

STATE OF IOWA DEPARTMENT OF

**Health** AND **Human**

SERVICES

Employees' Manual  
Title 12, Chapter E

Revised January 27, 2023

# Child Care Centers

---

	<u>Page</u>
<b>Overview .....</b>	<b>I</b>
Purpose of Child Care.....	I
Legal Basis .....	I
Model of Practice.....	I
Introduction.....	I
Population Served .....	2
Outcomes.....	2
Guiding Principles.....	2
Frontline Practice .....	2
Definitions.....	4
<b>Licensing Procedures .....</b>	<b>6</b>
<b>Initial Consultation.....</b>	<b>7</b>
Application to Operate a Child Care Center.....	8
Minimum Requirements for Sufficient Application .....	9
Child Care Center Personnel .....	9
Open Pending a Licensing Decision.....	12
Licensing Decision.....	12
<b>Monitoring Compliance .....</b>	<b>14</b>
Annual Inspections.....	14
<b>Licensing Evaluation and Determining Course of Action.....</b>	<b>16</b>
Risk of Harm .....	16
Pattern of Disregard.....	17
Drop In or Other Assurance .....	17
Complaints.....	18
Investigations for Child Abuse Referrals.....	19
Unlicensed Child Care Center .....	20
<b>Provisional License and Corrective Action Plans.....</b>	<b>21</b>
Provisional License.....	21
Corrective Action Plans .....	22
Center Effort to Close Their Corrective Action Plan .....	22
Follow Up Visit to Close Their Corrective Action Plan .....	22
<b>Denial, Suspension, or Revocation of License.....</b>	<b>23</b>
<b>Notice to Parents .....</b>	<b>24</b>
License Denied, Suspended, or Revoked.....	24
Founded Child Abuse.....	24
<b>Licensing Record and Files .....</b>	<b>25</b>
<b>Record Checks.....</b>	<b>25</b>
Record Check Decision .....	26

## **Overview**

Child care centers provide care for periods of less than 24 hours in a place other than the children's home. Child care staff are responsible to operate a program geared to each child's developmental needs, so that it positively contributes to the child's social, physical, emotional, approaches to learning, communication, language, literacy, mathematics, science, social studies, and creative arts growth.

The Department of Health and Human Services carries out the provisions for licensing in child care law and establishes minimum standards. The Department offers consultation and assistance in applying for a license and meeting the requirements of a licensed center through the child care consultants.

### **Purpose of Child Care**

Child care does not supersede parental rights, responsibilities, and relationships. Rather it is an effort to assist parents in fulfilling their responsibilities for protecting the child and providing opportunities for the child's development. A child care center supplements the home by sharing responsibilities with the parents, whether for economic, social, health, or educational reasons.

The purpose of child care should be to provide safe, healthy, and developmentally appropriate care. A child care center should be a place where children feel loved and wanted; where supervision is responsible and where the program provides activities that contribute to the developmental growth of the child.

### **Legal Basis**

Licensing of child care centers is a responsibility of the Department of Health and Human Services as provided under Iowa Code Chapter 237A.

Iowa Code Section 237A.12 gives the Department authority to promulgate minimum requirements to provide quality child care in the operation and maintenance of child care centers. Minimum requirements promulgated by the Department are found in 441 Iowa Administrative Code Chapter 109.

The *Child Care Centers and Preschools Licensing Standards and Procedures*, Comm 204, outline all regulatory requirements for child care centers. Use this guide to assist you in evaluating compliance with all regulations outlined in Iowa Administrative Code.

### **Model of Practice**

#### **Introduction**

Health and safety is the hallmark of child care licensing. Families rely, in part, on the regulatory functions associated with child care licensing to protect their child while parents participate in the workforce, education, or otherwise unable to care for their children.

It is the duty of the Department's child care licensing consultants to help centers with injury preventions while evaluating regulatory compliance as defined in Iowa Code 237A and 441 Iowa Administrative Code Chapter 109.

### **Population Served**

There are approximately 1,500 child care centers and approaching 100,000 children enrolled in Iowa child care centers. Children and their families, our community, our child care centers, and the Department all achieve success when children have an opportunity to learn and thrive in a safe environment.

### **Outcomes**

- Child care centers will achieve compliance in the following licensing standards: administration, parental participation, personnel, records, health and safety policies, physical facilities, activity programs, and food services.
- At least one unannounced on-site visit shall be conducted each calendar year.
- After each licensing and complaint visit, the Department shall document whether a center was in compliance with child care licensing standards as established in the Iowa Code and Administrative Code.
- The Department will be timely with licensing visits and report writing.

### **Guiding Principles**

**Customer focus.** We listen to and address the needs of our customers in a respectful and responsive manner that builds upon strengths. Our services promote safety in child care centers.

**Excellence.** We are a model of excellence through efficient, effective, and responsible public service. We communicate openly and honestly, and adhere to the highest standards of ethics and professional conduct.

**Accountability.** We maximize the use of resources and use data to evaluate performance and make informed decisions to improve results.

**Teamwork.** We work collaboratively with customers, employees, and public and private partners to achieve results.

### **Frontline Practice**

The following standards apply to frontline practice between the Department's child care licensing consultants and child care centers.

- Opening a new center  
When an entity has the desire to start a center, the Department will provide the center with a how-do-I-guide to facilitate required components to be completed timely and in the proper sequence. The Department will follow up with pre-licensing consultation to assist centers in starting their business.

- Complaint assessment
  - Reports shall be concise and clearly identify a disposition and corrective action requirements, if applicable.
  - During a complaint, the Department will identify applicable rules.
  - If a joint assessment is necessary, Department child care consultants will work actively and cooperatively with child protective workers and law enforcement.
- Licensing assessment
  - The Department will evaluate all program space relative to established administrative rules.
  - The Department will follow a standardized report orientation.
  - Best practice opportunities will be identified in the “Special Notes/Recommendations” section of the report and clearly convey a best practice recommendation.
  - The Department will identify program strengths and violations.
  - The Department will attempt to identify and elevate a pattern of disregard rather than isolated nonconformity.

- Agency coordination with the community

The Department child care consultants should embrace every opportunity for the center to use community resources. Much growth can occur if a center engages in community resources which may include nurse consultants, Child Care Resource & Referral (CCR&R), Area Education Agencies, local trainers, Quality Rating System (QRS), and other efforts of certification.

- Relationship between the Department consultant and the child care director

Child safety is always the number one priority; however, closely behind is the idea that the center director is also our greatest, most important customer and agent of change. It is expected that the Department consultants partner with the center, know the center director well, and understand that the center’s success contributes to the consultant’s success.

The partnership between the center director and the Department requires active efforts of communication. Department consultants are expected to return phone calls and emails in a timely manner. Directors are expected to call Department consultants when a significant event occurs or when they are in need of consultation.

## **Definitions**

Legal reference: Iowa Code Section 237A.1

“**Child**” means either a person 12 years of age or younger, or a person 13 years of age or older but younger than 19 years of age who has a developmental disability as defined under the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000.

“**Child care**” means the care, supervision, or guidance of a child by a person other than the child’s parent, guardian, or custodian for periods of less than 24 hours per day per child on a regular basis.

“Child care” does not include care, supervision, and guidance of a child by any of the following:

- An instructional program for children who are attending pre-kindergarten, as defined by the State Board of Education, or a higher grade level and are at least four years of age or are at least three years of age and eligible for special education that is administered by any of the following:
  - A public or nonpublic school system accredited by the Department of Education or the State Board of Regents.
  - A nonpublic school system that is not accredited by the Department of Education or the State Board of Regents.

NOTE: Many operating school systems in Iowa have not been accredited by the Department of Education. Pre-kindergarten programs serving children younger than four years old or programs providing before and after school-age care in a non-accredited school system are required to be licensed.

- Any of the following church-related programs:
  - An instructional program.
  - A youth program other than a preschool, before or after school child care program, or other child care program.
  - A program providing care to children on church premises while the children’s parents are attending church-related or church-sponsored activities on the premises.
- Short-term classes of less than two weeks’ duration held between school terms or during a break within a school term.
- A child care center for sick children operated as part of a pediatrics unit in a hospital licensed by the Department of Inspections and Appeals.
- A program operated by volunteers not more than one day per week that meets all of the following conditions:
  - No more than 11 children are served per volunteer.
  - The program operates for less than four hours during any 24-hour period.
  - The program is provided at no cost to the children’s parent, guardian, or custodian.
- A program administered by a political subdivision of the state that is primarily for recreational or social purposes and is limited to children who are five years of age or older and attending school.

- An after-school program continuously offered throughout the school year calendar to children who are at least five years of age, are enrolled in school, and attend the program intermittently, or a summer-only program for such children. The program must be provided through a nominal membership fee or at no cost.
- A special activity program that meets less than four hours per day for the sole purpose of the special activity. “Special activity programs” include, but are not limited to, music or dance classes, organized athletic or sports programs, recreational classes, scouting programs, and hobby or craft clubs or classes.
- A nationally accredited camp.
- A structured program for the purpose of providing therapeutic, rehabilitative, or supervisory services to children under any of the following:
  - A purchase of service or managed care contract with the Department.
  - An arrangement approved by a juvenile court order.
  - A contract approved by a local decategorization governance board.
- Care provided on-site to children of parents residing in an emergency, homeless, or domestic violence shelter.
- A child care facility providing respite care to a licensed foster family home for a period of 24 hours or more to a child who is placed with that licensed foster family home.
- A program offered to a child whose parent, guardian, or custodian is engaged solely in a recreational or social activity, remains immediately available and accessible on the physical premises on which the child’s care is provided, and does not engage in employment while the care is provided.

“**Child care center**” or “**center**” means a facility providing child care or preschool services for seven or more children, except when the facility is registered as a child development home.

“**Deferred judgment**” means the criminal conviction is postponed. All deferred judgments, whether discharged or not, are subject to the record check process because they are considered convictions. Mandatory and time-limited prohibition criteria apply to these convictions. Complete an evaluation of a deferred judgment according to current policy for convictions that are subject to evaluation.

“**Deferred sentence**” means a person is guilty of the crime involved, but the sentence is postponed. During the time the sentence is postponed, the person is on probation. At the end of the probationary period, the person is discharged from probation but the criminal conviction still stands. NOTE: There may occasionally be a “deferred disposition.” Treat this as you would a deferred sentence for the purpose of child care.

“**Department**” means the Department of Health and Human Services, formerly the Department of Human Services.

“**Guidelines**” means the *Child Care Centers and Preschools Licensing Standards and Procedures*, Comm. 204, found in [12-E-Appendix](#).

“**Inspection**” means a visit to a licensed child care center to determine if the center is in compliance with the minimum requirements.

“**Minimum requirements**” means the rules promulgated by the Department of Health and Human Services in 441 Iowa Administrative Code Chapter 109 to provide a basis for quality child care in the operation and maintenance of child care centers.

“**Preschool**” means a child care facility that provides to children ages three through five, for periods of time not exceeding three hours per day, programs designed to help the children to develop intellectual skills, social skills, and motor skills, and to extend their interest and understanding of the world about them.

“**Serious Injury**” means:

- Disabling mental illness.
- Bodily injury which creates a substantial risk of death, causes serious permanent disfigurement, or causes protracted loss or impairment of the function of any bodily member or organ.
- Any injury to a child that requires surgical repair and necessitates the administration of general anesthesia.
- Includes, but is not limited to, skull fractures, rib fractures, metaphyseal fractures of the long bones of children under the age of four years.

“**Transgression**” means the existence of any of the following in a person’s record:

- Conviction of a crime.
- A record of having committed founded child or dependent adult abuse.
- Listing in the Sex Offender Registry.
- A record of having committed a public or civil offense.
- Revocation of a child care facility registration or license due to the person’s continued or repeated failure to operate the facility in compliance with child care laws and rules.

## **Licensing Procedures**

When an individual contacts the Department to inquire about opening a licensed child care center, the Licensing Bureau Chief will send an introductory packet including, but is not limited to, licensing rules and standards, director requirements, and record check processes.

Resource information for First Children’s Finance, Child Care Resource and Referral, and Healthy Child Care Iowa may also be provided.

The individual will also be provided contact information for the appropriate licensing consultant for that area.



---

## **Initial Consultation**

Legal reference: Iowa Code Section 237A.6

**Policy:** The child care consultant shall provide consultative services to a person applying for or holding a child care center license. These services shall be directed toward assisting the program in meeting and maintaining the minimum requirements for licensing and then proceeding beyond that level to a program of high quality.

**Procedure:** The child care consultant may provide consultative services in a variety of ways, directly or indirectly. First inquiry should be whether or not the potential applicant has a location identified. An initial visit may need to occur to determine viability of the location.

Consultative services shall be provided:

- To license applicants, currently licensed operators, groups, organized boards, and communities on:
  - How to organize and establish a child care facility and
  - How to achieve quality programs.
- To local office staff, empowerment boards, and county boards of social welfare on child care and related matters.
- To licensed facilities on:
  - Activity program requirements
  - Administration
  - Environmental hazards
  - Extended evening care
  - Food services
  - Get well center
  - Health and safety policies
  - Parental participation
  - Personnel
  - Physical facilities
  - Professional growth and development
  - Records
  - Staff ratio
  - Surpassing minimum requirements to achieve programs of quality

Consultative services may involve drawing on other persons and resources for additional expertise in certain areas, depending on the individual consultant and the area in which consultation is requested.

You may consider providing sample parent handbooks and forms during consultation.

## **Application to Operate a Child Care Center**

Legal reference: Iowa Code Section 237A.2 8

**Policy:** The application for a license shall be made on form 470-4834, *Child Care Center Licensing Application and Invoice*, signed by the chairperson of the board or the owner or the director of the facility. The application must be submitted to the Department.

A new license shall be obtained when:

- The person or agency opens a new child care center or preschool, or
- The existing license expires, or
- A licensed center moves or expands, or
- A licensed center is remodeled to change licensed capacity, or
- Another adult or agency assumes ownership or legal responsibility for the center.

**Procedure:** The Department provides form 470-4834, *Child Care Center Licensing Application and Invoice*. Send this form:

- To a prospective center upon request and
- To an existing center at least 60 days in advance of the license renewal date.

The center shall complete the form in full and return it to the address on the application. The Department cannot make a decision on an incomplete application.

When an initial application is made, or when the location or floor plan is changed, the center shall submit to the child care consultant a drawing of the floor plan, including all measurements.

Plans for new construction and plans for additions or structural alterations to existing facilities must be submitted to the child care consultant and to the office of the State Fire Marshal or the fire marshal's approved designee and shall have the written approval of the fire marshal or designee.

The child care center must comply with all local ordinances such that occupancy has been granted where required.

Where the facility uses a private water supply, a copy of the laboratory analysis shall be attached to the evaluation form in the file maintained by the child care center. If the laboratory analysis is not satisfactory, then an alternative plan for water supply approved by the child care consultant shall be a part of the evaluation form in the file maintained by the child care consultant.

### **Minimum Requirements for Sufficient Application**

Legal reference: Iowa Code Chapter 237A.2 and 441 IAC Chapter 109

**Policy:** Any adult person or agency has the right to apply for a license. The center is required to comply with state health and fire laws and comply with rules. In order to meet sufficient application, an applicant is required to:

- Complete the application for a license on form 470-4834, *Child Care Center Licensing Application and Invoice*, signed by the chairperson of the board or the owner or the director of the facility.
- Obtain an approved fire marshal report.
- The State Fire Marshal or an approved designee must inspect each child care center applying for a license or renewal of license. The Fire Marshal must approve the site in writing in order for a license to be issued. . To be valid, a fire safety approval cannot be more than three years old from the date of issuance.
- Submit a floor plan that includes room descriptions and dimensions, including window and door locations.
- Information that determines that the center director and if applicable, on site supervisor, meet minimum qualifications.

#### **Child Care Center Personnel**

**Policy:** The board or director of the center shall develop policies for hiring and maintaining staff that meet minimum requirements.

Center director requirements:

- Is at least 21 years of age.
- Has obtained a high school diploma or passed a GED test.
- Has completed at least one course in business administration or 12 contact hours in administrative related training related to personnel, supervision, record keeping or budgeting, or has one year of administrative related experience.
- Has certification in infant, child, and adult CPR, first aid, and Iowa's training for mandatory reporting of child abuse.

- Has achieved a total of 100 points obtained through a combination of education, experience, and child development-related training as outlined in the following chart.

<b>EDUCATION</b>		<b>EXPERIENCE</b> (Points multiplied by years of experience)		<b>CHILD DEVELOPMENT-RELATED TRAINING</b>
Bachelor's or higher degree in early childhood, child development, or elementary education	75	Full-time (20 hours or more per week) in a child care center or preschool setting	25	One point per contact hour of training
Associate's degree in child development or bachelor's degree in a child-related field	60	Part-time (less than 20 hours per week) in a child care center or preschool setting	10	
Child development associate (CDA) or one-year diploma in child development from a community college or technical school	45	Full-time (20 hours or more per week) child development-related experience	10	
Bachelor's or higher degree in a non-child-related field	40	Part-time (less than 20 hours per week) child development-related experience	5	
Associate's degree in a non-child-related field or completion of at least two years of a four-year degree	25	Registered child development home provider	10	
		Nonregistered family home provider	5	

- In obtaining the total of 100 points, a minimum of two categories must be used, no more than 75 points may be achieved in any one category, and at least 20 points shall be obtained from the experience category.
- Points obtained in the child development-related training category shall have been taken within the past five years.
- For directors in centers predominantly serving children with special needs, the directors may substitute a disabilities-related or nursing degree for the bachelor's degree in early childhood, child development, or elementary education in determining point totals. In addition, experience in working with children with special needs in an administrative or direct care capacity shall be equivalent to full-time experience in a child care center or preschool in determining point totals.

- For directors in centers serving predominantly school-age children, the directors may substitute a degree in secondary education, physical education, recreation, or related fields for the bachelor's degree in early childhood, child development, or elementary education in determining point totals. In addition, child-related experience working with school-age children shall be equivalent to full-time experience in a child care center or preschool in determining point totals.

Child-related fields include:

- Early childhood education
- Child development
- Elementary education
- Child and adolescent development
- Youth and family development
- Special education
- Family services
- Social work/sociology/psychology
- Child, adult, family services (child service option)
- Human development and family studies (child option)
- Nursing degree (if predominately serving special needs)

On-site supervisor:

- Is an adult.
- Has obtained a high school diploma or passed a general education development test.
- Has certification in infant, child, and adult cardiopulmonary resuscitation (CPR), first aid, and Iowa's mandatory reporting of child abuse.
- Has achieved a total of 75 points obtained through a combination of education, experience, and child development-related training as outlined in the previous chart.
  - In obtaining the total of 75 points, a minimum of two categories must be used, no more than 50 points may be achieved in any one category, and at least 10 points shall be obtained from the experience category.
  - Points obtained in the child development-related training category shall have been taken within the past five years.
  - For on-site supervisors in centers predominantly serving children with special needs, the on-site supervisor may substitute a disabilities-related or nursing degree for the bachelor's degree in early childhood, child development, or elementary education in determining point totals. In addition, experience in working with children with special needs in an administrative or direct care capacity shall be equivalent to full-time experience in a child care center or preschool in determining point totals.

- For on-site supervisors in centers serving predominantly school-age children, the on-site supervisor may substitute a degree in secondary education, physical education, recreation, or related fields for the bachelor's degree in early childhood, child development, or elementary education in determining point totals. In addition, child-related experience working with school-age children shall be equivalent to full-time experience in a child care center or preschool in determining point totals.

Director and on-site supervisor may have combined functions. If the center director is serving in the role of the on-site supervisor, the director shall be on site daily either during the hours of operation or a minimum of at least six hours of the center's hours of operation. If the staff person designated as the on-site supervisor is temporarily absent from the center, another responsible adult staff shall be designated as the interim on-site supervisor.

**Comment:** The minimum requirements for a license are explained in Comm. 204, *Child Care Centers and Preschool Licensing Standards and Procedures*. See [12-E-Appendix](#).

**Procedure:** At this time, the program is not operational and full observation of the program will not be available. During an on-site visit, review for any obvious structural concerns of the facility space to determine if the program meets minimum requirements for operations. (See [Comm. 204](#).)

NOTE: This [optional tool](#) is available to use when evaluating a new program.

### **Open Pending a Licensing Decision**

Legal reference: 441 IAC 109.2(1)“c”

**Policy:** A center that has submitted a sufficient application for a child care license, after consultation visits with the licensing consultant, may operate for a period of up to 120 days, pending the final licensing decision.

Occupancy approval when required by local ordinances.

**Procedure:** The child care consultant completes the *Permission to Open Without a License* letter in the Child Care Regulatory Information System (CRIS) and sends to the center identifying the date of approval to open the facility pending the licensing decision.

### **Licensing Decision**

Legal reference: 441 IAC 109.2(237A)

**Policy:** The Department shall notify the applicant of approval or denial within 120 days of receipt of a complete application. A “complete application” is the application form completed in full and the requested reports.

The application shall be denied when the applicant does not comply with center licensing laws or does not meet the minimum requirements for a full or provisional license.

A provisional license may be issued for a period up to one year when the center does not meet all standards imposed by law or the minimum requirements. A provisional license shall be renewable when written plans to bring the center up to standards, giving specific dates for completion of work, are submitted to and approved by the Department.

A full license shall be issued when an applicant has shown compliance with center licensing laws and the minimum requirements.

**Procedure:** Upon receipt of a signed application, form 470-4834, *Child Care Center Licensing Application and Invoice*, the child care consultant shall make one or more unannounced on-site visits to complete:

- The Licensing Regulation Checklist, form 470-3940 and
- The *Child Care Center Evaluation and Recommendation for License*, form 470-0724.

The visits shall include a careful evaluation of all aspects of the center's operation to determine compliance with the child care licensing law and the minimum requirements.

An evaluation shall include:

- A review of both child and staff files. The consultant will need to review enough files to determine overall compliance with file requirements.
- A review of records, policies, menus, programs, schedules, etc.
- A review of written policies and required postings.
- A complete inspection of the facility for safety, sanitation, and space requirements.
- Observation of the program.
- Interviewing of staff and, possibly, board members and children attending the program.

Two or more visits to the facility may be required in order to complete a thorough evaluation. Return visits are essential for new applicants and facilities with provisional licenses. Consultants may use other resources to assess compliance.

Communicate the findings of your visit with the child care center owner or director to assure they understand what areas are out of compliance.

After review of the *Licensing Regulation Checklist*, the fire marshal's report, and any other pertinent reports, the child care consultant shall:

- Complete the *Child Care Center Evaluation and Recommendation for License* in CRIS and
- Make a licensing recommendation.

Upon completion of the *Child Care Center Evaluation and Recommendation for License*, the licensing supervisor will approve or deny the report and if it applies, issues a new license for no more than two years.

Send the *Child Care Center Evaluation and Recommendation for License* to the child care center if it applies, a copy of the license certificate.

## **Monitoring Compliance**

### **Annual Inspections**

Legal reference: 44I IAC 109.3(237A)

**Policy:** The Department shall conduct an on-site visit in order to make a licensing recommendation for all initial and renewal applications for licensure and shall determine compliance with licensing standards imposed by licensing laws and these rules when a complaint is received. At least one unannounced on-site visit shall be conducted each calendar year.

A full license shall be issued when an applicant has shown compliance with center licensing laws and the minimum requirements.

**Procedure:** The child care consultant shall make one or more unannounced on-site visits to complete:

- The Licensing Regulation Checklist, form 470-3940, and
- The *Child Care Center Evaluation and Recommendation for License*, form 470-0724.

The visits shall include a careful evaluation of all aspects of the center's operation to determine compliance with the child care licensing law and the minimum requirements.

An evaluation shall include:

- A review of both child and staff files. The consultant will need to review enough files to determine overall compliance with file requirements.

In review of staff files, approved professional development organizations and trainings may be located in both 44I IAC 109.7(237A) and at <https://hhs.iowa.gov/licensure-and-registration/tools-trainings-and-resources>.

- A review of records, policies, menus, programs, schedules, etc.
- A review of written policies and required postings.
- A complete inspection of the facility for safety, sanitation, and space requirements.
- Observation of the program.
- Interviewing of staff and, possibly, board members and children attending the program.

Complete the *Child Care Center Evaluation and Recommendation for License* in CRIS. The report shall include the following:

- Identify all areas observed on the visit.
- Introductory paragraph may include:
  - Owner or director's name and qualifications
  - Organizational structure
  - Summary of the services provided
  - Summary of the physical location



- Observed strengths of the center:
  - Credentials earned (QRS, etc)
  - Identify accreditations established or pursuing
  - Comment on unique strengths that exceed minimum standards
  - Consider asking “*What you have accomplished since the last visit?*” or “*What are you proud of?*” or “*What are you working on to improve practice?*”
- Aspects of operations that fall below standards reviewed:

Use the checklist in CRIS to populate violations. Provide an explanation for each item that is below standards.
- Special notes or recommendations. Consultant may choose to include in this section:
  - Areas of consultation that may not have been indicated as a regulatory violation.
  - Recommendations or note isolated concerns (not a pattern of disregard).
  - Reminders of professional development or expiring certificates.
  - Corrective action expectations.
  - Referrals to other resources.
  - Best practice.

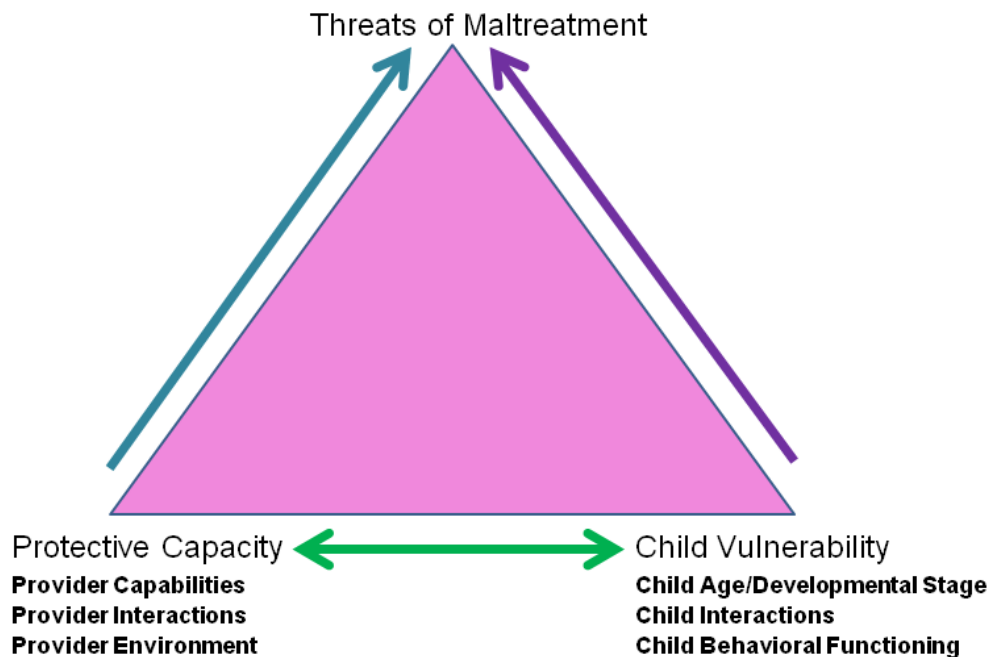
## **Licensing Evaluation and Determining Course of Action**

Consultants should evaluate risk of harm and patterns of disregard to licensing rules to determine a course of action. The degree of engagement, understanding and planning, and ability to assist in evaluating performance patterns should be evaluated.

It is important to cite violations efficiently and emphasize areas of concern. In an effort to avoid duplicating citations under numerous sections, you may apply the most appropriate citation and follow up in writing, with several examples to evidence the violation.

### **Risk of Harm**

- Evaluate the probability or likelihood that a child will be harmed.
- Evaluate the threat of maltreatment or potential safety risks.
- Evaluate the child care facilities protective capacities. What are the programs capabilities, child and adult interactions, and physical environment?
- What is the child or children’s vulnerability?
  - Consider child’s age or development stage.
  - Interactions with caretakers.
  - Behavioral functioning.



**Pattern of Disregard**

Primarily this is a review of the number and prevalence of deficiencies across the service provision, however, the following reflective questions offer greater perspective.

**Engagement**

- In what ways has the center engaged as active partners in the service provision and assessment? Do they use CCR&R? Do they rely on board members, advisory groups, or community stakeholders? Are they active with quality certifications?
- What engagement, support, and intervention techniques are working at the center so far?

**Understanding**

- What has the center identified as their strengths and needs?
- What are the presenting problems and underlying issues? Are they clearly identified and agreed upon?
- For risks that are identified, how is it mitigated? How is it understood?

**Planning**

- Do the agency goals align with mitigating focal problems, functional challenges, risks, and underlying conditions? Are they agreed upon?
- What is the long-term guiding view for the children’s health and safety, school readiness, and social development?
- What sustainable supports (formal and informal) are being planned? How will these supports enable the center to function safely and successfully?

**Drop In or Other Assurance**

Follow up or referral is necessary to ensure conformity of moderate number of violations that are of lower to medium risk of harm. Resolution verified by other stakeholders would not necessarily result in the need for HHS to re-visit.

<b>Risk</b> How likely could harm occur?	High	Drop in or other assurance	Provisional with Corrective Action Plan	Revocation
	Medium	Drop in or other assurance	Drop in or other assurance	Provisional with Corrective Action Plan
	Low	No action	Drop in or other assurance	Drop in or other assurance
		Slight	Moderate	Serious
<b>Pattern of Disregard Related to Licensing Standards</b> To what degree have rules been violated?				

## **Complaints**

Legal reference: 441 IAC 109.3(237A)

**Policy:** The Department shall keep a record of all complaints received, findings of licensing violations associated with the complaint, and resolutions of all licensing violation associated with complaints. Contents of the complaint file shall be available to the public, except that disclosure of the identity of the complainant shall be withheld unless expressly waived by the complainant.

Complaints that do not relate to licensing requirements must be resolved between owner or operator of the center and the complainant.

**Procedure:** The Department receives a complaint allegation either through the child care complaint hotline operated by Child Care Resource and Referral, child protective services, or directly to the licensing consultant. The complaint intake is entered into the CRIS system on form 470-5393, *Child Care Complaint Intake Report*, and a determination to accept or reject the reported concern is made by the licensing unit supervisor.

If the licensing consultant receives the complaint directly, the complaint must be entered into CRIS on the complaint intake form by the consultant. You may receive a self-report from a child care facility of a serious injury or death occurring during child care hours or at the facility location. This information must be entered into CRIS on the complaint intake form. Be sure to check the boxes whether a serious injury or death occurred as a result of the incident on all intakes.

If the allegation being reported would be a regulatory violation, if true, the complaint shall be accepted. If the complaint has been accepted for investigation, conduct an on-site visit to the facility.

Target timeframes for the on-site visit to occur in 10 working days. During the on-site visit you must:

- Discuss concerns with the director
- Interview any staff, as appropriate
- Review the environment, policies, or files if needed

After the on-site visits have been completed, determine if any collaterals, such as parents or the reporter, need to be contacted.

Once the complaint has been investigated, be sure to communicate the findings of your visit with the child care center owner or director to assure they understand what areas were out of compliance.

The consultant shall document if a violation of a regulatory requirement was found and the type of noncompliance, resolution, and correction information on form 470-4067, *Child Care Center Complaint*, in CRIS within 60 days of the date of complaint. Send a copy of this form to the center. If a regulatory violation was identified, this document is automatically uploaded to the Department's website for viewing.

When writing the *Child Care Center Complaint*, privacy must be maintained.

- Child abuse information may not be shared.
- The identity of the complainant may not be shared unless expressly waived.
- Children must only be referred to by initial. Any necessary exceptions must be reviewed with a supervisor.
- Persons responsible, staff, and collaterals will only be referred to by first name and initial.

NOTE: 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*. See [Denial, Suspension, or Revocation of a License](#).

The Department shall notify the facility by certified mail of any adverse action to suspend or revoke the license.

### **Investigations for Child Abuse Referrals**

Legal reference: Iowa Code Section 237A.4

**Policy:** When it is alleged that child abuse has occurred in a licensed child care center, the child protection worker shall immediately inform the child care consultant. The child protection worker and the child care consultant shall plan a collaborative assessment of the center's actions based upon the known facts of the case.

NOTE: Child protective services assessment policy permits confidential access to observe and interview a child without parental consent if the child's safety is in jeopardy. See [18-B\(1\)](#). Confidential access does not apply to child care consultants.

The child care consultant's participation in the investigation of the alleged abuse shall focus on compliance issues with the child care licensing rules and law. The Department "may inspect records maintained by the center and may inquire into matters concerning these centers and the persons in charge."

**Procedure:** Use the following procedures for the collaborative assessment of a licensed child care center upon receipt of a report of suspected child abuse occurring within the center:

1. The child protection worker and the child care consultant should make the first visit to the center jointly, if possible. When the nature of the complaint indicates a health and safety risk for children in care, the child care consultant shall make the first visit within 24 hours. Other joint visits may be advantageous to both licensing staff and the child protective workers.
2. After the child care consultant has thoroughly assessed the referral, the consultant shall document if a violation was found and the type of noncompliance, resolution, and correction information on form 470-4067, *Child Care Center Complaint*. Child care center complaints that result in a regulatory violation are uploaded for public viewing on the Department's website.

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.

### **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, managers, 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](mailto: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.