children's Services Licensing?**

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

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

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

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

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

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

Since the regulation regarding State Patrol Sex Offender Registry does not have a specific age identified AND it is possible for a minor to have been convicted as an adult or if that minor is here from another state and that state requires him/her to register, we need to ensure everyone involved in the child care program (applicant/licensee, staff, volunteers, and household members) are not listed as a perpetrator on the sex offender registry and individual age eleven years or older must be checked.

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

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

### **5. When do I have to obtain a criminal history record check on myself and household members? Will there be forms available at some point so we know what we need to get?**

Criminal history record checks are only required on new applicants for a Provisional license, AND new staff and household members starting May 20, 2013. If you need to obtain a criminal history record check on a new household member or staff, you can obtain the check either from your local law enforcement agency (County Sheriff or City Police Department) if the person has lived in the same city/county their entire adult life or the State Patrol – if the individual has lived in other Counties throughout the state. If the individual has lived in Nebraska less than 12 months, you will need to submit a criminal history record check from the previous state(s) of residence.

There is no specific form that is used by local law enforcement agencies to request a Criminal History Record Check. Some law enforcement agencies charge a fee; others do not charge a fee. Instructions for obtaining a State Patrol Criminal History Record Check are on the State Patrol web site: <https://www.nebraska.gov/apps-nsp-limited-criminal/> The request can now be made electronically.

6. *Can a person who has been convicted of a felony be on the premises of a Family Child Care Home when kids are not present? The person who has been convicted of a felony is an adult child of the licensee and not a household member.*

Whether a person who has been convicted of a felony can be on the premises depends on the nature of the felony conviction. Generally, a person who has been convicted of a felony cannot be on the premises during the hours/days of operation, regardless of whether children in care are present. Licensees will want to contact their Child Care Inspection Specialist whenever there is a question about an individual who has a serious criminal history being on the premises of a licensed Family Child Care Home during the hours/days of operation.

There are no limitations on who can be on the premises of a Family Child Care Home outside of the hours/days of operation.

7. *What crimes are considered “theft”?*

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

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

### **Health Information Report (1-006.02F, page 20; 2-006.02F, pages 21-22)**

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

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

### **Staff, Volunteer, Household Member Qualifications and Requirements (FCCH I: 1-006.03, pages 20-21; FCCH II: 2-006.03, page 22)**

1. *What about “occasional helpers”--ones who may only help out for a day or two--do we need the child abuse registry check documentation as well as the felony/misdemeanor and the criminal background check? This would include the occasional high school student, relative, etc.*

Criminal history record checks are only required for new staff and household members, as of May 20, 2013 who are age 19 and older. Child Abuse Registry checks are required for any one age 13 and older. Family Child Care Home licensees should have the name of anyone routinely used as a “helper” – more than just in an emergency - on the application submitted to the Department.

All Family Child Care Home I and Family Child Care Home II licensees should check the copy of the most recent application to see if everyone used as a “substitute” or “helper” is listed. If not, submit a new application with the names of everyone you plan to use as a “substitute” and/or “helper” and the appropriate documents for each one based on their age. Read the regulations and contact Gabrielle Staben (Douglas, Sarpy, Washington, and Cass Counties) or Suzie Weber, Jessica Bang, or Kathryn Parham (all other Counties) if you have questions about this.

Gabrielle can be reached at: [gabrielle.staben@nebraska.gov](mailto:gabrielle.staben@nebraska.gov) Suzie can be reached at: [suzie.weber@nebraska.gov](mailto:suzie.weber@nebraska.gov) Jessica can be reached at [jessica.bang@nebraska.gov](mailto:jessica.bang@nebraska.gov) and Kathryn can be reached at: [kathryn.parham@nebraska.gov](mailto:kathryn.parham@nebraska.gov)

Felony/Misdemeanor Statement is now called “Report of Law Enforcement Contact” but it is the same form and we will accept the F/M Statement. This is required for individuals age 19 and older.

2. *Will parents who transport for field trips need to have a Report of Law Enforcement Contact, Criminal History Report, Consent/Release of Information completed, and a Sex Offender Registry Check done prior to transporting child care children just for the field trip?*

There is no provision for “uncompensated parent helper” in Family Child Care Home regulations. If a parent is transporting a child other than his/her own s/he considered a “volunteer”, a Report of Law Enforcement Contact, criminal history record checks, Child Abuse/Neglect, Adult Protective Services, and Nebraska State Patrol Sex Offender Registry checks, name, address, telephone number, Social Security number, start date, and written schedule of hours/days the individual serves as a volunteer must be in the volunteer’s file.

3. *What do FCCH Licensees need to do when a household member turns age 13? What do FCCH Licensees need to do when a household member turns age 19?*

When a household member who is already listed on the application turns 13, the licensee needs to submit a Consent and Authorization for Release of Information to the Staff Assistant (See response to question #1) so the Department can conduct a Child Abuse/Neglect Central Registry check on the household member. A new application is not required as long as the household member is already listed on the most recent application.

When a household member who is already listed on the application turns 18, the licensee needs to submit a Consent and Authorization for Release of Information to the Staff Assistant (See response to question #1) so the Department can conduct an Adult Protective Services Central Register check on the household member. A new application is not required as long as the household member is already listed on the most recent application.

When a household member who is already listed on the application turns 19, the licensee needs to submit a Report of Law Enforcement Contact to the Staff Assistant (See response to question #1). If the household member reports criminal history on the Report of Law Enforcement Contact or the licensee knows the household member has misdemeanor or felony convictions, the licensee must also obtain a Criminal History Record Check and submit that to the Staff Assistant. If the household member does not report or have any misdemeanor or felony convictions, a Criminal History Record Check is not required. A new application is not required as long as the household member is already listed on the most recent application.

4. *What is the youngest age a person could be approved to be a volunteer in a child care program?*

A Volunteer must be at least 13 years of age. Children under the age of 13 are in the age range the Department authorizes for child care for both the Child Care Subsidy Program and Child Care Licensing.

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

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

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

### **Training Requirements (FCCH I: 1-006.04, pages 21-23; FCCH II: 2-006.04, pages 22-25)**

1. *Do we need to send in our certificates or just keep them handy for when you come to do an inspection?*

Each licensee needs to keep certificates for all training – do not send certificates to your Child Care Inspection Specialist. We recommend every licensee maintain a file for all their “Professional Development” activities including in-service training.

### **Safety Training (1-006.04B, page 21; 2-006.04B, page 23)**

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

If a program was licensed prior to May 20, 2013 and Safety Training WAS completed prior to May 20, 2013: Safety Training is required to be completed again by May 20, 2018.

If a program was licensed prior to May 20, 2013 but Safety Training was NOT completed prior to May 20, 2013, then it must have been completed by May 20, 2016, and every five years thereafter.

### **Business Management Training (1-006.04C, page 21; 2-006.04C, page 23)**

1. *If a child care provider has taken the Business Management Training for a Director of a child care center, is that person required to take the Getting Down to Business Training if the individual left the center and now wishes to operate her own Family Child Care Home?*

No, if an individual has already taken the Business Management Training for a Director of a child care center, then they do not have to take the Getting Down to Business Training for a Family Child Care Home.

2. *Are there Equivalencies to the Getting Down to Business Training?*

Yes, training equivalencies were developed in April 2017 and are located on the Child Care Licensing Website on the Training Page: <https://dhhs.ne.gov/publichealth/pages/crlChildCareLicensingTraining.aspx>

3. *If a FCCH I or II provider has taken the Management Training for Centers would s/he have to take the Getting Down to Business Training?*

No. If an individual has completed the Management Training already, they have completed Getting Down to Business. Getting Down to Business is an abbreviated version of Management Training.

### **Nebraska's Early Learning Guidelines Training (1-006.04D, page 22; 2-006-04D, pages 23-24)**

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

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

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

The equivalencies can be found on the training page of the Nebraska Child Care Licensing Website: <https://dhhs.ne.gov/licensure/Documents/PP%20Equivs%20For%20ONE%20Early%20Learn%20Guidelines%20Trng.pdf>

3. *What classes count towards the seven domains of Nebraska's Early Learning Guidelines?*

The training on the seven domains of Nebraska's Early Learning Guidelines is offered through Early Childhood Professional Development Coordinators and is clearly called "Nebraska Early Learning Guideline Training" for each domain. Each domain is a six clock hour class. The domains are: Approaches to Learning, Creative Arts, Health and Physical Development, Language and Literacy Development, Mathematics, Science, and Social and Emotional Development. If you are unsure if a training you want to take meets the requirement for Nebraska's Early Learning Guidelines, ask the instructor or entity offering the training before you register for the training.

4. *Do the self-study packets for the Early Learning Guidelines work for meeting the requirement for having to complete the Early Learning Guidelines? Or do licensees have to attend the face to face trainings?*

No. Self-study packets for Nebraska's Early Learning Guidelines Training are no longer available. The individuals who checked out Self-Study NELG Packets will receive training credit for the sections they completed. Only the individual who checked out an NELG Self-Study packet will get credit.

### **Annual Training (FCCH I: 1-006.04E, page 22; FCCH II: 2-006.04E, page 24)**



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

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

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

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

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

4. *When we complete training on SIDS/Safe Sleep, Shaken Baby, Child Abuse/Neglect or the seven domains of the Early Learning Guidelines, do those classes count towards our annual In-Service hours as well?*

All required training counts toward the required 12 clock hours of In-Service Training each year unless required as part of a disciplinary action.

### **CPR and First Aid Training (1-006.04F, page 23; 2-006.04F, page 24)**

1. *Is it acceptable to take one of the "online" classes for my CPR training?*

CPR Training for child care must include practice and testing with a mannequin. This is not available through on-line training. Just having the information about how to use the skills is not sufficient. You must practice and show competency that you know how to do the skills in the event of an emergency.

For a list of approved CPR: <https://dhhs.ne.gov/licensure/Documents/ApprovedCPRorgs.pdf>

2. *Is the secondary provider or staff required to have current CPR and First Aid Training if primary provider is not on the premises?*

The child care licensing regulations do not require secondary providers or staff to have current CPR and First Aid Training.

If the secondary provider or staff is the only care giver more than 50% of the time then the secondary provider or staff would be required to have current CPR and First Aid Training.

The Department strongly encourages the primary provider or staff who has current CPR and First Aid Training to be on the premises whenever children are in care.

### **Child' Record (FCCH I: 1-006.06, page 24; FCCH II: 2-006.06 pages 25-26)**

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

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

2. *How long does a FCCH provider need to keep past clients day care records?*

Family Child Care Home Regulations do not specific how long children's records have to be kept. This decision is up to the licensee.

There are, however, requirements for keeping billing records if you accept Child care Subsidy (Title XX). Check with your Resource Developer before destroying any billing records.

3. *Can text message from parent take the place of written permission for transporting children, leaving the premises, medications, etc.?*

When documentation is required to be maintained for “written permission” from a parent, a “text messages” is not sufficient documentation. E-mail can be used for “written permission” if printed and maintained in the child’s file.

4. *Do providers need to add allergy information and current health status of children to “old” records if these children were enrolled before May 20 2013? Can we just accept the old children’s enrollment form for those children and enforce the new information for children just recently enrolled?*

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

### **Parent Information Brochures (1-006.07, page 24; 2-006.07, page 26)**

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

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

Family child care homes then need to distribute the Brochures to parents of children who are enrolled in their child care and retain the receipt with the name and date the parent received the brochure in the child(ren)’s file. One brochure is required for each family of children that are enrolled in the family child care home.

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

### **Staff-to-Child Ratio (FCCH I: 1-006.08, pages 24-25; FCCH II: 2-006.08, pages 26-27)**

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

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

2. *Family Child Care Home II regulation book does not state that two providers can care for three infants each, one of the three must be over 12 months?*

There is no change in the staff-to-child ratio for Family Child Care Home II programs with two providers. When allowed by the Fire Marshal, a total of six infants can be in care as long as two of the infants are at least 12 months of age and the maximum number of children in care is 12.

3. *Under the new regulations and old regulations, grandchildren are listed as “own” children. Does this only mean grandchildren residing in the home of the licensee or any grandchildren? How are grandchildren considered as far as age and maximum capacity when no pay is received for grandchildren, and they do not live with the licensee?*



Grandchildren have always been considered “own” children for purposes of ratio and capacity. Grandchildren may live with their parents or live with the licensee to be considered “own” children. Grandchildren under age 8 are always counted in the ratio and capacity.

Grandchildren over age 8 for whom no compensation is received do not count in ratio or capacity.

Grandchildren age 8 and older for whom compensation is received (private pay or Child Care Subsidy) now count in ratio and capacity.

- 4. Under the previous regulations, a Family Child Care Home I licensee could request an Alternative compliance if asked to serve twins or triplets. (391 NAC 6-006.02 Child/Staff Ratio: In the event of multiple births, an alternative compliance may be considered.)Does this still apply?

No. There are no exceptions to the staff-to-child ratio in the Family Child Care Home I or Family Child Care Home II regulations. When allowed by the Fire Marshal, a Family Child Care Home I licensee who wants to serve three infants must have one infant who is 12 months or older and the maximum number of children in care is limited to eight.

When allowed by the Fire Marshal, if a Family Child Care Home I licensee wants to serve four infants, the program must be “infant only”. If additional infants are served, there must be a second provider when the 5th infant is in care and the limit is a total of 8 infants.

- 5. Volunteers – do their children count in my license capacity since I am not getting paid for them or paying the volunteer?

Yes, children of volunteers under age 13 count in the license capacity. Volunteer’s children age 13 and older and adult children who need care and supervision also count in the license capacity.

- 6. If a provider has his/her own child age 8 and older, can the child have a friend(s) over during child care hours without the “friends” counting in the capacity as long as the friend(s) can go home and the provider is not responsible for them?

Yes, this is okay as regulations do not prohibit this. The CCIS may ask the friend(s) to return home during the inspection. If the friend(s) cannot do so, then they will be counted in the capacity.

- 7. Can the licensee host a birthday or holiday party which all enrolled children attend which puts her over capacity? Some of the parents will be attending these parties.

The licensee cannot go over capacity. The children whose parents are in attendance are not counted in capacity.

- 8. Is it okay for a licensee to schedule “play dates” in which children not enrolled in the child care, accompanied by their parents, are on the premises for a couple of hours to play with the children in the child care?

If a parent comes with a child to the program for a “play date” the child does not count in capacity and the licensee would not be violating any regulation.

**Communicable Diseases (FCCH I: 1-006.09, page 25 – 26; FCCH II: 2-006.09, pages 27 – 28)**

- 1. What are reportable communicable diseases?

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

- E Coli
- Influenza (certain types)
- RSV
- Rotavirus
- Salmonella
- Giardia
- Measles

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

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

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

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

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

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

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

### **Immunizations (FCCH I: 1-006.11, page 26; FCCH II, 2-006.11, page 28)**

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

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

2. *I care for a child that is not immunized and the parents sign a waiver for the immunization record. Do I have to let other parents know I am caring for a non-immunized child?*

There are no statutes or regulations that require a licensed child care program to inform parents that some of the children in their program are not immunized because parents do not want their child(ren) to be immunized or children who have a medical reason (i.e. allergies or other medical conditions) that prevents them from getting immunizations.

If someone becomes ill with Measles, Mumps, or Rubella or other vaccine-preventable diseases, the child care program should exclude children at risk until the situation is resolved and include this in the child exclusion policy. As always, if the parent has health concerns, they should check with their healthcare provider.

### **Supervision of Children (FCCH I: 1-006.12, page 27; FCCH II: 2-006.12, page 28)**

1. *Does a baby monitor count as hearing, if you are outside watching older children?*

If the licensee is outside watching other children, an operable baby monitor can be used only when an infant is sleeping.

2. *If parents want their child to ride a bike, go for a walk, etc. without the licensee's supervision, is this allowed?*

If parents want their child to participate in activities off the premises of the licensed Family Child Care Home and not be supervised by the licensee or staff, they must give written permission for the child to leave the child care premises and state the parent understands the licensee is not responsible for supervision while his/her child participates in activities outside the child care premises or outside the supervision of the licensee.

### **Permission for Child to Leave Premises (FCCH I: 1-006.12C, page 27; FCCH II; 2-006.12C, page 29)**

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

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

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

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

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

### **Use of Physical Hold (FCCH I: 1-006.13D, page 28; FCCH II: 2-006.13D, pages 30)**

1. *If a Family Child Care Home licensee cares for children for whom holding and rocking is recommended to calm them. Will this be considered "Use of physical hold"?*

Holding and rocking a child when it is not used in response to a child hurting him/herself, others, or property would not be considered a physical hold or restraint.

If however, physical holds are used when a child is hurting him/herself, others, or property would be considered a physical hold and the licensee needs to follow the regulations for "Use of Physical Hold" and/or "Use of Restraints" if the holds are used routinely.

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

Therapeutic Crisis Intervention (TCI) through Cornell University

- Registration/Payment: Alisa Burns [ab358@cornell.edu](mailto:ab358@cornell.edu) (607) 255-4528
- On-site Training: Eugene Saville [eas20@cornell.edu](mailto:eas20@cornell.edu) (607) 254-5210
- Trainer Certification: Kris Carlson [kmc16@cornell.edu](mailto:kmc16@cornell.edu) (607) 254-5440.

Non-Violent Crisis Intervention through the Crisis Prevention Institute.

- Crisis Prevention Institute; 10850 W. Park Place, Suite 600; Milwaukee, WI 53224; (888) 426-2184  
<https://www.crisisprevention.com/What-We-Do/Nonviolent-Crisis-Intervention>

The Mandt System

- The Mandt System; PO Box 831790; Richardson, TX 75083; (972) 495-0755;

- b. Training: [kevin@mandtsystem.com](mailto:kevin@mandtsystem.com)  
<https://www.mandtsystem.com/schedule/overview/>

**Therapeutic Aggression Control Techniques (TACT 2)**

- a. All contacts are done via this website  
<https://www.tact2.com/>

**Safe Crisis Management through JKM Training Inc**

- a. JKM Training, INC.; 1710 Ritner Highway, Suite 1: Carlisle, PA 17013; (866) 960-4726  
 b. [info@jkmtraining.com](mailto:info@jkmtraining.com)

**Beds, Cribs, and Sleeping Surfaces (FCCH I: 1-006.15B, page 30; FCCH II: 2-006.15B, page 31)**

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

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



Pic 1: Sleep Sack



Pic 2: Swaddler



Pic 3: Swaddler sleepsack

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

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

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

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



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

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

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

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

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

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

7. *Can a child who is over 12 months of age have a blanket while napping on cot or sleeping bag?*

Yes. The regulations do not address blankets when children over 12 months of age are sleeping on a bed, cot, sleeping bag, or mat.

8. *Can an infant under 12 months of age have a blanket with parent permission?*

Children age 12 months and under must be placed in a crib or play pen for sleeping. If a blanket is used, it must be secured or tucked under the crib mattress or the pad of the Play pen and reach no higher than the infant's chest.

9. *If a provider has a doctor's note saying an infant can sleep in a swing or bouncy seat and the infant is in a swing or bouncy seat and also has a blanket – can they keep the blanket since the regulation only addresses cribs?*

Yes. There is no prohibition or limitation on blankets used for any child who is not sleeping or napping in a crib or playpen. Any child who is in a playpen or crib cannot have a loose blanket of any size regardless of the age of the child.

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

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

11. *Can infants wear "amber necklaces"?*

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

### **Infant/Toddler Care (FCCH I: 1-006.16, page 31; FCCH II: 2-006.16, page 32)**

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

On the Child Care Licensing web site under forms is a sample feeding schedule form:  
<https://dhhs.ne.gov/licensure/Documents/InfantFeedingSchedule.pdf>.

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

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

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

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

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

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

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

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

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

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

**6. Can child care providers use glass bottles for infants?**

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

There are no prohibitions to using glass bottles for infants.

**Diapering and Toileting (1-006.16A, page 31; 2-006.16A, pages 32-33)**

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

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

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

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

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



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

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

**Food Service (1-006.21, page 35; 2-006.21, page 37)**

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

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

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

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

**Wading and Swimming Activities (FCCH I: 1-006.18, pages 32 – 33; FCCH II: 2-006.18, pages 33 – 35)**

1. *Do Family Child Care Homes have to meet the same staff-to-child ratios when taking children to a licensed swimming pool as Child Care Centers?*

No. There are no specific staff-to-child ratio when Family Child Care Home Licensees take children to a licensed swimming pool other than the staff-to-child ratio for a Family Child Care Home I or II. When the depth of a pool's water is over four (4) feet, there must be someone on duty who has satisfactorily completed a swimming water safety course.

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

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

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

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

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

**Transportation (FCCH I: 1-006.19, page 33; FCCH II: 2-006.19, page 35)**

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

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

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

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

Additional information specific to buses was provided:

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

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

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

2. **Will parents who transport for field trips need the following in each vehicle:**
  - i. *parent contact information*
  - ii. *a first aid kit*

**Yes. Any vehicle in which children in care are being transported must have parent contact information for the children who are in that vehicle and a first aid kit.**

### **Medications (FCCH I: 1-006.20, pages 34 – 35; FCCH II: 2-006.20, pages 36-37)**

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

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

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

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

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

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

Over-the-counter, non-toxic topical ointments such as lip balm, petroleum jelly, sun block, diaper ointment, and essential oils must be kept out of the reach of children. (1-006.20G and 2-006.20G)

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

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

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

5. *My preteen daughter keeps her inhaler/nebulizer by her bed on her night stand in her bedroom where daycare children aren't allowed-does it need to be locked-she uses these numerous times during the day?*

All medications must be locked at all times. If the daughter of the licensee keeps her bed room door locked, she can keep her inhaler/nebulizer on her night stand. If the bed room door is not locked, then the inhaler/nebulizer medication must be in locked storage. A break away lock is acceptable for storage of "immediate needs" medications such as epi pins and inhalers. This allows the medication to be placed in a fanny pack for portability and safety.

6. *Can family child care homes provide non-prescription medications to children "as needed" (PRN)?*

Family child care homes cannot purchase non-prescription medications to be given to children "as needed" (PRN).

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

**Food Safety (FCCH I: 1-006.22, pages 36-37; FCCH II: 2-006.22, page 38)**

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

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

When using breast milk, remember:

- Breast milk can only be warmed once. It can't be put back in the refrigerator once warmed.
- Breast milk that has not been offered to the baby can safely be kept out at room temperature for no more than 4 hours.

Breast milk that has been offered and consumed by the baby, but not completely gone, may be left out for 1 hour. The milk must be disposed of after that time. The parent and provide may decide between themselves how breast milk is to be disposed. A parent may choose to have the breast milk returned to him/her, but the provider may not serve it back to the infant.

2. *Does breast milk need three (3) dates on it - date expressed, date frozen, and date received?*

Yes. "All prepared formula or breast milk must be refrigerated and clearly labeled with the child's name, date received, date expressed and date frozen".

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

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

**Emergency Preparedness (FCCH I: 1-006.23, pages 37-38; FCCH II: 2-006.23, pages 38 – 39)**

1. *If a licensee does not and will NEVER provide care for special needs children will they still need an emergency disaster plan specific to a special needs child?*

The licensee needs to include a statement that s/he will never provide child care for children with special needs in the "Disaster Preparedness Plan". However, many children have "special needs" that can be easily accommodated in a Family Child Care Home i.e. children with asthma or other respiratory problems, children with learning disabilities. Licensees are encouraged to review the definition of "Special needs" on page 5 in the FCCH I and FCCH II regulations.

2. *An in-service on disaster preparedness would be helpful.*

Many local Health Departments are providing training to child care programs on Disaster Preparedness and how to write a Disaster Preparedness Plan. Contact your local Health Department for more information about training in Disaster Preparedness.

3. *How does a home I provider document Tornado/Fire when they take summers off? Are they still required to practice and document?*

When a licensee does not operate for extended periods of time such as the summer months, include this information in the Child Development Program. Fire Drills do not have to be practiced in any month the Family Child Care Home is closed for the entire month.

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

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

### **Environmental Services (FCCH I: 1-006.24, page 38; FCCH II: 2-006.24, page 40)**

1. *What if my husband sleeps (because of shift work) in the basement or our bedroom - do Child Care Inspection Specialists have to see that space and wake him up?*

The Environmental Services regulations require the licensee to provide child care in a safe, clean, comfortable environment. Every area and building on the same premises used for child care must comply with these regulations, thus the Child Care Inspection Specialist will need to see the space in the basement or bedroom.

2. *The Sanitation guidelines seem very gray. Is there a specific guideline about what is "clean"? It seems as though each Specialist has a different idea of what is clean/not clean and what I consider to be picked up/clean has not been OK for the Specialist that comes to my house. Also my basement area is for my own children and teenager rooms and I was told that these will need to be cleaner than what it was and clothes and things put away all the time with the new regulations. These areas are not areas where daycare children are allowed.*

Environmental Services regulations including "Housekeeping and Maintenance" and "Maintenance of Equipment, Fixtures, Furnishings, and Toys" apply to "every area and building on the same premises used for child care". This includes rooms in the house, basement, garages, and other areas of the home or facility that are not used for child care.

"Clean" is the absence of garbage, rubbish, dirt, mold, mildew, sewage, and other contaminants.

Also, extreme clutter that includes combustible items and food creates a fire and/or sanitation hazard. Child Care Inspection Specialists will take pictures when they have concerns to determine if a referral for a fire safety and/or sanitation is necessary.

3. *What about outdoor areas? For example when a FCCH licensee has a separate fenced area for the children but their husband has a work shed/hobby area where he works on cars, etc. How will Specialists be enforcing those areas where children are not allowed or have specifically fenced off from the daycare?*

Outdoor areas must be free of garbage and rubbish that creates odor and the transmission of infectious diseases and prevents the attraction of rodents, flies, and all other insects, and vermin. If the Specialist has a question about an outdoor area, pictures of the space should be taken and shared with an Environmental Health Scientist who can then decide if a separate sanitation inspection is warranted.

### **Smoking (FCCH I: 1-006.25A, page 39; FCCH II: 2-006.25A, page 40)**

1. *Is Smoking in an attached garage considered "indoors?" What about smoking in a detached garage?*

No, a detached garage is not considered "indoors." A provider can smoke in a detached garage, shed or other structure not attached to the child care home.

**Alcohol and Controlled Substances (FCCH I: 1-006.01, #10, page 16 and 1-006.25B, page39; FCCH II: 2-006.01, #10, page 10 and 2-006.25B, page 41)**

1. *If I am licensed 6 a.m. to 6 p.m. Monday through Friday and I am on vacation for a week at home, can I drink alcohol between 6 a.m. and 6 p.m. Monday through Friday – my “hours/days of operation”?*

**Yes, you can consume alcohol during the hours/days of operation when no children in care are present.**

2. *I am licensed for 24 hours/7 days a week so I can watch children if needed for an occasional overnight. I also sometimes have ladies night where there are no children allowed and moms come to relax at my home – we enjoy adult beverages during this time. Will I violate any regulations by doing this?*

**As long as no children in care are present, consuming adult beverages is not a violation of any regulation.**

**Animals/Pets (FCCH I: 1-006.25C & D, page 39; FCCH II: 2-006.25C & D, page 41)**

1. *If the Veterinarian signed off that the pet does not need to be seen for two or three years will the provider be in compliance?*

**No. The requirement is that all pets have to be examined annually by a licensed veterinarian and have documentation available.**

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

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

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

**When pets are kept on the premises the licensee must:**

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

**List of Prohibited Animals:**

- **All varieties of chickens, ducks, and geese (These animals excrete E. Coli O157:H7, Salmonella, Campylobacter, S. paratyphoid). Newborn baby chicks can be in incubation containers.**
- **All poisonous snakes and reptiles, including alligators and similar animals;**
- **All poisonous animals, including spiders and venomous insects-including tarantulas and scorpions;**
- **All wild canines and hybrids such as wolf crosses;**
- **All wild native and exotic animals such as raccoons, skunks, otters, opossums, bats, deer, bears, and antelopes;**
- **All wild or exotic cats, including hybrids;**
- **All apes, gorillas, and other lower primates; and**
- **Crocodiles, alligators, and any poisonous reptile or amphibian.**

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

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

The FCCH I and FCCH II may take children to view any animals at the zoo with prior parental permission.

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

### **Other Environmental Safety Requirements** (FCCH I: 1-006.25E, pages 39 – 40; FCCH II: 2-006.25E, pages 41 – 42)

1. *Is there a specific list of cleaners, poisons and chemicals that should be locked and those that don't need to be locked? What about items in the garage like gas, oil, and other car related stuff?*

There is no change in the regulations for cleaners, poisons, and other chemicals to be in locked storage at all times during the licensed hours of operation. All cleaners, poisons, and chemicals must be in locked storage. Items like gas, oil, and car related chemicals also need to be in locked storage or a locked room or garage.

2. *When paint and toxic chemicals are kept in the garage with a locked door between the attached garage and house, is that ok?*

Yes, keeping paint and toxic chemicals in the garage when the door to the garage is locked, is OK. It is important that all storage areas be kept free of excessively combustible or highly flammable materials anywhere on the premises.

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

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

4. *What are the difference and are the following acceptable to meet the requirement for keeping all firearms, weapons and ammunition in locked storage?*

Combination Locks- Certain gun cases that require a certain number of finger pushes on a certain sequence of numbers. These are acceptable.

Trigger locks- These are locks that are placed on each individual gun and lock the trigger. These may be combination or key locks. Both are acceptable as long as the CCIS sees the lock and key.

Finger print (Biometric) locks- These cases store a set number of finger prints and scan the fingertip in order to unlock the safe. These are acceptable.

5. *Do display weapons need to be in locked storage?*

No, as long as it is apparent to the CCIS that the weapon is inoperable.

### **Water Supply** (1-007.02A, page 40; 2-007.02A, page 42)

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



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

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

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

### **Outdoor Play Area (FCCH I: 1-007.03, page 41; FCCH II: 2-007.03, page 43)**

1. Is a bunny rabbit considered a barn yard animal? How about a guinea pig?

The following are considered “barnyard animals”: chickens, turkeys, ducks, geese, cows, donkeys, horses, llama, pigs, goats, and sheep.

Thus, rabbits and guinea pigs (species of rodent) are not considered “barn yard” animals.

2. Can providers have a bounce house or trampoline?

Yes, these items are not prohibited by any licensing regulations. It is recommended that a provider consult with his/her insurance agent or an insurance company before using a bounce house or trampoline.

### **Fencing (FCCH I: 1-007.04, pages 41; FCCH II: 2-007.04, pages 43)**

1. Do air conditioners need a form of protection around them and what is acceptable?

If an outdoor air conditioner or heat pump is in the outdoor play area and has loose or broken parts, rust, or creates a hazard, a barrier to prevent children accessing the air conditioner/heat pump is required.

2. Does an outdoor fire pit need to be fenced?

If the outdoor fire pit is in the outdoor play area and is a hazard based on the depth, construction, and/or storage of wood and/or chemicals, a barrier to prevent children from accessing the outdoor fire pit is required.

3. A FCCH licensee has a water feature that is not a pond. It is described as “several tubs and water pots that water runs between” and is not more than 12 inches deep. Water does stay in the tubs/pots at all times and sprays/runs between the different pots. Will it need to be fenced?

Yes, a “water feature” that includes standing or circulating water at any depth must be fenced.

### **Fire Safety (FCCH I: 1-007.07, page 42; FCCH II: 2-007.07, page 44)**

1. Can Family Child Care Homes have electric “scentsy pots” (pots that have scented hot wax) in use while children are in care? While not an open flame, the pot gets hot enough to melt the wax.

Nebraska’s Life Safety Code does not address this device. The Life Safety Code only addresses heating devices and prevention against contact burns. Therefore, this device is not prohibited in a licensed child care program.

There are now newer devices under a trade name of “Sensi” which uses a light bulb to heat the wax. These devices are allowed even in nursing homes and are much safer than the pots that are heated directly by electricity. If used, the licensee must supervise all children when they are in any room that has melting wax to insure children are not burned.

2. Are lit candles on a child’s birthday cake OK?

No, there are no exceptions to the requirement that “Open flames must not be used while children are in care”. Weather permitting, candles could be lit outside.

**3. What does maintained according to State Fire Code Regulations, 153 NAC1 mean?**

The portable 2A10BC fire extinguishers need to be inspected annually and providers should keep the tag on the extinguisher or proof of date from the package. Inspections are to be done annually by a fire safety company that sells/inspects fire safety equipment and has trained and qualified staff and can tag and date the inspection. The company can advise as to ongoing maintenance and costs associated with maintenance of fire extinguishers.

## **OTHER ITEMS OF INTEREST**

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

Here is the link to the information on the Child Care Licensing Website which describes what Child Care Inspections Specialists want to see at the time of inspection: <https://dhhs.ne.gov/licensure/Documents/LiabilityInsReqMemo.pdf>

Here is the language in the Child Care Licensing Act specific to Child Care Liability Insurance [Neb. Rev. Stat. §71-1911.03](#). Applicant; liability insurance.

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

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

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

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

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

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

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

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

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

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

**5. I am wanting to have a home II and build an additional building on my property. Is this something I can do?**

The applicant is encouraged to contact their city/municipality to ensure this is acceptable with the city/municipality and to obtain that approval in writing. For licensing purposes if acceptable by the city/municipality, and appropriate zoning and approvals are provided in writing, this will be allowed as long as that building meets all other child care regulations.

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

*Yes, digital signatures are acceptable.*

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

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