

April 12, 2024

GENERAL LETTER NO. 12-E-24

ISSUED BY: Bureau of Child Care Services
Division of Adult, Child, and Family Services

SUBJECT: Employees' Manual, Title 12, Chapter E, **Child Care Centers**, Contents I, 20-27, revised;
28, new.

Summary

This chapter is revised to Add Workflow for Child Care Joint Assessment

Effective Date

Upon receipt.

Material Superseded

Remove the following pages from Employees' Manual, Title 12, Chapter E, and destroy them:

<u>Page</u>	<u>Date</u>
Contents I	January 27, 2023
20-27	January 27, 2023

Additional Information

Refer questions about this general letter to Kim Hahn, Child Care Regulatory Program Manager.

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3. If the complaint is going to result in a negative licensing action, the licensing supervisor must approve the action and send the *Notice of Decision: Services* and the *Child Care Center Complaint*. Notify the facility by certified mail of any action to suspend or revoke the license. See [Denial, Suspension, or Revocation of License](#) for procedures.
4. If child abuse is founded at a center for a child in the center's care and the perpetrator of the founded abuse is an employee, owner, operator, or resident of the center, a letter must be sent to notify every parent, guardian, or legal custodian of a child in care at the facility. See [Notice to Parents](#) for instructions.

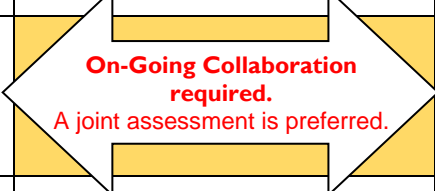

NOTE: An exit staffing shall occur between child protective staff and child care licensing staff when any of the following are true:

- The case will be founded.
- There is disagreement with the outcome of the CPS assessment.
- Upon the request of any Department personnel.

Comment: Note that Iowa Code Section 237A.7 does not prohibit the disclosure of information in the licensing file relative to the operation of the facility as long as it does not disclose information identifying individual persons, including children. In this regard, language in the documentation and summary information should not relate to child abuse in any way, but rather address compliance issues that may be involved.

Work Flow for Childcare Joint Assessment

(Accepted child abuse involving a childcare provider)

Child Protective	Timeframes	Childcare
Intake notifies Child Protective Staff of complaint.		Intake notifies Child Care Staff of complaint. (Center or home email box)
CPW alerts childcare worker of assignment. Center / Homes	Within 24 hours	Child Care worker alerts CPW of assignment
CPW assessment begins.		Child Care Regulatory assessment begins.
CPW will email childcare staff of preliminary outcome decision.	Prior to report completion	Childcare will email CPW of preliminary outcome decision.
If FOUNDED		
 JOINT STAFFING Prior to report completion (SW 3, SW 2/4, SWS, Child Care Supervisor) SWA attendance is required only if there is a disagreement with disposition or the PERP is unknown		
CPW notices subjects at the conclusion of the abuse report.	Within 10 days of CPA disposition	Childcare staff will gather parent contact information and initiate record check process.
	Within 15 days of CPA disposition	Supervisor will draft letters to subjects and provide to Policy Staff
	Within 20 days of CPA disposition	Policy staff will distribute letters and Cc Child Care Supervisors

Note: If the provider is an unregulated home, child care team won't be involved in assessment. The CPW is required to gather parent this information and provide this to Sheila Aunspach. It is preferred to have this list parent names and addresses by the date of the CPW disposition but is required 10 calendar days from CPA disposition. If the provider does not provide a list when asked, follow up the request with a written letter.

- **Primary Message:** We must care about what one another are doing --- (A step beyond being aware of what one another are doing).
- **Primary Message:** There must be open communication between the protective unit and the child care unit.

Unlicensed Child Care Center

Legal reference: Iowa Code Sections 237A.2 and 19

Policy: Under penalty of law, a person shall not establish or operate a child care center for seven or more children without obtaining a license (except when the facility is registered as a child development home).

A person operating a child care center without a license who refuses to complete an application and refuses to cease operations as a child care center shall be referred to the county attorney's office, after notice from the Department by certified mail.

Procedure: The child care consultant shall contact the chairperson of the board, owner, or operator of the facility and explain the requirements for licensing, the penalty for operating without a license, and the procedure for licensing.

- Conduct an on-site visit:
 - If the person operating an illegal child care center, advise that they must contact families to have children picked up until they are caring for less than seven children.
 - Contact law enforcement for assistance if necessary.
- Offer licensing materials, including the standards and procedures for licensing and an application.
- Inform the operator that the Department will be sending the facility a notice to discontinue operations as a child care center.

The notice shall include the following information:

- This is official notice from the Department of Health and Human Services to discontinue all child-caring services as a child care center because the facility is not licensed.
- This official notice is effective upon receipt of this letter. Iowa Code Section 237A.19 states “a person who establishes, conducts, manages, or operates a center without a license shall be guilty of a serious misdemeanor.”
- The same section of the Iowa Code states “each day of continuing violation after . . . notice from the Department by certified mail shall be considered a separate offense.”

Send the notice to the operator by certified mail. Send a copy of the notice to the county attorney, to the licensing supervisor, and to the Division of Behavioral, Developmental and Protective Services.

If the facility continues to operate a child care center or preschool after official notice from the Department, ask the county attorney to take legal action against the facility, and notify the Division of Adult, Children and Family Services. How quickly you make this request depends on the risk of harm to children. However, make the request within 30 days of the notice.

The county attorney may file misdemeanor charges and request the court to restrain the person from operating by permanent injunction.

Provisional License and Corrective Action Plans

Provisional License

Legal reference: 441 IAC 109.2(3)

Policy: A provisional license may be issued or a previously issued license may be reduced to a provisional license for a period up to one year when the center does not meet all standards imposed by law and these rules.

A provisional license shall be renewable when written plans giving specific dates for completion to bring the center up to standards are submitted to and approved by the Department. A provisional license shall not be reissued for more than two consecutive years when the lack of compliance with the same standards has not been corrected within two years.

When the center submits documentation or it can otherwise be verified that the center fully complies with all standards imposed by law or these rules, the license shall be upgraded to a full license.

Procedure: A corrective action plan is required to issue a provisional license.

Corrective Action Plans

Legal reference: Iowa Code Sections 237A.2

Child care centers may be required to submit Corrective Action Plans (CAP) when performance is determined to be:

- High risk of harm and slight pattern of disregard to licensing standards **or**
- Moderate risk of harm and moderate disregard of licensing standards **or**
- Low risk of harm and serious disregard to licensing standards

Center Effort to Close Their Corrective Action Plan

- Has the center engaged as active, ongoing participants in the service implementation process?
- How are supports, services, and corrective action being implemented?
- How does the center and resource team members fulfill their roles and responsibilities to ensure that services are of sufficient intensity, duration, and continuity to achieve desired results?
- What positive changes are being observed?

Follow Up Visit to Close Their Corrective Action Plan

See [12-E-Appendix](#) for form 470-5587, *Corrective Action Plan to Address Child Care Licensing Rules*.

- What positive changes are being observed?
- How has the center demonstrated functional improvement in routine daily activities?
- How is the center demonstrating functional improvement in safe and dependable caregiving?

- How are known risks of harm being reduced or properly managed?
- What has been done to establish an adequate and sustainable support network for the center?
- How satisfied is the consultant, providers, and parents with the services provided and the results achieved?
- What other barriers, successes, and assistance is known?

NOTE: Plans are due within 10 days of the provider receiving the report. Every 90 after the provider receives the report, the child care consultant must monitor the plan until the corrective action plan is resolved.

Denial, Suspension, or Revocation of License

Legal reference: Iowa Code section 237A.8, 441 IAC 109.2(4) and (5)

Policy: Initial applications or renewals shall be denied when the applicant does not comply with center licensing laws and rules to qualify for a full or provisional license.

Initial applications or renewals shall be denied, or a license shall be revoked or suspended, **if corrective action has not been taken** when any of the following occur:

- The facility is operating in a manner which the Department determines impairs the safety, health, or well-being of the child in care and the facility does not qualify for a provisional license because either:
 - A corrective action plan is not approved, or
 - A provisional license has already been given for the same standards for more than two consecutive years.
- The owner, operator, or staff member with direct responsibility for child care, or anyone living in the child care facility has been prohibited from involvement with child care. (Refer to [Record Checks](#).)
- Information provided to the Department either orally or in writing or contained in the center's files is shown to have been falsified by the provider or with the provider's knowledge.
- The center is not able to obtain approval from the fire marshal.

Procedure

1. When a recommendation is made to deny, suspend, or revoke a license, send the recommendation to the licensing supervisor for approval and processing.
2. When the decision is made to deny, suspend, or revoke a license, the licensee shall receive a *Notice of Decision: Services*, form 470-0602, by certified mail stating the reasons. A copy of the *Child Care Center Evaluation and Recommendation for License*, form 470-0724, or *Child Care Center Complaint*, form 470-4067, shall be sent with the notice.

When an official notice is given to deny, suspend, or revoke a license, the Department shall notify the parent, guardian, or legal custodian of each child enrolled in the facility of the denial, suspension, or revocation. Inform the Child Care Registration Unit so the notice can be sent to families. See [Notice to Parents](#).

3. After 30 days, if an appeal has not been made and the facility is still operating, send a certified letter with the following information:
 - A statement that this is official notice from the Department of Health and Human Services to discontinue all child-caring services as a child care center because the license has been denied, suspended, or revoked.
 - A statement that this official notice is effective upon receipt of this letter.
 - The reasons with specific references to the Code of Iowa and the administrative rules.
 - That the Iowa Code section 237A.19 states, “a person who establishes, conducts, manages, or operates a center without a license shall be guilty of a serious misdemeanor.”
 - That under the same Code section, “each day of continuing violation after notice from the Department by certified mail shall be considered a separate offense.”

Send a copy of the certified letter to the following county attorney, the licensing supervisor, and the Division of Adult, Children and Family Services. Place a copy in the licensing file.

4. If the decision to revoke or deny is appealed, a hearing is held, and the Department’s action is affirmed, the appellant provider has 30 days in which to appeal to district court. Enforcement of the decision shall not take place until the earlier of the following:
 - The 30 days for appeal to district court has expired, or
 - The appellant provider has appealed but has not requested a stay of agency action.

Once one of these conditions has been met, the Department shall move to enforce the denial, suspension, or revocation, by taking the same action as indicated in step 3 above.

5. If the appellant provider appeals to district court and requests a stay of agency action, and the stay is granted, the license shall remain in force until the case is resolved by a court decision.

If the court affirms the Department’s decision, take action immediately to enforce the denial, suspension, or revocation and any court order issued by sending a certified letter containing the information specified in step 3.

6. If a facility continues to operate after official notice from the Department, ask the county attorney to take legal action against the facility, and notify the licensing supervisor and the Division of Adult, Children and Family Services.

The county attorney may file misdemeanor charges and request the court to restrain the persons from operating by permanent injunction.

Notice to Parents

Legal reference: Iowa Code Section 237A.5 and 237A.8; 441 IAC 109.2(6), 109.6(6)

License Denied, Suspended, or Revoked

Policy: When a center or preschool has its license denied, suspended, or revoked, the Department shall send letters to notify every parent, guardian, or legal custodian of a child in care at the facility.

Procedure: Mail the letters after the notice to deny, suspend, or revoke the license is mailed to the facility. If the facility appeals the adverse action, send another letter to parents after all appeal rights have been exhausted.

Founded Child Abuse

Policy: When a center or preschool had responsibility for care of a child for whom there is a founded child abuse against an employee, owner, operator, or resident of the child care facility, the Department shall send letters to notify every parent, guardian, or legal custodian of a child in care at the facility.

Procedure: The letters shall be sent immediately in the case of founded sexual abuse or when the situation may cause the children in care to be at great risk. Take the following steps:

1. Check JARVIS to verify that the founded case is on file.
2. The Department will send letters notifying the parent, guardian, or legal custodian of each child for whom the center provides child care that there has been a founded child abuse against an employee, owner, operator, or resident of the child care facility.
3. Obtain a list of names and addresses of all parents, guardians, or legal custodians for all children currently enrolled at the facility and provide to the licensing supervisor and Child Care Bureau in the Division of Adult, Children and Family Services.
4. The Division of Adult, Children and Family Services will send a letter signed by the division administrator to the owner or operator explaining the outcome of the abuse assessment, to the person identified responsible for the abuse, and a parental notice to all parents with children in care at the facility.
5. A copy of each signed letter will be provided to the licensing consultant and licensing supervisor.
6. The Division of Adult, Children and Family Services will upload the signed parent and director letter into CRIS.

Licensing Record and Files

Policy: The child care consultant shall maintain licensing records for child care centers and preschools. Licensing records are open public records. The information placed in the record shall be retained for a minimum of five years. The licensing record shall contain the following and be maintained in CRIS:

- *Child Care Center Licensing Application and Invoice*, form 470-4834
- Fire Marshal's approval
- *Child Care Center Evaluation and Recommendation for License*, form 470-0724
- *Notice of Action*, form 470-0728
- Floor plans
- *Child Care Center Complaint*, form 470-4067
- *Notice of Decision: Services*, form 470-0602, for the denial, revocation, or suspension of the license
- Certified letters
- Relevant inspections such as radon, private water analysis, etc.

NOTE: Consider using CRIS' notes section to maintain other information that may be applicable.

Record Checks

Legal reference: Iowa Code Sections 237A.5 and 692.2; 441 IAC 109.6(237A)

Policy: Every owner or operator of a licensed facility, all staff members with direct responsibility for child care, any person living in a facility, and volunteers that have unrestricted access shall have a criminal records check and a child abuse registry check. These record checks are reviewed during licensing visits to verify compliance.

A review must be completed of the following every two years or upon knowing of a new transgression:

- Iowa criminal history
- Iowa sex offender registry
- Iowa child and dependent adult abuse.

A review of national criminal history via fingerprinting shall be completed every four years.

Comment: Employees such as cooks, janitors, and bookkeepers that do not have direct responsibility for child care, access to a child, or unrestricted access to the facility are not required to have record checks. However, record checks should be completed on a person if the director or operator anticipates that an employee may have direct responsibility for a child in an emergency or when other staff are absent, or if a volunteer will have unrestricted access.

There are a few licensed centers and preschools with family members or other persons living in the facility. Iowa Code Section 237A.5 and 441 IAC 109.6(6) require that each person 14 years of age or older living in a child care facility have a records check.

Information provided by a criminal records check or by a child abuse registry check is confidential. A licensee may discuss this information only with the person on whom the check was completed. A licensee or any other person who uses the information for other purposes or who communicates the information to another person may be guilty of a misdemeanor.

Procedure: The owner or operator of a licensed facility is responsible for initiating all required criminal and child abuse record checks for the facility. This is done by completing DCI-77, *Criminal History Record Check Request*, DCI-45, *Waiver Agreement and Statement for National Criminal History Record Checks*, and form 470-3301, *Authorization for Release of Child and Dependent Adult Abuse Information*. These are maintained in the employee file. If the Department becomes aware of a possible transgression of a child care facility employee, advise the director, owner, or operator that they must initiate the record check process. Monitor this for completion.

Forms with negative record checks, i.e., not showing any record of convictions or founded child abuse reports, are returned to the owner or operator of the licensed facility to be placed in the individual personnel files. Forms with positive record checks must be evaluated. (See below.)

When completing employee file reviews, if there are positive record checks, all files must have a corresponding record check evaluation available.

Record Check Decision

Legal reference: Iowa Code Section 237A.5 and 441 IAC 109.6(6)

Policy: A person who has a transgression shall not own or operate a child care center or be employed as a staff member with direct responsibility for child care and shall not live in a child care facility, unless the Department has made an evaluation of the transgression which concludes that the transgression does not prohibit involvement with child care.

Failure to return the *Record Check Evaluation* form shall be a basis for prohibiting employment or licensure.

Comment: Record check evaluations are completed by a Record Check Evaluation Team. Contact the team at: recordcheckevals@dhs.state.ia.us.

If an employee has a transgression during the time working at a child care center and the transgression or the record check decision is under appeal, the consultant needs to work with the center to determine if it is reasonable to have that person in the child care during the appeal. Centers should be aware of potential liability if they choose to continue a person's employment in the program. If the child care consultant has concerns about continued employment, this should be reviewed with the licensing supervisor.

A criminal record or child abuse record check in an employee's file is a confidential request. This record cannot be duplicated and transferred with an employee, however, a program may provide documentation to a subsequent center that record checks were completed and the person is permitted involvement.