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## **Family Child Care Draft 2 Revisions Document**

Annotated comparison of Draft 1 and 2

January 2025

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*These draft licensing standards were developed by the Minnesota Department of Human Services (DHS) Licensing Division. Your feedback will help DHS to further refine and improve these draft standards.*

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## Comparison of Draft 2, Draft 1, and Existing Rule and Statute

Public Draft 2 Section Title	Draft Statute Number	<u>Public Draft 1</u> Section Title	Existing statute or rule number
Definitions	<b>245J.01</b>	Definitions	<a href="#">9502.0315</a>
Licensing of facilities	<b>245J.02</b>	Licensing of Facilities	<a href="#">9502.0325</a>
Licensing Process	<b>245J.03</b>	Community-based Child Care  <i>previously known as “special family child care”</i>	<a href="#">245A.14, Subd. 4</a>
Agency Records	<b>245J.04</b>	Licensing Process	<a href="#">9502.0335</a>
Reporting to Agency	<b>245J.05</b>	Agency Records	<a href="#">9502.0345</a>
Admissions; License Holder Records; Reporting	<b>245J.06</b>	Caregiver Qualifications	<a href="#">9502.0355</a>
Licensed Capacity; Child and Adult Ratios; Age Distribution; Supervision of own child  <i>This section combined Capacity/Ratios &amp; supervision of License Holder’s own child.</i>	<b>245J.07</b>	License Holder and Second Adult Caregiver Training Requirements	<a href="#">245A.50</a>
Caregiver Qualifications	<b>245J.08</b>	Substitute and Intermittent Caregiver Training Requirements	<a href="#">245A.50</a>
Substitute Caregivers and Replacements	<b>245J.09</b>	Helper Training Requirements	<a href="#">245A.50</a>
Applicant, Primary Provider of Care, and Second Adult Caregiver Training Requirements	<b>245J.10</b>	Substitute Caregivers and Replacements	<a href="#">245A.53</a>

Draft – not final language

Public Draft 2 Section Title	Draft Statute Number	<a href="#">Public Draft 1</a> Section Title	Existing statute or rule number
<i>This section was renamed to include “Applicant” and “Primary Provider of Care”</i>			
Substitute and Intermittent Caregiver Training Requirements	<b>245J.11</b>	Supervision of Family Child Care License Holder’s Own Child	<a href="#">245A.149</a>
Helper Training Requirements	<b>245J.12</b>	Licensed Capacity, Child and Adult Ratios, Age Distribution Restrictions	<a href="#">9502.0365</a> and <a href="#">9502.0367</a>
Behavior Guidance	<b>245J.13</b>	Reporting to Agency	<a href="#">9502.0375</a>
Physical Space Requirements <i>This section was renamed to not include “Environment” in the section title.</i>	<b>245J.14</b>	Behavior Guidance	<a href="#">9502.0395</a>
Cleaning, Sanitizing, and Disinfecting	<b>245J.15</b>	Admissions; License Holder Records; Reporting	<a href="#">9502.0405</a>
Environmental Health	<b>245J.16</b>	Children with Special Health Care Needs or Disabilities	<a href="#">9502.0405 Subpart 5</a>
Activities and Equipment	<b>245J.17</b>	Activities and equipment	<a href="#">9502.0415</a>
Infant Sleep and Crib Requirements <i>This section combined Infant Sleep Supervision Requirements and Crib Safety</i>	<b>245J.18</b>	Physical Environment and Space Requirements	<a href="#">9502.0425</a>
Health Policies and Safety Requirements <i>This section combined Health Policies and Health &amp; Safety Requirements</i>	<b>245J.19</b>	Crib Safety Requirements	Refers to <a href="#">245A.146</a>

Draft – not final language

Public Draft 2 Section Title	Draft Statute Number	<a href="#">Public Draft 1</a> Section Title	Existing statute or rule number
Food and Nutrition	<b>245J.20</b>	Infant Sleep Supervision Requirements	<a href="#">245A.147</a>
Children with Special Health Care Needs or Disabilities	<b>245J.21</b>	Health and Safety Requirements	<a href="#">245A.51</a>
Community-based Child Care <i>previously known as “special family child care”</i>	<b>245J.22</b>	Cleaning, Sanitizing, and Disinfecting	<a href="#">245A.148</a>
NA	<b>245J.23</b>	Health Policies <i>Moved to 245J.19 in Draft 2</i>	<a href="#">9502.0435</a>
NA	<b>245J.24</b>	Food and Nutrition <i>Moved to 245J.20 in Draft 2</i>	<a href="#">9502.0445</a>
NA	<b>245J.25</b>	Environmental Health <i>Moved to 245J.16 in Draft 2</i>	NA

## About this Revisions Document

This Revisions Document highlights the changes which have been made between Draft 1 and Draft 2 of the family child care draft licensing standards (245J) documents. It is designed to help readers easily identify modifications between the [Draft 1](#) (released April 2024) version, and the Draft 2 version. The document uses specific formatting to indicate the type of changes made:

- Strikethrough (indicated as ~~strikethrough~~ in red): Indicates language that has been deleted.
- Underline in blue: Indicates new language that has been added.
- Double Strikethrough (indicated as ~~double-strikethrough~~ in green): Indicates language that has been moved from one part of the document to another.
- Double underline in green: Indicates language that has been moved from one part of the document to another.

We hope this format provides clarity about the changes which have been made between Draft 1 and Draft 2.

## 245J.01 Definitions

Subdivision 1. **Scope.** The terms used in this chapter have the meanings given in this section.

Subd. 2. **Accessible to children.** "Accessible to children" means items, areas, or materials of a child care program that a child can ~~reasonably~~ reach, enter, use, or get to on their own.

Subd. 3. **Accredited.** "Accredited" means a postsecondary institution or technical college recognized and listed in The Database of Accredited Postsecondary Institutions and Programs maintained by the U.S. Department of Education. Accredited is the status of public recognition that a nationally recognized accrediting agency grants to an institution or educational program that meets the agency's established requirements. Federal Regulations, subtitle B, chapter VI, title 34, part 600.

Subd. 4. **Adult.** "Adult" means a person at least 18 years of age.

Subd. 5. **Agency.** "Agency" means the county or ~~multicounty~~multi-county social or human ~~services~~services agency governed by the county board or multi-county human services board.

~~Subd. 6.~~ **Subd. 6. Age categories.** For the purposes of family child care, group family child care, and community-based child care licensing under this statute, the following terms have the meanings given them in this subdivision.

(a) "Newborn" means a child between birth and six weeks old.

(b) "Infant" means a child who is at least six weeks old but less than 12 months old.

(c) "Toddler" means a child who is at least 12 months old but less than 24 months old, except that for purposes of specialized infant and toddler family and group family child care, "toddler" means a child who is at least 12 months old but less than 30 months old.



(d) "Preschooler" means a child who is at least 24 months old but less than 5 years of age.

(e) "School age" means a child who is at least 5 years of age but is 10 years of age or younger.

Subd. 7. **Agent of a community health board.** "Agent of a community health board" as authorized under section 145A.04, means the designated representative of the state or community health board authorized to enforce state and local health codes.

Subd. ~~7.~~ **8. Annual or Annually.** "Annual or Annually" means at least once each calendar year.

Subd. 9. **Applicant.** "Applicant" means an individual, individuals, or an organization seeking licensure of a family child care or a community-based child care program.

Subd. 10. **Behavior guidance.** "Behavior guidance" means an ongoing process whereby caregivers offer constructive, positive, and developmentally appropriate guidance to children, to help them manage their own behavior in a socially acceptable manner.

Subd. 11. ~~Subd. 8.~~ **Building official.** "Building official" means the person appointed in accordance with section 326B.133, to administer the State Building Code, or the building official's authorized representative.

Subd. ~~10.~~ **12. Care.** "Care" means any activity necessary for the health, welfare, maintenance, and protection of a child including but not limited to supervising, holding, feeding, and diapering.

Subd. 13. **Caregiver.** "Caregiver" ~~includes~~ means the license holder, primary provider of care, second adult caregiver, intermittent caregiver, helper, substitute, or another adult providing care in the program. Adult caregivers are at least 18 years of age.

Subd. ~~11.~~ **14. Child.** "Child" means a person 10 years of age or younger.

Subd. ~~12.~~ **15. Child care.** "Child care" means the care of a child in a program outside the child's own home ~~including~~ This includes the license holder's children of child care age who receive child care during child care hours.

Subd. 16. **Child care program.** "Child care program" means family child care, group family child care, and community-based child care.

Subd. 17. **Child with special health care needs or disabilities.** "Child with special health care needs or disabilities" means a child of child care age who:

(a) has developmental disabilities or is otherwise eligible for case management as specified in Minnesota Rules, parts 9525.0004 to 9525.0036;

(b) has been identified by the local school district as a child with a disability as specified in section 125A.02, subdivision 1; or

(c) has been determined by another person licensed to identify disabling conditions as having a special need relating to physical, social, or emotional development.

~~Subd. 18.~~ **Subd. 14. Cleaning.** “Cleaning” means the process of using soap or detergent and water to physically remove dirt, debris, and most ~~many germs.~~ ~~It also removed invisible debris that interferes with disinfection.~~

**Subd. 19. Commissioner.** “Commissioner” means the Minnesota commissioner of the Department of Human Services or the commissioner's delegated representative.

~~Subd. 35~~ **20. Community-based child care program.** “Community-based child care program” means nonresidential child care programs serving ~~14~~ **18** or fewer children that are operating at a location other than the residence of the license holder and includes locations as provided in section 245J.02, subdivision 3.

~~Subd. 15~~ **21. Department.** “Department” means the Minnesota Department of Human Services.

**Subd. 22. Direct supervision.** “Direct supervision” means the caregiver positions themselves so that they can always observe all children under school age by watching, counting, listening, and intervening to protect the health and safety of the children in care.

**Subd. 23. Disinfecting.** “Disinfecting” means cleaning surfaces and objects to kill most germs and viruses.

**Subd. 24. Emergency replacement.** “Emergency replacement” means an adult who has not completed the training requirements under this chapter or the background study requirements under chapter 245C who supervises children in a family child care program due to an emergency.

~~Subd. 25~~ **16. Family child care.** “Family child care” means licensed **family** child care for no more than ten children at one time of which no more than six are under school age, including all children on the premises and the children of any caregiver ~~when the children are under the care of the provider~~ **present**.

~~Subd. 26.~~ ~~Subd. 17.~~ **Family child care and group family child care child age classifications:** For the purposes of family child care and group family child care licensing under this statute, the following terms have the meanings given them in this subdivision.

~~(a) “Newborn” means a child between birth and six weeks old.~~

~~(b) “Infant” means a child who is at least six weeks old but less than 12 months old.~~

~~(c) “Toddler” means a child who is at least 16 months old but less than 24 months old, except that for purposes of specialized infant and toddler family and group family child care, “toddler” means a child who is at least 12 months old but less than 30 months old.~~

~~(d) “Preschooler” means a child who is at least 24 months old but less than 5 years of age.~~

~~(e) “School age” means a child who is at least 5 years of age, but less than 11 years of age.~~

~~Subd. 18.~~ **Fire marshal.** “Fire marshal” means the person designated by section 299F.011 to administer and enforce the State Fire Code, or the fire marshal's authorized representative.

Subd. ~~19~~<sup>27</sup>. **Group family child care.** "Group family child care" means care for no more than ~~14~~<sup>18</sup> children 10 years of age or younger at any one time including all children on the premises and children of any caregiver ~~when the children are under the care of the provider.~~present.

Subd. ~~20~~<sup>28</sup>. **Hazards.** "Hazards" means potential sources that would cause harm. Substances, events, or circumstances can constitute hazards when their nature would allow them to cause damage to physical health, mental health, life, or property. Hazardous materials include but are not limited to knives, fire ignitors, plastic bags.

Subd. 29. Helper. "Helper" means a minor, 13 ~~to~~<sup>through</sup> 17 years of age, who assists ~~the license holder~~an adult caregiver with the care of children.

Subd. 30. High hazard bodily fluid. "High hazard bodily fluid" means urine, feces, vomit, blood, and other bodily fluids that contain blood.

Subd. ~~21~~<sup>31</sup>. **Inaccessible to children.** "Inaccessible to children" means ~~not capable~~items, areas, or materials of being reached or utilized by a child care program that a child cannot reach, enter, use, or get to without the aid of a caregiver.

Subd. 32~~Subd. 22~~. **Intermittent caregiver.** "Intermittent caregiver" means an adult who cares for children in the licensed program along with ~~the license holder~~an adult caregiver for a cumulative total of not more than 500 hours annually.

Subd. ~~23~~<sup>33</sup>. **License holder.** "License holder" means an individual, individuals, organization, or government entity that is legally responsible for the operation of the program and has been granted a license by the commissioner under this chapter and the rules of the commissioner.

Subd. ~~24~~<sup>34</sup>. **Licensed capacity.** "Licensed capacity" means the total number of children 10 years of age or younger permitted at any one time in the program. The licensed capacity includes all children of any caregiver when the children are present in the program. When the program is located in a residence where the license holder lives, ~~then~~ all children 10 years of age and younger in the residence count towards the capacity of the program.

Subd. 35. License child care space. "licensed child care space" means the space that is used for children in care.

Subd. 36~~Subd. 25~~. **Medication.** "Medication" means any substance or preparation which is used to prevent or treat a wound, injury, infection, or disease. This includes medication that is over the counter, or prescribed ~~or recommended~~ by a licensed physician, physician assistant, dentist, certified nurse practitioner ~~physician~~, or advanced practice registered nurse, and permitted by the parent for administration or application. This term applies to substances taken internally or applied externally. ~~This also includes but is not limited to diapering products, sunscreen lotions, hand sanitizer, lip balm, body lotion, and insect repellents.~~

Subd. ~~26~~<sup>37</sup>. **Minnesota State Fire Code.** "Minnesota State Fire Code" or "State Fire Code" means those codes and regulations adopted by the state fire marshal in accordance with section 299F.011 and contained in Minnesota Rules, chapter 7511.

Subd. ~~27~~38. **Mixed occupancy building.** "Mixed occupancy building" means a program in a structure that contains nonresidential occupancies, such as an attached garage or out buildings.

Subd. 39. **Multiple occupancy building.** "Multiple occupancy building" means a structure with two or more residential dwelling units such as a duplex, apartment building, or townhome.

Subd. 40. **Owner or renter.** "owner or renter" means the individual, individuals, organization, or government entity listed in the property title, deed, lease, or equivalent legal document.

Subd. 41. **Parent.** "Parent" means a person who has the legal responsibility for a child such as the child's mother, father, or legally appointed guardian.

Subd. ~~28~~42. **Perishable foods.** "Perishable foods" means any foods that are prone to spoilage, decay, or becoming unsafe to consume if not stored properly or past their expiration date.

Subd. 43. **Pests.** "Pests" means any animals, insects, or other living creatures that are not housed within the licensed program and are considered harmful or detrimental to the health, safety, and well-being of individuals within a child care program. This includes, but is not limited to ants, cockroaches, bedbugs, bats, or other harmful wildlife.

Subd. 44. **Pets.** "Pets" means all animals housed ~~within~~at the ~~residence or~~licensed program and that have contact with children. ~~Animals~~Pets must be limited to dogs, cats, fish, guinea pigs, gerbils, rabbits, hamsters, rats, mice, and birds.

Subd. ~~29~~. **Physical intervention.** "~~Physical intervention~~" is the act of using bodily contact as a short-term ~~immediate response to prevent children from incurring injury to themselves or injuring others.~~

~~45~~Subd. 30. **Primary provider of care.** "Primary provider of care" means ~~an adult who is the leading caregiver~~the person responsible for providing care to children ~~in~~during the hours of operation and operating the program ~~in compliance with all applicable laws and regulations under chapters 245A, 245C, and 245J. For purposes of this statute:~~

(a) When a license holder is one or more individuals, they are required to identify a primary provider of care.

(b) When the license holder is an organization, they are required to follow the provisions found in section 245J.22, subdivision 1.

Subd. ~~31~~46. **Program.** "Program" means the care of children outside the children's own home ~~and~~which is provided for fewer than 24 hours a day and includes ~~care and~~ supervision of a license holder's own children when present during child care operations, including ~~settings that are permitted by 245A.14~~in community-based child care programs.

Subd. ~~32~~47. **Radon testing.** "radon testing" means the measurement of radon gas levels in the indoor air of the building.

Subd. 48. **Redirection.** "Redirection" means when a caregiver intervenes and guides a child toward constructive activity through positive techniques.

Subd. 49. Related. "Related" means any of the following relationships by marriage, blood, or adoption: a spouse, a parent, an adoptive parent, a birth or adopted child or stepchild, a stepparent, a stepbrother, a stepsister, a niece, a nephew, an adoptive parent, a grandparent, a sibling, an aunt, an uncle, or a legal guardian.

Subd. ~~33~~50. Regularly or regular basis. "Regularly or regular basis" means a cumulative total of more than 30 days within any 12-month period.

Subd. ~~34~~51. Sanitizing. "Sanitizing" means cleaning with chemical products or by using a heating process to reduce germs.

Subd. 52. Second adult caregiver. "Second adult caregiver" means an adult who cares for children in the licensed program along with the license holder for a cumulative total of more than 500 hours annually.

Subd. ~~36~~53. Separation. "Separation" is a form of behavior guidance that involves interruption of unacceptable behavior by the removal of a child from a situation, with the intention of allowing the child an opportunity to pause and gain self-control. During a separation a child is isolated from participating in activities with other children.

Subd. 54. State Building Code. "State Building Code" means those codes and regulations adopted by the commissioner of administration in accordance with section 326B.107 and contained in Minnesota Rules, chapter 1300.

Subd. ~~37~~55. Substitute. "Substitute" means an adult who is responsible for the duties of a license holder when the license holder or primary provider of care in community-based child care programs is not present at the program for a cumulative total of not more than 500 hours annually.

Subd. ~~38~~56. Supervision. For purposes of licensed family child care ~~and group family child care;~~ "supervision" means:

(a) Caregivers must be within sight ~~and/or~~ hearing of ~~a newborn~~newborns, infants, toddlers, and preschoolers at all times ~~without the assistance of a mechanical or electronic device.~~

~~(b) Supervision means a caregiver being within sight or hearing of an infant, toddler, or preschooler at all times so that the caregiver is capable of intervening~~and must intervene to protect the health and safety of the child.

~~(c)~~ For a school age child, supervision means a caregiver ~~being~~is available for assistance and care without the ~~assistance~~aid of a mechanical or electronic device so that the child's health and safety is protected.

~~(d)~~ The caregiver has an awareness of and responsibility for the activity of each child and ~~being~~is near enough to respond and reach children immediately, including responding to the child's basic needs and protecting them from harm.

~~(e) Direct supervision means the caregiver positions themselves so that they can always observe all children and are watching, counting, and listening.~~

~~(f) The caregiver has knowledge of each child's needs and is accountable for their care at all times, including but not limited to, developmental and behavioral needs and parental preferences.~~

Subd. ~~39-57.~~ **Toxic and hazardous materials substances.** “~~Toxic and hazardous materials~~substances” are substances, chemicals, chemical compounds, or similar items that even in small quantities are likely or capable to cause injury, illness, or death when they are ingested, inhaled, absorbed, or ~~comes~~come into contact with a child’s skin, eyes, mouth, or mucous membranes.

Subd. ~~4058.~~ **Variance.** "Variance" means written permission by the commissioner ~~for a license holder or applicant to depart from the provisions of a specified subdivision in this chapter and~~ in accordance with the requirements in section 245A.04, subdivision 9, for a license holder or applicant to depart from a specific requirement in this chapter.

## 245J.02 Licensing of Facilities

Subdivision 1. **Purpose.** The purpose of sections 245J.01 to 245J.~~25~~22 is to establish procedures and standards for licensing family child care, group family child care, and community-based child care programs to ensure that minimum standards of care and service are given, and the protection, proper care, health, safety, and development of the children are assured.

Subd. 2. **Applicability.** Sections 245J.01 to 245J.~~25~~22 as authorized by chapter 245A, govern the licensing of family child care programs, group family child care programs, and community-based child care programs.

~~Subd. 3. **Specialized infant and toddler family child care.** A group family child care program licensed as a class D specialized infant and toddler group family child care under section 245J.12, may operate as a class B specialized infant and toddler family child care program on days when only one caregiver is present.~~

## 245J.0403 Licensing Process

- **Note:** “Community-based Child Care” requirements that were found in 245J.03 in Draft 1 have been moved to 245J.22 in Draft 2.
- **Note:** “Licensing Process” requirements that were found in 245J.04 in Draft 1 have been moved to this section in Draft 2.

Subdivision 1. **License application.** A license to operate a family child care, group family child care ~~program~~, or community-based child care must be obtained from the department.

(a) ~~Application for a license~~ License applicants must ~~be made on~~ use the application ~~form~~ issued by the department. The application must be made in the county where the applicant ~~(s)~~ or applicants for family child care ~~and~~ or group family child care resides, and where the applicant ~~(s)~~ or applicants for community-based child care programs will operate.

(b) Applicants ~~looking~~ seeking to operate a family child care, group family child care, or community-based child care must be the individual ~~(s)~~ individuals, or organization that is legally responsible for the operation of the program. When the applicant is one or more individuals, the ~~individual(s) is the~~ primary provider of care, is present during the hours of operation, and is legally responsible for the operation of the program.

(c) Applicants and license holders who use a private, non-public water supply must comply with section 245J.25:16.

(d) An applicant must comply with radon regulations found in section 245J.25.

(e) An application for licensure is complete ~~when~~ and ready for the agency’s review after the applicant completes, signs, and submits all department forms and documentation needed for licensure to the agency and the agency receives all inspection, zoning, evaluation, and investigative reports, documentation, and information required to verify compliance with this chapter and applicable statutes. This includes a completed background study for individuals subject to a study, as required under chapter 245C.

Subd. 2. **Licensing study.** The applicant or license holder must give the agency access to the program for a licensing study to determine compliance with this chapter and applicable rules and statutes.

(~~ba~~) If, in the judgment of the agency representative, a potentially hazardous condition may be present, due to a violation of parts of this chapter, the applicant must obtain an inspection from a fire marshal, building official, or agent of a community health board as authorized under ~~Minnesota Statutes~~, section 145A.04 to verify the absence of hazard and report to the agency.

(~~cb~~) The program must comply with any applicable local ordinances. If the commissioner or the agency has reasonable cause to believe a hazardous condition may be present and requests an inspection by a fire marshal, building official, or authorized agent, then any condition cited by a fire marshal, building official, or authorized agent as hazardous and creating an immediate danger of fire, or threat to human life and safety, must be corrected or a variance approved in accordance with subdivision 6 prior to issuance of a license.



(~~4c~~) An initial inspection of the program by a fire marshal to determine compliance with the Minnesota Uniform Fire Code and compliance with orders issued are conditions of licensure for all [programs located in a commercial space and all](#) residences with one or more of the following conditions:

- (1) freestanding solid fuel heating appliances;
- (2) manufactured ~~{or mobile}~~ homes;
- (3) child care programs which use the basement for child care; or
- (4) programs in mixed or multiple occupancy buildings.

~~(i) "Multiple occupancy building" means a structure with two or more residential dwelling units such as a duplex, apartment building, or townhome.~~

~~(ii) "Mixed occupancy building" means a program in a structure that contains nonresidential occupancies, such as an attached garage or out buildings.~~

Subd. **43. Ineligibility factors.** An applicant or license holder or any other person living in the child care program or present during the hours children are in care, or working with children must not:

(a) abuse prescription drugs or use controlled substances as specified in ~~Minnesota Statutes,~~ chapter 152, or alcohol, to the extent that the use or abuse has or may have a negative effect on the ability of the license holder [or primary provider of care](#) to give care or is apparent during the hours ~~children are in care~~[of operation](#).

Caregivers who have abused prescription drugs or have been dependent on controlled substances as specified in ~~Minnesota Statutes,~~ chapter 152, or alcohol, such that the use, abuse, or dependency has had a negative effect on the ability to give care, was apparent during the hours ~~children are in care~~[of operation](#), or required treatment or therapy, must have 12 months of verified abstinence before licensure;

(b) have had a child placed in foster care within the past 12 months and the agency determines the reasons for placement reflect on the ability of the license holder [or the primary provider of care](#) to give care. This requirement does not apply if the primary reason for the placement was due to a physical illness of the parent, a disability of the child, including developmental disability of the child, or for the temporary care of a newborn or infant being relinquished for adoption;

(c) have had a child placed in [a residential](#) ~~treatment facility~~ within the past 12 months ~~for emotional disturbance or antisocial behavior~~ and the agency determines that the reasons for the placement reflect on the ability of the license holder [or the primary provider of care](#) to give care; or

(d) [have](#) a household member whose needs or behavior could potentially pose a risk to children being served in the program.

Subd. **5. Variance standard.** ~~A variance may be granted by the agency through a form prescribed by the commissioner on regulations found in this chapter except provisions found in:~~[4. Variance standard. An applicant or provider may request a variance from compliance with licensing regulations. When reviewing a variance request, the agency shall assess whether alternative methods are identified by the applicant or provider to](#)

ensure the health, safety, and protection of children in care. The agency or commissioner may add additional terms as part of the approval process.

~~—— (a) 245J.04, Subdivision 4;~~

(a) ~~(b)~~ A variance may only be granted if:

- (1) the applicant or provider complies with all applicable laws, ordinances, and regulations; and
- (2) specific equivalent measures are identified by the applicant or provider to ensure the health, safety, and protection of the children in care.

(b) Variances may be granted by the agency through a form prescribed by the commissioner in line with their county policies.

- (1) Except as provided in section 245J.07, a county agency must not grant a license holder a variance to exceed the maximum allowable family child care license capacity of 18 children.
- (2) A second adult caregiver must be present if the program is serving 12 or more children.
- (3) The provider must meet the requirements found in section 245J.07, subdivision 9 before caring for 14 or more children.

(c) The following variances may be issued only by the commissioner:

- (1) Section 245J.09;
- (2) Section 245A.1435; and
- (3) Section 245A.16.

(d) The following sections will not be granted a variance by the agency or department:

- (1) Section 245J.18, subdivisions 3 and 4; and
- ~~(1)(2)~~ Section 245A.146;

~~—— (c) 245J.06; and~~

~~—— (d) 245J.20~~

Subd. ~~6~~5. **Variance procedure.** A request for a variance must comply with and be handled according to the requirements in section 245A.04, subdivision 9.

(a) An applicant or license holder must submit to the agency written approval from a fire marshal of a variance request and the alternative measures identified to ensure the safety of children in care when a variance of the fire safety provisions in section 245J.~~18-14~~ is requested. These ~~are~~requirements can be found in section 245J.~~18~~ 14, subdivisions ~~5, 6, 7, 12, 15~~4, Emergency escape routes; 9, Door to attached garage; 10, Ventilation, heating, and ~~18~~ cooling systems; 14, Interior walls and ceilings; 16, Fire extinguisher; 17, Carbon monoxide and smoke alarms; and 20, Locks and latches.

~~(b) An applicant or license holder must submit to the agency a variance request including the alternative measures identified to ensure the safety of children in care when a variance of the health provisions in any parts of the following sections are requested: sections 245J.23, 245J.24, or 245J.25.~~

~~(c)~~(b) An applicant or license holder must submit to the agency written approval from a building official of a variance request and alternative measures identified to ensure the health and safety of children in care when a

variance is requested of the standards contained in section 245J.~~18-14~~ relating to subdivisions ~~10, 11, 12, Sewage disposal; 18, Stairways;~~ and ~~13, 19, Decks~~.

Subd. ~~7~~**6. Posting license.** The license holder must post the license in the program in a location where parents, visitors and authorized representatives of the commissioner can easily access and view it.

Subd. ~~8~~**7. Change in license terms.** The following must apply to changes in the terms of a license.

(a) A new department application form must be submitted by the license holder under the following circumstances:

(1) the license holder must notify the commissioner before changes are made in accordance with section ~~245~~245A.04;

(2) the license holder is requesting to relocate the child care program;

(3) the license holder is requesting to change the type of care license from family child care ~~program to a~~ group family child care ~~program~~;

(4) the license holder is requesting to change the type of care license from ~~a~~ group family child care ~~program to a~~ family child care program;

(5) the license holder is requesting to relocate/change from ~~a program they reside in~~ family child care or group family child care to ~~a residential location they no longer reside in~~ community-based child care; or

(6) the license holder is requesting to relocate/change from ~~a residential location they do not reside in~~ community-based child care to ~~a residential location they reside in~~ family child care or group family child care.

(b) When the license holder is requesting to change to group family child care from family child care, the notification to the commissioner in paragraph (a) must include the changes in the ages and numbers of children in care.

Subd. ~~9~~**8. Number of licenses.** Each individual applicant is limited to one family or group family child care license.

Subd. ~~10~~**9. Access to program.** As required in section 245A.04, subdivision 5, the license holder must give authorized representatives of the commissioner access to the program during the hours of operation to determine whether the program complies with the standards including in chapters ~~245J, 245A, 245C,~~ and 245J. Access must include:

(a) the physical location of the program;

(b) any adjoining land or buildings owned or operated by the applicant or license holder ~~in conjunction with the provision of child care and designed for use by the children in care;~~

(c) noninterference in interviewing all caregivers and household members present in the residence on a regular basis and present during the hours of operation; ~~and.~~

~~(d) the right to view and duplicate the records and documents.~~

Subd. ~~11~~10. **Return of license to commissioner.** When a program is closed, or if a license is revoked, suspended, or not renewed, the license holder must return the license to the commissioner within 14 days of ceasing operation or immediately upon the final order of revocation, denial, or suspension of license, stop all advertising and refrain from providing care to children as required in section 245A.03.

Subd. ~~12~~11. **Local government authority.** The authority of local units of government to establish requirements for family child care programs is limited by section 299F.011, subdivision 4a, clauses (1) and (2).

Subd. ~~13~~12. **Human Services Background Studies Act.** All individuals subject to a [background](#) study must comply with the requirements of chapter 245C.

Subd. ~~14~~13. **Child care license holder insurance.**

(a) A license holder must provide a written notice to all parents of all children to be accepted for care prior to admission stating whether the license holder has liability insurance. This notice may be incorporated into and provided on the admission form used by the license holder.

(b) If the license holder has liability insurance:

(1) the license holder must inform parents in writing that a current certificate of coverage for insurance is available for inspection to all parents of children receiving services and to all parents seeking services from the family child care program;

(2) the notice must provide the parent with the date of expiration or next renewal of the policy; and

(3) upon the expiration of the policy or a change in coverage, the license holder must provide a new written notice informing all parents of children receiving services of the change and indicating whether the insurance policy has lapsed.

(4) If a license holder has a continuous insurance policy that renews each year, the license holder may indicate the policy's renewal date in the initial written notice to parents. This initial written notice shall remain valid, and no further notices are required until the insurance coverage changes or the policy lapses.

(c) If the license holder does not have liability insurance, the license holder must provide an annual notice, on a form ~~developed and made available~~ [prescribed](#) by the commissioner, to the parents of children in care indicating that the license holder does not carry liability insurance.

(d) The license holder must notify all parents in writing immediately of any change in insurance status.

(e) The license holder must make available upon request the certificate of liability insurance to the parents of children in care, to the commissioner, and to county licensing agents.

(f) The license holder must document, with the signature of the parent, that the parent received the notices required by this section.

## 245J.1305 Reporting to Agency

- **Note:** “Agency Records” requirements that were found in 245J.05 in Draft 1 have been moved to 245J.04 in Draft 2.
- **Note:** “Reporting to Agency” requirements that were found in 245J.13 in Draft 1 have been moved to this section in Draft 2.

Subdivision 1. **Maltreatment, abuse, neglect reporting.** All caregivers who suspect, know, or have reason to believe a child is being or has been maltreated, ~~including but not limited to abuse or neglect,~~ [according to section 260E.03, subdivision 12](#) must immediately report the information to the local welfare agency, agency responsible for assessing or investigating the report, police department, county sheriff, tribal social services agency, or tribal police as required by chapter 260E.

Subd. 2. **Other reporting.** ~~The license holder~~ [License holders](#) must ~~inform~~ [report to](#) the agency ~~of the following:~~

- ~~prior to anyone moving in to~~ [into](#) the residence where family child care services are provided, [the license holder must notify the agency and a background study must be completed;](#)
- ~~Within 10 days of anyone moving once a household member has moved~~ out of the residence where family child care services are provided, [the license holder has 10 days to notify the agency;](#)

~~(c) Prior to an individual providing direct contact services;~~

~~(c) (d) Immediately~~ [before a caregiver provides direct contact services unless an individual is acting as an emergency replacement as defined in section 245J.02, subdivision 2 and according to section 245J.09, subdivision 2;](#)

~~(d)~~ [after the occurrence of a fire that requires the service of a fire department the license holder must notify the agency](#) so the agency may determine continued substantial compliance with this chapter [prior to resuming care;](#) and

~~(e) Immediately~~ [within 24 hours](#) after the occurrence of any serious injury ~~or hospitalization of a child in care.~~ A serious injury is one that is [assessed or](#) treated by a licensed physician, physician assistant, advanced practice registered nurse, or certified nurse practitioner.

~~(f)~~ [an animal bite within 24 hours of occurrence in accordance with section 245J.19, subdivision 6, paragraph \(h\).](#)

## 245J.1506 Admissions; License Holder Records; Reporting

- **Note:** “Caregiver Qualifications” requirements that were found in 245J.06 in Draft 1 have been moved to 245J.08 in Draft 2.
- **Note:** “Admissions; License Holder Records; Reporting” requirements that were found in 245J.15 in Draft 1 have been moved to this section in Draft 2.

Subdivision 1. **Admission and ongoing information.** ~~At the time of admission; on an ongoing, routine basis; and as applicable based on the needs of the child, parent or license holder, the license holder and parents must discuss the following: child rearing, sleeping, feeding, behavior guidance practices, health conditions, information about any known allergy from the child's parent, toilet training, special needs of the child, as applicable, and any other areas essential for the care of the child.~~ Prior to admission and ongoing the license holder and parents shall discuss program policies and licensing requirements.

~~(a) The license holder must obtain written instructions and information from the parent, physician, or therapist to enable accommodation and full inclusion of children with disabilities and special health care needs to achieve a level of participation in the family child care program as close as possible to that of typically developing children.~~

Subd. 2. **Statutory summary for parents.** A descriptive summary of this chapter must be distributed to the parent by the license holder at the time a child is admitted to care. The summary must be provided by the department to the county licensing agencies for distribution to the license holder. ~~The summary must be written in plain language understandable to the general public, and if provided electronically, be in a format that meets The Rehabilitation Act of 1973 Section 508 and the Web Content Accessibility Guidelines 2.0 for developing and maintaining accessible statewide information and telecommunications technology systems and services;~~ and:

- (a) state that this chapter governs the licensing of family child care programs;
- (b) specify the ~~rule~~ section headings contained in this chapter; and
- (c) state that a complete copy of this chapter may be seen at the child care program, ~~the~~ agency, department, ~~or~~ Minnesota State Law Library, or through the Minnesota Office of the Revisor of Statutes website.

Subd. 3. **Parental access** ~~in family child care and group family child care programs.~~ An. The parent who has enrolled ~~child's parent~~ a child must be allowed access to their child and the ~~program~~ licensed space at any time while the child is in care unless a court order or other legal documentation restricts access. A copy of the order or other legal documentation must be kept in the child's record.

Subd. 4. **Attendance records.** A license holder must maintain documentation of actual attendance for each child receiving care. The records must be accessible to the commissioner during the program's hours of operation, must be completed on the actual day of attendance, and must include:

- (a) ~~(a)~~ the first and last ~~names and birth dates~~ name of each child in care;

~~(b) The child's weekly schedule; and~~

~~(b) (c) the name of the person picking up the child; and~~

~~(b)(c) the time, including hours and minutes, of the child's arrival and departure.~~

Subd. 5. **License holder policies.**

(a) The license holder shall monitor implementation of the policies and procedures by ~~program staff~~ all caregivers as required in section 245A.04, subdivision 14.

(b) The license holder must have the following written information available for discussion with parents and the commissioner and provide an electronic or hard copy of the materials to the parent at the time of admission or any other time upon request:

(1) a policy regarding the ages and numbers of children the family care program is licensed to serve;

(2) a policy regarding the hours and days of operation, including plans for holiday closings, personal time, and policies for inclement weather closings;

(3) a policy regarding fees, including payment schedule, overtime charges, and registration fees as applicable;

~~(4) required enrollment information;~~

~~(5)~~(4) a policy regarding allergy prevention and response policy and procedure;

~~(6)~~(5) a policy regarding meals and snacks to be served;

~~(7)~~(6) a policy regarding formula, breast milk, and providing supplemental foods;

~~(8)~~(7) a policy regarding labeling requirements for food brought from the child's home;

~~(9)~~(8) a policy regarding sleeping and resting arrangements;

~~(10)~~(9) a policy regarding nondiscrimination practices to comply with section 245J.16~~21~~, subdivision 2;

~~(11) policies for~~(10) a policy regarding the care of ill children, isolation precautions, symptoms for discharge and return, immunizations, and medicine permission policies; and whether the license holder will care for an ill child;

~~(12) disease notification procedures;~~

~~(13) policies for~~(11) a policy regarding disease notification procedures including notifying the parents of exposed children as required within 24 hours of when a parent or caregiver notifies the license holder of a reportable disease under section 245J.19, Subd. 11. The notice must be posted in a clearly visible, accessible place or provided individually to each parent of a child who was exposed;

~~(12)~~ a policy regarding the administration and storage of medication and topical products, including sunscreen, ~~and including whether school age children are permitted to carry their own medication and topical products;~~

~~(14)~~ (13) a policy regarding emergency, fire, and storm plans, ~~and the monthly fire drill log;~~

~~(15) transportation~~ (14) a policy for regarding field trips, ~~walking trips, if applicable, emergencies, transportation consent/~~ including by foot and whether parent permission requirements is required;

(15) a policy regarding transporting in an emergency including whether parent permission is required;

(16) a policy regarding behavior guidance and discipline;

(17) ~~situations that may require disenrollment of a child, if applicable, including~~ a policy regarding the termination of child care and expulsion notice procedures;

(18) ~~plans for~~ a plan regarding the use of a helper ~~and plans for;~~

(19) a plan regarding the use of a substitute for ~~emergencies,~~ personal leave, or holidays;

~~(19)~~ (20) a plan regarding r the use of an emergency substitute and the licensing requirements found in section 245J.09, subdivision 2;

(21) a policy regarding the presence of pets in the program, including ~~a 14-day~~ notification prior to the introduction of a new pet to the program;

~~(20)~~ (22) a written policy about notifying ~~a parent of a child whose skin is broken by an~~ parents and the licensing agency when any animal bite or scratch occurs from an animal housed at the licensed program on the day the injury occurs;

~~(21)~~ (23) a written policy ~~from~~ about notifying an agent of a community health board, as authorized under section 145A.04 ~~will be immediately notified,~~ whenever ~~a child in care~~ an individual is bitten by an animal, ~~r,~~ The notification must be made immediately and must be given before any steps are taken to destroy the animal, and the provider must take reasonable steps to confine the animal;

~~(22)~~ (24) a written policy on screen time that ~~includes caregiver education and~~ is consistent with screen time ~~use as required in section~~ recommendations from the American Academy of Pediatrics;

~~(23) a copy of the~~ (25) a policy regarding photo or video sharing. Photo or video sharing must be limited to sharing updates with parents about the enrolled child in care who have given signed permission. Photo or video sharing may be permitted during investigations. Photos or videos must be shared with the commissioner upon request;

(26) a policy regarding social media posting or business communications. Social media posting must be limited to the license holder's account or business account;



~~(27) a statement regarding whether the license holder has obtained~~ liability insurance coverage information, including, as applicable, notification of no insurance coverage;

~~(2428) a written~~ policy prohibiting smoking, use of tobacco products, vaping, and electronic cigarettes ~~inside the~~ on the premises of both indoor and outdoor licensed program ~~during child care hours, or environments, and~~ in any ~~vehicle while transporting children~~ vehicles used by the program during ~~child care hours~~ of operation. The policy must also state if ~~anyone in~~ smoking is permitted inside the program ~~smokes or vapes at the program~~ space outside of child care hours;

~~(25) A written policy prohibiting the use of alcohol and drugs~~ (29) a policy that includes, but is not limited to the following;

~~(i) prohibits the license holder, employees, subcontractors~~ subcontracts, and volunteers, when ~~directly responsible for persons served by~~ working at the program, from:

(i) abusing prescription medication or being in any manner under the influence of a chemical that impairs the individual's ability to provide services or care as required by section 245A.04, subdivision 1, paragraph (c);

(ii) prohibits the use of using controlled substances as specified in chapter 152; and chapter 342;

(iii) prohibits the use of using illegal drugs;

(iii) consuming alcohol ~~and requiring alcohol be kept inaccessible to children;~~

(iv) prohibits abusing or using controlled substances or alcohol to the extent that the use or abuse has or may have a negative effect on the ability of the license holder or caregiver to give care; and

(v) prohibits abusing or using controlled substances or alcohol to the extent that the use or abuse is apparent during the hours the children are in care.

~~(2630) a policy on~~ regarding parental access to the program that states ~~an enrolled child's~~ a parent who enrolls a child must be allowed access to the ~~parent's~~ child ~~inside~~ and the program at any time while the child is in care;

~~(2731) a policy on the use of video surveillance systems in the program, including the location of the cameras and who has access to the video feed or recordings, as applicable. The policy must state that video equipment or monitoring is not permitted in bathrooms or other private areas; and~~

~~(28) A policy about~~ regarding the presence of firearms at the residence in accordance with section 245J. ~~23~~ 19, subdivision ~~79~~.

Subd. 6. **Records for each child.** The license holder must obtain the following information from parents prior to the admission of a child. The license holder must keep this information up-to-date and on file for each child. The information must be reviewed at least annually by the parent and updated ~~as needed~~ when information changes.

(a) The license holder must maintain the signed and completed admission and arrangement~~arrangements~~ form documented in a manner prescribed that is developed and approved by the commissioner ~~must be on file in the license holder's program and contain the following information:~~

~~(1) full name and birthdate of the child;~~

~~(2) full name of parents;~~

~~(3) [pr https://www.revisor.mn.gov/rules/pdf/9502/2021-10-13%2011:41:27+00:00](https://www.revisor.mn.gov/rules/pdf/9502/2021-10-13%2011:41:27+00:00) program address, work address, email address, and telephone numbers where parents may be reached during program hours;~~

~~(4) name, address, and telephone numbers of physician, dentist, and hospital to be used for emergencies when parents cannot be reached;~~

~~(5) name, address, and telephone number of persons to be notified in case of emergency, when parents cannot be reached;~~

~~(6) names and contact information for all persons authorized to drop off or pick up the child from the program;~~

~~(7) enrollment dates;~~

~~(8) financial arrangements;~~

~~(9) insurance notification specified in section 245J.03, subdivision 5, paragraph (b), clause 23; and~~

~~(10) parental consent for video surveillance for allowing parents to monitor children in the program, as applicable.~~

~~(b) Special instructions or a plan from the parent must be obtained in writing and followed about these topics, as applicable:~~

~~(1) toilet training, eating, or sleeping;~~

~~(2) medical or health needs;~~

~~(3) information about any known allergy from the child's parent. The license holder must maintain current allergy information in each child's record; and~~

~~(4) developmental, behavioral, cultural, social-emotional information, or any other relevant information.~~

~~(c)~~(b) Immunization records must be kept in accordance with section 121A.15. The license holder must request, update, and keep on file the dates of immunizations received for each child prior to enrollment and updated as follows:

(1) for an infant, every six months;

(2) for a toddler, annually;

(3) for a preschool child, every 18 months; and

(4) for a school-age child, every three years.

~~(d)~~c The license holder must obtain signed written consent ~~must be obtained~~ in advance from the parent so the license holder can obtain emergency medical care or treatment. The consent may be used if the parent cannot be reached or is delayed in arriving.

~~(e) Written permission to transport children must be obtained from parents if the license holder will be transporting a child.~~

~~(f)~~d A license holder must release a child from care only to a parent or other person authorized in writing by the parent. The information must be reviewed at least annually by the parent and updated ~~as needed~~ when information changes.

Subd. 7. **Nondiscrimination.** A caregiver is prohibited from discriminating in relation to enrollment in their program based on race, color, creed, religion, national origin, sex, gender identity, marital status, disability, status regarding public assistance, sexual orientation, or familial status.

## **245J.1207 Licensed Capacity, Child and Adult Ratios, Age Distribution Restrictions, and Supervision of License Holder’s Own Child**

- **Note:** “License holder and Second Adult Caregiver Training Requirements” that were found in 245J.07 in Draft 1 have been moved to 245J.10 in Draft 2. This section was also renamed to “Applicant, Primary Provider of Care, and Second Adult Caregiver Training Requirements”.
- **Note:** “Licensed Capacity, Child and Adult Ratios, Age Distribution Restrictions” requirements that were found in 245J.12 in Draft 1 have been moved to this section in Draft 2. “Supervision of Family Child Care License Holder’s Own Child” requirements that were found in 245J.11 in Draft 1 have been combined with this section in Draft 2.

Subdivision 1. **Capacity limits.** Family child care and group family child care license holders must comply with the following requirements which ~~limits~~limit the total number of children and the number of preschoolers, toddlers, infants, and newborns who may be in care at any one time and establishes the number of adults who are required to be present.

- (a) License holders must be licensed for the total number of children, 10 years of age or younger, who are present in the program at any one-time during child care hours. The licensed capacity must include all children of child care age, including foster children, when the children are present at the program. When the program is in a residence, the license capacity must include all children of any caregiver when the children are present at the residence.
- (b) Within the licensed capacity, the age distribution restrictions specify the maximum number of children ~~who are~~-under school age, ~~preschoolers~~, toddlers, infants, and newborns who are in care at any one ~~-time-during~~ ~~child care hours~~.

Subd. 2. **Specialized infant and toddler group family child care.** In specialized infant and toddler group family child care, caregivers must be adults. Helpers are permitted for additional support but cannot be used in place of an adult caregiver.

Subd. 3. **Specialized infant and toddler family child care.** A group family child care program licensed as a class B3 specialized infant and toddler group family child care under section 245J.12, may operate as a class B2 or B1 specialized infant and toddler family child care program on days when only one caregiver is present.

Subd. 4. Newborn care. When a newborn is in care and only one adult caregiver is present, the newborn must be the only child under 12 months of age and the license holder must not care for more than two other children at the same time unless ~~another adult caregiver is also present, or~~ the newborn is the license holder's child. When a second adult caregiver is also present or the newborn is the child of the license holder, then the newborn ~~counts as~~ is considered an infant ~~when considering~~ for the purposes of child-to-adult ratios and age distribution restrictions.

Subd. ~~4~~5. **Helpers.** Excluding specialized infant and toddler group family child care, a helper may be used in place of a second adult caregiver when there is no more than one newborn, infant, or toddler present.

Subd. **56. Supervision, primary caregiver provider of care, and use of substitutes.** [A license holder must comply with the following supervision requirements:](#)

[\(a\) Children in care must be supervised by an adult.](#)

[\(b\) The caregiver must have knowledge of each child's needs and be accountable for their care at all times, including but not limited to, developmental and behavioral needs and parental preferences.](#)

[\(c\) All caregivers must be awake while caring for children.](#)

~~(a)(d) A license holder or the primary provider of care in a community-based child care program must be the primary caregiver in the licensed family child care program unless a substitute is being used. Children in care must be supervised by a caregiver. All caregivers must be awake while providing child care services. The use of a substitute caregiver must be limited to the requirements in section 245J.10~~

[\(e\) The use of a substitute caregiver must be limited to the requirements in section 245J.09.](#)

Subd. **67. Capacity, ratios, and age distribution restrictions.** Family child care and group family child care license holders must comply with the following requirements and restrictions:

(a) Family Child Care - Class A License. A helper may be used in place of a second adult caregiver when there is no more than one infant or toddler present.

Setting	Class	Capacity	Adults	Children Under School Age	Infant and Toddler Restrictions
Family Child Care	A	10	1	6	Of the total children under school age, a combined total of no more than 3 shall be infants and toddlers. Of this total, no more than 2 shall be infants. If a newborn is in care, please refer to subdivision 4.

(b) Specialized Infant and Toddler Family Child Care License.

Setting	Class	Capacity	Adults	Children Under School Age	Infant and Toddler Restrictions
Specialized Infant & Toddler Family Child Care	B1	5	1	3	Maximum 3 infants. If a newborn is in care, please refer to subdivision 4.
	B2	6	1	4	Maximum 2 infants. If a newborn is in care, please refer to subdivision 4.

Setting	Class	Capacity	Adults	Children Under School Age	Infant and Toddler Restrictions
	B3	10	2	10	Maximum 6 infants and toddlers. Of this total, no more than 4 shall be infants. If a newborn is in care, please refer to subdivision 4.

(c) Group Family Child Care [License](#).

Setting	Class	Capacity	Adults	Children Under School Age	Infant and Toddler Restrictions
Group Family Child Care	C1	10	1	8	Of the total children under school age, a combined total of no more than 3 shall be infants and toddlers. Of this total, no more than 2 shall be infants. If a newborn is in care, please refer to subdivision 4.
	C2	12	1	10	Of the total children under school age, a combined total of no more than 2 shall be infants and toddlers. Of this total, no more than 1 shall be an infant. If a newborn is in care, please refer to subdivision 4.
	C3	18	2	10	Of the total children under school age, a combined total of no more than 5 shall be infants and toddlers. Of this total, no more than 3 shall be infants. If a newborn is in care, please refer to subdivision 4.

~~(d) Specialized Infant and Toddler Group Family Child Care – Class D License. Both caregivers must be adults.~~

Subd. [78](#). **Group family child care operation option.** A group family child care program licensed as a C3 program may operate as a C2 or C1 program on days when the adult-to-child ratios allow [them](#) to operate at a lower capacity. [Additionally, a group family child care program licensed as a C2 program may operate as a C1 program on days when the adult-to-child ratios allow it to operate at a lower capacity.](#)

Subd. 9. **Additional licensing requirements.** To hold a B3 or C3 license class, a license holder must meet the following criteria:

(a) The license holder must be in substantial compliance with all applicable licensing requirements found under this chapter for a period of at least 24 consecutive months prior to licensure under the B3 or C3 classification.

(b) The license holder must not have had a licensing action, including temporary immediate suspension, conditional license, suspension, revocation, or a settlement agreement resulting from such action relating to the health and safety of children including but not limited to behavior guidance, child development, training, or supervision during the prior 24 months.

(c) All caregivers must complete at least four additional hours of annual training in the following areas:

(1) Behavior guidance;

(2) Child development; and

(3) Active supervision strategies to ensure the health and safety of children.

## ~~245J.11 Supervision of Family Child Care License Holder's Own Child~~

~~Subdivision 1. License holder care of own child or children.~~

Subd. 10. **Care of the license holder's own child or children.**

(a) With the license holder's consent, an individual may be present in the licensed space and care for the family child care license holder's own child both inside and outside of the licensed space and is exempt from the training and supervision requirements of section 245J.10 if the individual:

(1) is related to the license holder or to the license holder's child, as defined in section 245A.02, subdivision 13, or is a household member who the license holder has reported to the county agency;

(2) is not a designated caregiver, helper, or substitute for the licensed program at the time that they are supervising the license holder's own child;

(3) is involved only in the care of the license holder's own child; and

(4) does not have direct, unsupervised contact with any nonrelative children in care.

(b) If the individual in paragraph (a) is not a household member, the individual is also exempt from background study requirements under chapter 245C.

(c) The entirety of this chapter applies at all times, including when caregivers care for their own children of child care age in the program, except as provided in paragraph (d).

(d) The following sections do not apply to caregivers with regards to the care of their own children of child care age in the program:

- Section 245J.13 [Behavior Guidance];

- Section 245J.17 [Activities and Equipment];  
(1) Section 245J.20, subdivisions 1 through 3 [Food/Feeding]; and
- Section 245J.21 [Children with Special Health Needs or Disabilities].

(e) The exceptions identified in paragraph (d) do not exempt the caregiver from the applicability of other requirements found in chapter 260E on maltreatment of minors, chapter 609 on criminal code, and other related laws.

(f) The exceptions identified in paragraph (d) do not exempt the agency from enforcing these standards when the caregiver's actions in regard to their own child affect the other children in care.



## 245J.0608 Caregiver Qualifications

- **Note:** “Substitute and Intermittent Caregiver Training Requirements” that were found in 245J.08 in Draft 1 have been moved to 245J.11 in Draft 2.
- **Note:** “Caregiver Qualifications” requirements that were found in 245J.06 in Draft 1 have been moved to this section in Draft 2.

Subdivision 1. **Age.** An applicant for a family child care ~~or,~~ group family child care, or community-based child care license must be an adult at the time of application.

Subd. 2. **Physical and behavioral health.** An adult caregiver must be physically ~~able~~ and mentally ~~capable~~ able to care for children.

(a) The commissioner shall require the applicant ~~must supply to provide~~ documentation to the agency with the license application that the applicant has had a physical examination from a licensed physician, advanced practice registered nurse or physician assistant within 12 months prior to the application for initial licensure and this documentation must indicate that the applicant is physically able to care for children.

(b) Prior to assisting with care of children ~~for more than 500 hours annually,~~ the commissioner shall require the applicant ~~must supply to provide~~ documentation verifying that the adult caregiver is physically able to care for children. The documentation must be provided by a licensed physician, advanced practice registered nurse, or physician assistant who examined the individual within the past ~~twelve~~ 12 months.

(c) The commissioner may require an applicant, license holder, or caregiver to provide reports in a form prescribed by the commissioner, on the individual's physical or behavioral health from a licensed physician, physician assistant ~~(PA),~~ or advanced practice registered nurse ~~(APRN)~~ when there is reason to believe or it is shown by credible evidence that an individual exhibits physical or behavioral health symptoms which might impair the individual's ability to ensure the health and safety of children. The reports must not be used for any other purpose than to determine whether the individual's physical or behavioral health impacts the health and safety of children.

Subd. 3. **Additional group family child care requirements.** A group family child care applicant must also meet the following requirements:

(a) a minimum of one year of substantial compliance with this chapter as a licensed family child care license holder ~~or,~~ primary provider of care, or second adult caregiver with a minimum of 520 hours of direct care with children in Minnesota; or

(b) a minimum of six months of substantial compliance with this chapter as a licensed family child care license holder ~~or,~~ primary provider of care, or second adult caregiver in Minnesota; and

~~(1) thirty hours of child care, health, and nutrition training as specified in section 245J.07, and~~ (1) a minimum of 520 hours of experience as an assistant teacher, student teacher, or intern in an elementary school, after school program or Minnesota licensed child care center, or as an adult caregiver in a

Minnesota licensed ~~group~~ family child care program, and thirty hours of child care, health, and nutrition training as specified in section 245J.10; or

~~(2) 30~~ (2) a minimum of 520 hours of experience as a licensed practical or registered nurse, and thirty hours of child development or early childhood education training, as specified in section 245J.06, and a minimum of 520 hours of experience as a licensed practical or registered nurse; or 10;

(c) certification or licensure indicating one of the following:

(1) completion of a two-year child development or early childhood education associate or certificate program at an accredited college or university; ~~or~~

(2) Child Development Assistant Certification ~~(CDA)~~; ~~or~~;

(3) bachelor's degree or higher ~~from an approved~~ in early childhood education ~~certification program~~ at from an accredited college or university; ~~or~~

(4) ~~kindergarten through sixth grade teaching~~ elementary education degree from an accredited university or college that includes a minimum of ~~30~~ thirty hours of child development training; or

~~(5) verification of a minimum of~~ (5) six months experience as a full-time teacher at a Minnesota licensed child care center.

## 245J.1009 Substitute Caregivers and Replacements

- **Note:** “Helper Training Requirements” that were found in 245J.09 in Draft 1 have been moved to 245J.12 in Draft 2.
- **Note:** “Substitute Caregivers and Replacements” requirements that were found in 245J.10 in Draft 1 have been moved to this section in Draft 2.

Subdivision 1. **Total hours allowed.** ~~Notwithstanding section 245J.12, subdivision 5~~ The use of a substitute caregiver in a licensed family child care or group family child care program must be limited to a cumulative total of not more than 500 hours annually. When a substitute is used, prior to the end of ~~the~~each business day, the license holder must document the name, ~~date~~date, and number of hours of ~~the~~each substitute who provided care.

### Subd. 2. **Emergency replacement supervision.**

(a) In an emergency, a license holder may allow an adult who has not completed the training requirements under this chapter or the background study requirements under chapter 245C to supervise children in a family child care program ~~in an emergency~~. For purposes of this subdivision, an emergency is a situation in which the license holder has begun operating the family child care program for the day and for reasons beyond the control of the license holder, including, but not limited to a serious illness or injury, accident, or situation requiring the immediate attention of the license holder, the license holder needs to leave the licensed space and close the program for the day.

(b) To the extent practicable, the license holder must attempt to arrange for emergency care by a substitute caregiver before using an emergency replacement.

(c) When an emergency occurs, ~~the license holder must~~:

~~(1)~~(1) The license holder or emergency replacement must contact the parents of the children attending the program and inform them that the program is closing, and they need to pick up their children as soon as ~~is~~ practicable;

———~~(2)~~(2) The license holder must not knowingly use a person as an emergency replacement who has committed an action or has been convicted of a crime that would cause the person to be disqualified from providing care to children if a background study was conducted under chapter 245C;

~~(3)~~(3) The license holder must make reasonable efforts to minimize the time the emergency replacement has unsupervised contact with the children in care not to exceed 24 hours per emergency incident;

(4) ~~Close~~The program must be for the day once the last unrelated child has left the program; and

~~(5)~~(5) The license holder must notify the county licensing agency within seven days that an emergency replacement was used and specify the circumstances that led to the use of the emergency replacement.

(d) The county licensing agency must notify the commissioner within three business days after receiving the license holder's notice that an emergency replacement was used and specify the circumstances that led to the use of the emergency replacement.

(e) A license holder is not required to provide the names of persons who may be used as replacements in emergencies to parents or the county licensing agency. However, once an emergency replacement has been used, the license holder must provide the name of the individual used to the county licensing agency.

## **245J.07 License Holder 10 Applicant, Primary Provider of Care, and Second Adult Caregiver Training Requirements**

- **Note:** “Substitute Caregivers and Replacements” requirements that were found in 245J.10 in Draft 1 have been moved to 245J.09 in Draft 2.
- **Note:** “Applicant, Primary Provider of Care, and Second Adult Caregiver Training Requirements” that were found in 245J.07 in Draft 1 have been moved to this section in Draft 2. This section was also renamed to “Applicant, Primary Provider of Care, and Second Adult Caregiver Training Requirements”.

Subdivision 1. ~~License holder~~Applicant, primary provider of care, and second adult caregiver initial training requirements.

~~(a) License holders~~(a) Applicants, primary providers of care and second adult caregivers must comply with the training requirements in this section.

(b) County licensing staff must accept approved training in the Develop data system: Minnesota’s Quality Improvement and Registry tool for early education and school-age care professionals on the provider’s the Develop data system learning record for the provider including:

- (1) face-to-face or classroom training;
- (2) online training; and
- (3) relationship-based professional development, such as mentoring, coaching, and consulting.

(c) Training requirements under this subdivision must be completed prior to initial licensure for a ~~newly licensed~~new family child care ~~license holder or by a family child care license holder~~applicant who has not held an active child care license in Minnesota in the previous 12 months.

(1) A family child care ~~license holder~~primary provider of care who voluntarily closes their license and who seeks to open a new license within 12 months of the date of closure has one year from the effective date of the new license to complete the annual ongoing training requirements according to the schedules established in this section and is not required to complete the training requirements that must be completed prior to initial licensure.

(2) A ~~child~~primary provider of care ~~license holder~~ who relocates ~~outside of their current county or agency and moves from one location to another~~ within the state has until the end of the calendar year to complete the annual ongoing training requirements according to the schedules established in this section and is not required to complete the training requirements under this section that the family child care ~~license holder~~primary provider of care completed prior to initial licensure.

(3) If a ~~license holder moves~~primary provider of care relocates to a new county, the new county is prohibited from requiring the ~~license holder~~primary provider of care to complete any orientation class or training for new ~~license holders~~primary providers of care or applicants.

(d) The ~~license holder~~applicant, primary provider of care, and each second adult caregiver must complete and document at least four hours of child development and learning and behavior guidance training prior to initial licensure and before caring for children.

(1) ~~Notwithstanding initial child development and learning and behavior guidance training requirements in paragraph (d),~~ Individuals are exempt from ~~this~~the requirement in paragraph (d) if they have documentation verifying that they:

(i) have taken a three-credit course on early childhood development within the past five years;

(ii) have received a baccalaureate or master's degree in early childhood education or school-age child care within the past five years;

(iii) are licensed in Minnesota as ~~a prekindergarten teacher,~~ an early childhood educator, a kindergarten to ~~6<sup>th</sup>~~sixth grade teacher ~~with a prekindergarten specialty, an~~ or an early childhood or kindergarten to sixth grade special education teacher, ~~or an elementary teacher with a kindergarten endorsement; or~~

(iv) have received a ~~baccalaureate~~bachelor's degree with a Montessori certificate within the past five years.

(e) Before initial licensure and before caring for children, all family child care ~~license holders~~applicants, primary providers of care, and each second adult caregiver must complete and document the completion of the six-hour Supervising for Safety for Family Child Care course developed by the commissioner.

(f) Before initial licensure and before caring for children, ~~license holders~~applicants, primary providers of care, and second adult caregivers must be trained in pediatric first aid.

~~(1) Notwithstanding the provisions of this section, any caregiver who has yet to complete initial pediatric first aid training may provide direct contact services for up to 90 days, if they are under the continuous direct supervision of an individual who has current certification in pediatric first aid. For purposes of this paragraph, "continuous, direct supervision" means the caregiver is within sight or hearing of the program's supervising individual to the extent that the program's supervising individual is capable at all times of intervening to protect the health and safety of the children served by the program.~~

~~(2) The~~ Pediatric first aid training must ~~have been~~be provided by an individual certified to provide pediatric first aid instruction.

~~(3) Pediatric first aid training may be less than eight hours.~~

~~(4) License holders~~(2) Primary providers of care, and second adult caregivers must maintain current documentation of the training ~~and must be maintained~~ at the program and make it available upon request.

~~(5) On-line~~3) Online training reviewed and approved by the county licensing agency satisfies the training requirement of this paragraph.

(g) Before initial licensure and before caring for children, ~~license holders~~applicants, primary providers of care, and second adult caregivers must be trained in pediatric cardiopulmonary resuscitation (CPR), including CPR techniques for infants and children, and in the treatment of obstructed airways.

(1) Persons providing pediatric CPR training must use content that has been:

(i) developed by the American Heart Association or the American Red Cross and incorporates a hands-on skill session to support the instruction; or

(ii) uses nationally recognized, evidence-based guidelines for CPR training and incorporates a hands-on skills session to support the instruction.

(2) Pediatric CPR training must be provided by an individual approved to provide CPR instruction.

(3) Pediatric CPR courses must be either instructor led or a blended course of online instruction with a hands-on skill component.

(4) Online-only CPR courses that do not include a hands-on skill session component do not meet the requirements of this paragraph.

(h) Before initial licensure and before caring for infants, ~~the applicant~~applicants, primary ~~provider~~providers of care, and second adult ~~caregiver~~caregivers must complete training on the standards in section 245A.1435 and receive training on reducing the risk of sudden unexpected infant death; and before the ~~license holder~~applicant, primary provider of care and each second adult caregiver assist in the care of children under school age, they must complete training on reducing the risk of abusive head trauma from shaking infants and young children.

(1) Training for ~~family and group family child care license holders~~applicants, primary providers of care, and second adult caregivers must be designated by the commissioner to meet the requirements in this paragraph. Reducing the risk of sudden unexpected infant death ~~reduction~~ training and reducing the risk of abusive head trauma training may be provided in a single course ~~of no more than two hours in length~~.

(2) Reducing the risk of sudden unexpected infant death ~~reduction~~ training required under this paragraph must, at a minimum, address the risk factors related to sudden unexpected infant death, means of reducing the risk of sudden unexpected infant death in child care, and ~~license holder~~primary provider of care communication with parents regarding reducing the risk of sudden unexpected infant death.

(3) Reducing the risk of abusive head trauma training required under this section must, at a minimum, address the risk factors related to shaking infants and young children, means of reducing the risk of

abusive head trauma in child care, and ~~license holder~~primary provider of care communication with parents regarding reducing the risk of abusive head trauma.

(i) The primary provider of care, and each second adult caregiver must comply with all seat belt and child passenger restraint system requirements under section 169.685. Before a ~~license holder~~primary provider of care or second adult caregiver transports a child ~~or children~~ under ~~eight~~nine years of age in a motor vehicle, the person placing the child ~~or children~~ in a passenger restraint and the driver must satisfactorily complete training on the proper use and installation of child restraint systems in motor vehicles.

~~(1) A license holder and each second adult caregiver must comply with all seat belt and child passenger restraint system requirements under section 169.685.~~

~~(2)~~(1) Training required under this paragraph must be at least one hour in length, completed at initial training and include at a minimum:

(i) the proper use of child restraint systems based on the child's size, weight, and age; and

(ii) the proper installation of a car seat or booster seat in the motor vehicle used ~~by the license holder~~ to transport the child ~~or children~~.

~~(3)~~(2) Training under this paragraph must be provided by individuals who are certified and approved ~~in~~Developby the department of public safety.

~~(4)~~(3) Child care ~~license holders~~primary providers of care, and second adult caregivers that only transport school-age children as defined in section 245J.01, subdivision ~~1, paragraph (i) of this section~~23 in child care buses as defined in section 169.448, subdivision 1, paragraph (e), are exempt from this paragraph.

(j) ~~Before a~~Prior to providing care, the primary provider of care and second adult caregiver ~~cares for a child or assists in the care of a child, the license holder~~ must ~~train the second adult caregiver~~be trained on:

(1) the emergency preparedness plan required under section 245J.~~21-19~~21-19, subdivision 2; and

(2) allergy prevention and response required under section 245J.~~1506~~1506, subdivision 5, paragraph (b)~~);~~ and

(3) the Community-Based Program Plan required under section 245J.22 (i).

(k) Prior to licensure or employment, the ~~license holder~~primary provider of care, and each second adult caregiver must complete training on the family child care and group family child care program policies and procedures listed in section 245J.~~1506~~1506.

~~(1) If there are changes to any of the policies and procedures the license holder and each second adult caregiver must complete training on the revised policies and procedures within 10 days of the change.~~

~~(2) Documentation of each training on the revised policies and procedures must be kept at the program.~~



(l) The ~~license holder~~applicant, primary provider of care, and second adult caregiver must complete training on the reporting of suspected abuse, neglect or maltreatment of children as required by chapter 260E, prior to licensure or caring for a child.

(m) The ~~license holder~~applicant, primary provider of care, and second adult caregiver must complete the training requirements in section 245J.~~1814~~, subdivision 56, paragraph (a) to be eligible to allow a child cared for at the program to use the swimming pool located at the program.

Subd. 2. ~~License holder~~Primary provider of care, and second adult caregiver annual training requirements.

(a) The ~~license holder~~primary provider of care, and each second adult caregiver must annually take at least two hours of child development and learning or behavior guidance training. A three-credit early childhood development course taken within the calendar year meets the requirements of this paragraph.

(b) ~~The license holder~~Each calendar year, the primary provider of care, and each second adult caregiver must ~~annually~~ complete and document:

(1) a two-hour active supervision course developed ~~or approved~~ by the commissioner; or

(2) any ~~courses~~course in the ensuring safety competency area under the health, safety, and nutrition standard of the Knowledge and Competency Framework that the commissioner has identified as an active supervision training course.

(c) ~~License holders~~Each calendar year, primary providers of care, and second adult caregivers must ensure and document that the ~~license holder~~primary provider of care, and each second adult caregiver receive training on reducing the risk of abusive head trauma from shaking infants and young children, if caring for children under school aged and reducing the risk of sudden unexpected infant death ~~each calendar year if caring for infants~~.

(1) Reducing the risk of sudden unexpected infant death training and reducing the risk of abusive head trauma training required under this paragraph must be completed at least once every two years either in-person or online.

(2) On the years when the individual receiving training is not receiving training in-person or online ~~as allowed under subdivision 1, paragraph (b), clauses (1) or (2)~~, the individual receiving training in accordance with this subdivision must receive reducing the risk of sudden unexpected infant death ~~reduction~~ training and reducing the risk of abusive head trauma training through a video of no more than one hour in length. The video must be developed or approved by the commissioner.

(d) The ~~license holder~~primary provider of care, and each second adult caregiver must complete 16 hours of ongoing training ~~annually. An individual shall not use a specific training or class to meet minimum training requirements more than one time every 5 years.~~each calendar year. Repeat of topical training requirements in paragraph (f) must count toward the annual 16-hour training requirement.

(e) Additional ongoing training subjects to meet the annual 16-hour training requirement must be selected from the following Knowledge and Competency Frameworks (KCF) areas:

- (1) KCF content area I - child development and learning training in understanding how a child develops physically, cognitively, emotionally, and socially, and how a child learns as part of the child's family, culture, and community;
- (2) KCF content area II - developmentally appropriate learning experiences, including training in creating positive learning experiences, promoting cognitive development, promoting social and emotional development, promoting physical development, promoting creative development; and behavior guidance;
- (3) KCF content area III - relationships with families, including training in building a positive, respectful relationship with the child's family;
- (4) KCF content area IV - assessment, evaluation, and individualization, including training in observing, recording, and assessing development; assessing and using information to plan; and assessing and using information to enhance and maintain program quality;
- (5) KCF content area V - historical and contemporary development of early childhood education, including training in past and current practices in early childhood education and how current events and issues affect children, families, and programs;
- (6) KCF content area VI - professionalism, including training in knowledge, skills, and abilities that promote ongoing professional development;
- (7) KCF content area VII - health, safety, and nutrition, including training in establishing healthy practices; ensuring safety; and providing healthy nutrition;
- (8) KCF content area VII.D or KCF I - an understanding and support of the importance of culture and differences in ability in children's identity development;
- (9) KCF content area VII.D or KCF III - understanding the importance of awareness of cultural differences and similarities in working with children and their families;
- (10) KCF content area III - understanding and support of the needs of families and children with differences in ability;
- (11) KCF content area VII.D or KCF I and II - developing skills to help children develop unbiased attitudes about cultural differences and differences in ability;
- (12) KCF content area VII.D or KCF II - developing skills in culturally appropriate caregiving;
- (13) KCF content area II - developing skills in appropriate caregiving for children of different abilities;
- (14) KCF content area IX – trauma informed care and practices; and
- (15) KCF content area X - working with multilingual children and their families.

(f) A license holder caregiver who is approved as a trainer through the Develop data system may count topics up to two hours of training instruction toward the annual 16-hour training requirement in paragraph (e) if all of the following is met:

- (1) The license holder caregiver may only count training instruction hours for the first instance in which they deliver a particular content-specific training during each training year.
- (2) The license holder caregiver must be a Develop-approved, active trainer.
- (3) Hours counted as training instruction must be approved through the Develop data system with attendance verified on the trainer's individual learning record and must be in a Knowledge and Competency Framework content area VII A (Establishing Healthy Practices) or B (Ensuring Safety).  
~~Training required by paragraph (e) may be counted if the trainer meets all requirements of this section.~~

(g) County licensing staff must accept training designated by the commissioner ~~posts information on the department's website indicating as satisfying training requirements if~~ the specific category training is within the Knowledge and Competency Framework ~~that will satisfy training requirements~~ for child development and learning, behavior guidance, and active supervision. ~~County licensing staff must accept training designated as satisfying training requirements by the commissioner under this paragraph as indicated on the department's website.~~

(h) Unless specifically authorized in this section, one training does not fulfill two different training requirements. Courses within the identified knowledge and competency areas that are specific to child care centers or legal nonlicensed programs do not fulfill the requirements of this section.

Subd. 3. ~~License holder~~ Primary provider of care and **second adult caregiver ongoing training requirements.**

(a) ~~License holders~~ Primary providers of care and second adult caregivers must repeat certification in pediatric CPR training every two years within 90 days of the date the training was previously taken. Primary providers of care and second adult caregivers must maintain documentation of the training ~~and must maintain documentation~~ at the program or electronically and make it available upon request.

(1) Persons providing pediatric CPR training must use CPR training content that has been:

~~(i) developed by the American Heart Association or the American Red Cross and incorporates a hands-on skill session to support the instruction; or~~

~~(ii) uses nationally recognized, evidence-based guidelines for CPR training and incorporates a hands-on skills session to support the instruction.~~

(i) developed by the American Heart Association or the American Red Cross and incorporates a hands-on skill session to support the instruction; or

(ii) uses nationally recognized, evidence-based guidelines for CPR training and incorporates a hands-on skills session to support the instruction.

(2) ~~The~~ Pediatric CPR training must be provided by an individual approved to provide CPR instruction.

(3) Pediatric CPR courses must be either instructor ~~lead~~led or a blended course of online instruction with a hands-on skill component.

(4) Online-only CPR courses that do not include a hands-on skill session component do not meet the requirements of this paragraph.

(b) ~~License holders~~Primary providers of care and second adult caregivers must be trained in pediatric first aid.

~~(1) Notwithstanding the provisions of this section, any second adult caregiver who has yet to complete initial pediatric first aid training may provide direct contact services for up to 90 days, if they are under the continuous direct supervision of an individual who has current certification in pediatric first aid. For purposes of this paragraph, “continuous, direct supervision” means the caregiver is within sight or hearing of the program’s supervising individual to the extent that the program’s supervising individual is capable at all times of intervening to protect the health and safety of the children served by the program.~~

~~(2) The first aid training must have been~~(1) Primary providers of care and second adult caregivers must repeat pediatric first aid training every two years within 90 days of the date the training was previously taken.

(2) Pediatric first aid training must be provided by an individual certified to provide pediatric first aid instruction.

~~(3) Pediatric first aid training may be less than eight hours.~~

~~(4) License holders~~(3) Primary providers of care and second adult caregivers must maintain documentation of the training ~~and must maintain documentation~~ at the program ~~and~~or electronically and make it available upon request.

~~(5)~~ Online training reviewed and approved by the county licensing agency satisfies the training requirement of this paragraph.

(c) The ~~license holder~~primary provider of care and ~~each~~ second adult caregiver must complete and document completion of both Health and Safety I and Health and Safety II at least once every five years. ~~A license holder’s~~A primary provider of care’s or second adult caregiver's completion of either training in a given year meets the annual active supervision training requirement in subdivision 2, paragraph (b).

(d) Before a ~~license holder~~primary provider of care or second adult caregiver transports a child ~~or children~~ under age eight~~nine~~ in a motor vehicle, the person placing the child ~~or children~~ in a passenger restraint and the driver must satisfactorily complete training on the proper use and installation of child restraint systems in motor vehicles.

(1) Training required under this paragraph must be at least one hour in length and repeated at least once every five years. At a minimum, the training must address the proper use of child restraint systems based on the child's size, weight, and age, and the proper installation of a car seat or booster seat in the motor vehicle used by the ~~license holder~~primary provider of care to transport the child or children.

(2) Training under this ~~subdivision~~paragraph must be provided by individuals who are certified and approved ~~in Develop~~by the Department of Public Safety.

(3) Child care ~~license holders~~primary providers of care and second adult caregivers that only transport school-age children as defined in section 245J.01, subdivision ~~1723~~(e), in child care buses as defined in section 169.448, subdivision 1, paragraph (e), are exempt from this ~~subdivision~~paragraph.

(e) If there are changes to any of the policies and procedures, primary provider of care and each second adult caregiver must do the following:

(1) complete training on the revised policies and procedures within 10 days of the change; and

(2) maintain documentation of each training on the revised policies and procedures at the program.

## 245J.0811 Substitute and Intermittent Caregiver Training Requirements

- **Note:** “Supervision of Family Child Care License Holder’s Own Child” requirements that were found in 245J.11 in Draft 1 have been moved to 245J.07, and renamed to “Licensed Capacity; Child and Adult Ratios; Age Distribution; Supervision of own child Requirements” in Draft 2 .
- **Note:** “Substitute and Intermittent Caregiver Training Requirements” that were found in 245J.08 in Draft 1 have been moved to this section in Draft 2.

### Subdivision 1. Substitute and intermittent caregiver initial training requirements.

(a) Substitutes and intermittent caregivers must comply with the training requirements in this section.

(b) County licensing staff must accept training ~~approved~~ on the substitute or intermittent caregiver’s Develop [data system](#) learning record, including:

(1) face-to-face or classroom training;

(2) online training; and

(3) relationship-based professional development, such as mentoring, coaching, and consulting.

(c) The license holder must ensure and document that, before caring for a child, all substitutes and intermittent caregivers have completed the four-hour Basics of Licensed Family Child Care for Substitutes course developed by the commissioner.

(d) Before caring for a child, substitutes and intermittent caregivers must be trained in pediatric first aid.

~~(1) Notwithstanding the provisions of this section, any caregiver who has yet to complete initial Pediatric first aid training may provide direct contact services for up to 90 days, if they are under the continuous direct supervision of an individual who has current certification in pediatric first aid. For purposes of this paragraph, “continuous, direct supervision” means the caregiver is within sight or hearing of the program’s supervising individual to the extent that the program’s supervising individual is capable at all times of intervening to protect the health and safety of the children served by the program.~~

~~—(2) The first aid training must have been~~[be](#) provided by an individual certified to provide pediatric first aid instruction.

~~—(3) Pediatric first aid training may be less than eight hours.~~

~~—(4)~~[\(2\)](#) Substitutes and intermittent caregivers must maintain documentation of the training ~~and must maintain documentation~~ at the program ~~and~~[or electronically and make it](#) available upon request.

~~—(5)~~[\(3\)](#) Online training reviewed and approved by the county licensing agency satisfies the training requirement of this paragraph.

(e) Before initial licensure and before caring for children, substitutes and intermittent caregivers must be trained in pediatric cardiopulmonary resuscitation (CPR), including CPR techniques for infants and children, and in the treatment of obstructed airways.

~~(1) Persons providing CPR training must use CPR training that has been:~~

~~(i) developed by the American Heart Association or the American Red Cross and incorporates a hands-on skill session to support the instruction; or~~

~~(ii) using nationally recognized, evidence-based guidelines for CPR training and incorporates a hands-on skills session to support the instruction.~~

(1) Persons providing pediatric CPR training must use content that has been:

(i) developed by the American Heart Association or the American Red Cross and incorporates a hands-on skill session to support the instruction; or

(ii) nationally recognized and uses evidence-based guidelines for CPR training and incorporates a hands-on skills session to support the instruction.

(2) ~~The~~ CPR training must be provided by an individual approved to provide CPR instruction.

(3) CPR courses must be either instructor ~~lead~~led or a blended course of online instruction with a hands-on skill component.

(4) ~~CPR Online~~-only ~~offered online~~CPR courses that do not include a hands-on skill session component do not meet the requirements of this subdivision.

~~(f) Notwithstanding the provisions of this section, any caregiver who has yet to complete initial pediatric CPR training may provide direct contact services for up to 90 days following the date of hire, if they are under the continuous direct supervision of an individual who has been trained in pediatric CPR. For purposes of this paragraph, "continuous, direct supervision" means the caregiver is within sight or hearing of the program's supervising individual to the extent that the program's supervising individual is capable at all times of intervening to protect the health and safety of the children served by the program.~~

(g) License holders must ensure and document that before substitutes and intermittent caregivers assist in the care of infants, they receive training on the ~~standards~~requirements in section 245A.1435 and receive training on reducing the risk of sudden unexpected infant death; and before substitutes ~~assist in the~~and intermittent caregivers care ~~offor~~ children under school age, they receive training on reducing the risk of abusive head trauma from shaking infants and young children.

(1) Training for substitutes and intermittent caregivers must be developed by the commissioner and approved by the Develop data system. Sudden unexpected infant death reduction training and abusive head trauma training may be provided in a single course ~~of no more than two hours in length~~.

(2) Sudden unexpected infant death reduction training required under this paragraph must, at a minimum, address the risk factors related to sudden unexpected infant death, means of reducing the

risk of sudden unexpected infant death in child care, and license holder communication with parents regarding reducing the risk of sudden unexpected infant death.

(3) Abusive head trauma training required under this paragraph must, at a minimum, address the risk factors related to shaking infants and young children, means of reducing the risk of abusive head trauma in child care, and license holder communication with parents regarding reducing the risk of abusive head trauma.

(h) Before a substitute or intermittent caregiver transports a child ~~or children~~ under age ~~eight~~nine in a motor vehicle, the person placing the child ~~or children~~ in a passenger restraint and the driver must satisfactorily complete training on the proper use and installation of child restraint systems in motor vehicles.

(1) A substitute and intermittent caregiver must comply with all seat belt and child passenger restraint system requirements under section 169.685.

(2) Family child care and group family child care programs licensed by the department ~~of Human Services~~ that serve and plan to transport a child or children under ~~eight~~nine years of age must document caregiver training that fulfills the requirements in this subdivision.

(3) Training required under this paragraph must be at least one hour in length, ~~completed at initial training.~~ At a minimum, the training must address the proper use of child restraint systems based on the child's size, weight, and age, and the proper installation of a car seat or booster seat in the motor vehicle used by the license holder to transport the child or children.

(4) Training under this subdivision must be provided by individuals who are certified and approved ~~in~~ Developby the department of public safety.

(5) Substitutes and intermittent caregivers that only transport school-age children as defined in section 245J.01, subdivision ~~1723~~ (e), in child care buses as defined in section 169.448, subdivision 1, paragraph (e), are exempt from the requirements of this subdivision.

(i) Before a substitute or intermittent caregiver cares for a child ~~or assists in the care of a child~~, the license holder must train the substitute or intermittent caregiver on:

(1) the emergency preparedness plan required under section 245J.19, subdivision 2; ~~and~~

(2) allergy prevention and response required under section 245J.~~14, subdivision 7(e).~~ 06, subd. 5(d); and

(3) the community-based program plan required under section 245J.22 (i).

(j) Prior to employment, substitutes and intermittent caregivers must complete training on the program policies and procedures listed in section 245J.~~14~~06. If there are changes to any of the policies and procedures the substitute must complete training on the revised policies and procedures within 10 days of the change.

Documentation of each training on the revised policies and procedures must be kept at the program or stored electronically and be made available upon request.



~~(k) The substitute and intermittent caregiver must complete the training requirements in section 245J.06, subdivision 3 to be eligible to allow a child cared for at the program to use the swimming pool located at the program.~~

~~(k)~~ (k) The substitute and intermittent caregiver must complete training on the reporting of suspected abuse, neglect or maltreatment of children as required by chapter 260E, prior to caring for a child.

Subd. 2. **Substitute and intermittent caregiver annual training requirements.**

~~(a)~~ (a) Substitutes and intermittent caregivers must complete a minimum of one hour of training each calendar year and the training must include the requirements found in section 245J.11.

(b) Each calendar year, license holders must ensure and document that each substitute and intermittent caregiver receives training on reducing the risk of abusive head trauma from shaking infants and young children; if caring for children under school aged and reducing the risk of sudden unexpected infant death ~~annually~~ if caring for infants.

(1) Reducing the risk of sudden unexpected infant death ~~reduction~~ training and reducing the risk of abusive head trauma training required under this paragraph must be completed ~~either in-person or online~~ at least once every two ~~calendar~~ years either in-person or online.

(2) On the years when the individual receiving training is not receiving training in-person or online as allowed under subdivision 1, paragraph (b), clauses (1) or (2), the individual receiving training in accordance with this subdivision must receive reducing the risk of sudden unexpected infant death ~~reduction~~ training and reducing the risk of abusive head trauma training through a video of no more than one hour in length. The video must be developed or approved by the commissioner.

Subd. 3. **Substitute and intermittent caregiver ongoing training requirements.**

(a) At least once every three years, license holders must ensure and document that substitutes and intermittent caregivers have completed the four-hour Basics of Licensed Family Child Care for Substitutes course.

(b) Substitutes and intermittent caregivers must ~~maintain current~~ repeat certification in pediatric CPR training every two years within 90 days of the date the training was previously taken. Substitutes and intermittent caregivers must maintain documentation of the training ~~must be maintained~~ at the ~~family child care~~ program or electronically and make it available upon request.

(1) Persons providing CPR training must use CPR training that has been:

(i) developed by the American Heart Association or the American Red Cross and incorporates a hands-on skill session to support the instruction; or

(ii) using nationally recognized, evidence-based guidelines for CPR training and incorporates a hands-on skills session to support the instruction.

~~(1) Persons providing CPR training must use CPR training that has been:~~

~~(i) developed by the American Heart Association or the American Red Cross and incorporates a hands-on skill session to support the instruction; or~~

~~(ii) using nationally recognized, evidence-based guidelines for CPR training and incorporates a hands-on skills session to support the instruction.~~

(2) ~~The~~ CPR training must be provided by an individual approved to provide CPR instruction.

(3) CPR courses must be either instructor ~~lead~~led or a blended course of online instruction with a hands-on skill component.

(4) ~~CPR-Online-~~only ~~offered online~~CPR courses that do not include a hands-on skill session component do not meet the requirements of this subdivision.

(c) Substitutes and intermittent caregivers must be trained in pediatric first aid.

~~(1) Notwithstanding the provisions of this section, any substitute who has yet to complete initial pediatric first aid training may provide direct contact services for up to 90 days, if they are under the continuous direct supervision of an individual who has been trained in pediatric first aid. For purposes of this paragraph, “continuous, direct supervision” means the substitute is within sight or hearing of the program’s supervising individual to the extent that the program’s supervising individual is capable at all times of intervening to protect the health and safety of the children served by the program.~~

~~(2) The first aid training must have been~~(1) Substitutes and intermittent caregivers must repeat pediatric first aid training every two years within 90 days of the date the training was previously taken.

(2) Pediatric first aid training must be provided by an individual certified to provide pediatric first aid instruction.

~~(3) Pediatric first aid training may be less than eight hours.~~

~~(4)~~(3) Substitutes and intermittent caregivers must maintain documentation of the training and must maintain documentation at the program and available upon request.

~~(5)~~(4) Online training reviewed and approved by the county licensing agency satisfies the training requirement of this paragraph.

(d) Before a substitute or intermittent caregiver transports a child or children under age ~~eight~~nine in a motor vehicle, ~~the person placing the child or children in a passenger restraint and the driver~~they must satisfactorily complete training on the proper use and installation of child restraint systems in motor vehicles.

(1) Training required under this paragraph must be at least one hour in length and repeated at least once every five years. When the training expires, it must be retaken no later than the day before the expiration date. At a minimum, the training must address the proper use of child restraint systems based on the child's size, weight, and age, and the proper installation of a car seat or booster seat in the motor vehicle used by the license holder to transport the child or children.

(2) Training under this paragraph must be provided by individuals who are certified and approved ~~in~~  
~~Develop~~ [by the department of public safety.](#)

(3) Child care substitutes or intermittent caregivers that only transport school-age children as defined in section 245J.01, subdivision ~~1723~~ [1723](#) (e), in child care buses as defined in section 169.448, subdivision 1, paragraph (e), are exempt from this subdivision.

## 245J.0912 Helper Training Requirements

- **Note:** “Licensed Capacity, Child and Adult Ratios, Age Distribution Restrictions” that were found in 245J.12 in Draft 1 have been moved to 245J.07, and combined with “Supervision of Family Child Care License Holder’s Own Child” requirements in Draft 2 . That section title has been renamed to “Licensed Capacity; Child and Adult Ratios; Age Distribution; Supervision of Own Child” in Draft 2.
- **Note:** “Helper Training Requirements” that were found in 245J.09 in Draft 1 have been moved to this section in Draft 2.

### Subdivision 1. Helper initial training requirements.

(a) Helpers must comply with the training requirements in this section.

(b) County licensing staff must accept training approved on the helper’s Develop [data system](#) learning record, including:

- (1) face-to-face or classroom training;
- (2) online training; and
- (3) relationship-based professional development, such as mentoring, coaching, and consulting.

(c) Helpers who assist with care on a regular basis must complete six hours of training within one year after the date of initial employment.

(d) [Each calendar year](#), license holders must ensure and document that before helpers assist in the care of infants, they receive training on the standards in section 245A.1435 and receive training on reducing the risk of sudden unexpected infant death; and before helpers assist in the care of children under school age, they receive training on reducing the risk of abusive head trauma from shaking infants and young children.

(1) Sudden unexpected infant death reduction training and abusive head trauma training may be provided in a single course ~~of no more than two hours in length.~~

(2) Sudden unexpected infant death reduction training required under this paragraph must, at a minimum, address the risk factors related to sudden unexpected infant death, means of reducing the risk of sudden unexpected infant death in child care, and license holder communication with parents regarding reducing the risk of sudden unexpected infant death.

(3) Abusive head trauma training required under this paragraph must, at a minimum, address the risk factors related to shaking infants and young children, means of reducing the risk of abusive head trauma in child care, and license holder communication with parents regarding reducing the risk of abusive head trauma.

(e) The helper must complete training on the reporting of suspected abuse, neglect or maltreatment of children as required by chapter 260E prior to licensure or caring for a child.

Subd. 2. **Helper annual training requirements.**

(a) License holders must ensure and document that each helper receives [annual](#) training on reducing the risk of abusive head trauma from shaking infants and young children, and sudden unexpected infant death ~~annually~~.

(1) Sudden unexpected infant death reduction training and abusive head trauma training required under this paragraph must be completed either in-person or online at least once every two calendar years.

(2) On the years when the individual receiving training is not receiving training in-person or online as allowed under subdivision 1, paragraph (b), clauses (1) or (2), the individual receiving training in accordance with this subdivision must receive sudden unexpected infant death reduction training and abusive head trauma training through a video of no more than one hour in length. The video must be developed or approved by the commissioner.

## 245J.14~~13~~ Behavior Guidance

- **Note:** “Reporting to Agency” requirements that were found in 245J.13 in Draft 1 have been moved to 245J.05 in Draft 2.
- **Note:** “Behavior Guidance” requirements that were found in 245J.14 in Draft 1 have been moved to this section in Draft 2.

### Subdivision 1. ~~Definitions:~~

~~(a) “Behavior guidance” is an ongoing process whereby caregivers offer constructive, positive, and developmentally appropriate guidance to children, to help them manage their own behavior in a socially acceptable manner.~~

~~(b) “Persistent unacceptable behavior” occurs when a child exhibits behavior that presents a serious safety risk for the child or others, and the program is not able to reduce or eliminate the safety concern. This behavior may include physical aggression, verbal threats or actions that significantly disrupt the learning environment, or repetitive behaviors that have been addressed through standard behavior guidance techniques without improvement.~~

~~(c) “Redirection” is when a caregiver intervenes and guides a child away from potential problems toward constructive activity through positive techniques.~~

~~(d) “Separation” is a form of behavior guidance that involves interruption of unacceptable behavior by the removal of a child from a situation, with the intention of allowing the child an opportunity to pause and gain self-control. During a separation a child is isolated from participating in activities with other children.~~

**Subd. 2. Behavior guidance policies and procedures.** The applicant must develop written behavior guidance policies and procedures. The license holder must ensure that the policies and procedures are carried out. The policies and procedures must include:

- (a) methods of promoting positive behavior as specified under subdivision [32](#);
- ~~(b)~~ prohibited actions as specified under subdivision [4](#);
- ~~(c)~~[\(b\)](#) Addressing persistent unacceptable behavior as specified under subdivision [53](#); and
- ~~(d)~~[\(c\)](#) separation from the group as specified in subdivision [64](#).

Subd. [32](#). **Methods of promoting positive behavior.** The license holder must:

- (a) ~~Ensure that each child is provided with a positive~~ [positively role](#) model of acceptable behavior [to each child](#);
- (b) tailor methods of promoting positive behavior to the developmental level of the children the program is licensed to serve;
- (c) ensure redirection, as defined in [section 245J.01](#), subdivision ~~145~~, is used as appropriate in addressing a child’s behavior, to guide a child away from potential ~~problems~~ [challenges](#) toward constructive activity;

- (d) teach children how to use acceptable alternatives to ~~problem behavior to~~ reduce conflict; and
- (e) protect the safety and well-being of children and caregivers.

Subd. ~~4.3~~. **Prohibited Actions.** The license holder must have and enforce a policy that prohibits the following actions by ~~or at the direction of the license holder or any other~~ any caregiver:

- (a) subjection of a child to corporal or physical punishment. This includes, but is not limited to rough handling, shoving, hair pulling, ear pulling, shaking, slapping, kicking, biting, pinching, spitting, hitting, and spanking;~~;~~
- (b) subjection of a child to name calling, ostracism, shaming, making derogatory remarks about the child or the child's family, cultural or racial slurs, and yelling or using profane language that threatens, humiliates, or frightens the child;~~;~~
- (c) forcing a child to maintain an uncomfortable position, or to continuously repeat physical movements;~~;~~
- (d) group punishments for the behavior of an individual child.~~A group activity must not be cancelled for the entire group, prior to the activity, due to the behavior of one or more children;~~
- (e) separation of a child from the group except as provided in subdivision ~~7.4~~;
- (f) punishment for not resting, napping, or sleeping; toileting accidents; failing to eat all or part of meals or snacks; or failing to complete an activity;~~;~~
- (g) denial of food or drink, ~~;~~ or forcing food or drink upon a child;~~;~~
- (h) denial of light, warmth, clothing, or medical care as a punishment for unacceptable behavior;~~;~~
- (i) the use of physical restraint other than to physically hold a child when containment is necessary to protect a child or others from harm~~– as defined by section 245A.211;~~
- (j) the use of mechanical restraints, such as tying, or any device or equipment intended to restrict or prevent movement as a means of discipline or convenience by caregivers, including but not limited to confinement to a swing, highchair, infant carrier, walker, ~~or crib, crib, or weighted item as defined by section 245A.211;~~
- (k) the use of any non-prescribed substance given to a child to subdue or restrict movement or behavior;~~;~~
- (l) discipline and punishment must not be delegated to another child;~~;~~ and
- (m) punishing or shaming a child for the actions of a parent. This includes, but is not limited to, failure to pay fees, failure to provide appropriate clothing, failure to provide materials for an activity, or any conflict between the license holder or caregiver and the parent.

~~Subd. 5. Persistent unacceptable behavior. The persistent unacceptable behavior policies and procedures must include:~~

~~(a) Caregivers who observe persistent unacceptable behavior must discuss with the parents and document the behavior of the child and caregiver response to the behavior within 24 hours of the incident occurring or as soon as is practicable.~~

~~(b) When persistent unacceptable behavior as defined in subdivision 1, paragraph (b) occurs, a behavior plan must be developed and implemented to address the behavior documented in paragraph (a) of this~~

~~subdivision, in consultation with the child's parent, the license holder, all caregivers, and other professionals involved in the care and treatment of the child, as appropriate.~~

~~Subd. 6~~**Subd. 4. Separation time from the group.** No child may be separated from the group unless the license holder has tried less intrusive methods of guiding the child's behavior which have been ineffective, and the child's behavior threatens the well-being of the child or other children in the program. Separation from the group must meet the following requirements:

(a) newborns, infants, and toddlers must not be separated from the group as a means of behavior guidance. children under the age of three must not be separated from the group as a means of behavior guidance;

~~(a)~~(b) the separation time or "time-out period" must be limited to the amount of time necessary for the child to gain self-control and rejoin the group, not to exceed ten minutes while being supported by the provider, or no more than one minute per each year of the child's age or developmental level, whichever period is shorter;

~~(b) The duration of the child's separation must be documented, including beginning and end time of the separation;~~

~~(c) Infants and toddlers must not be separated from the group as a means of behavior guidance;~~

~~(d)~~(c) the child must be supervised as defined under section 245J.01, subdivision 36; and 53;

~~(d) Upon the child's return to the activity, no child shall be placed in a locked room to separate the child from the group; and~~

~~(e) the caregiver must review the reason for the separation and discuss the expected behavior with the child.~~

~~Subd 7. Additional provisions.~~

~~(a) When providing services to a child with a developmental disability or related condition, the license holder must follow section 245A.23.~~

~~(f)~~(e) A program that cares for a offer the child with a developmental disability or related condition must comply with the individual child care plan requirements under section 245J.16. the time-out period in a non-humiliating manner.



## 245J.1814 Physical Environment and Space Requirements

- **Note:** “Behavior Guidance” requirements that were found in 245J.14 in Draft 1 have been moved to 245J.13 in Draft 2.
- **Note:** “Physical Environment and Space Requirements” that were found in 245J.18 in Draft 1 have been moved to this section in draft 2. This section was also renamed to not include “Environment” in the section title.

Subdivision 1. **Indoor space.** The licensed capacity of the child care program must be limited by the amount of usable indoor space available to children. A minimum of 35 square feet of usable indoor space is required per child.

(a) Bathrooms, closets, space occupied by major appliances, and other space not used by children may not be counted as usable space. Space occupied by adult furniture, if it is used by children, may be counted as usable indoor space.

(b) Usable indoor space may include a basement if it has been inspected and approved by a fire marshal, is free of hazards, and meets the requirement specified in subdivision 34.

Subd. 2. **Outdoor learning environment and play space.**

(a) There must be an outdoor play space of at least 50 square feet per child in attendance, ~~adjacent to~~ at the program, ~~for regular use;~~ or a park, playground, or play space within 1,500 feet of the program.

~~(b) Outdoor play space must have shaded areas.~~

~~(c)~~ (b) The license holder and caregivers must comply with the following outdoor play supervision requirements.

(1) The license holder or caregiver shall remain outdoors with infants, toddlers, and preschoolers at all times.

(2) School-age children may be permitted in the approved outdoor play space ~~on~~ at the ~~premises~~ program without the license holder or caregiver if both of the following occur:

(i) The children are ~~not~~ engaged in ~~higher risk~~ age-appropriate activities ~~such as but not limited to swimming, activities with animals or~~ using age-appropriate equipment ~~with motors or moving parts;~~ and

(ii) The license holder or caregiver remains accessible to provide ~~assistance~~ supervision when needed. in accordance with section 245J.01, subdivision 53.

(3) When the outdoor play space is not ~~on~~ at the ~~premises~~ program, the license holder or caregiver shall accompany and supervise all children in transit and at the outdoor play space.

~~(d) Playgrounds and outdoor play areas must be protected from traffic and nearby hazards by a continuous fence in good condition with functioning gates or a continuous natural barrier, or a combination of fence and naturally occurring or landscaping barrier.~~

~~(1) Examples of naturally occurring or landscaping barriers include, but are not limited to space, dense hedges, walls, permanently anchored dividers, or partitions.~~

~~(2) The fence or natural barrier must ensure that children are not able to leave the outdoor play area unsupervised.~~

~~(3) Gates must be equipped with self-closing and positive self-latching closure mechanisms. The latch or securing device should be high enough or of a type such that children cannot open it.~~

~~(4)(c) The play area must be free of potential hazards including but not limited to debris, broken glass, toxic materials, cigarette butts, machinery, unlocked vehicles, feces, and sewage contaminants.~~

(d) Outdoor play areas must be protected from traffic and nearby hazards. The ~~outdoor-program space and equipment must be visually inspected prior to each use~~must have:

(i) a continuous fence in good condition with functioning gates or a continuous natural barrier, or a combination of fence and naturally occurring or landscaping barrier. The fence or natural barrier must ensure that children are not able to leave the outdoor play area unsupervised; or

\_\_\_\_\_ (ii) a supervision and safety plan if a fence is not used that includes alternative methods to ensure outdoor areasthe health, safety, and equipment are freeprotection of hazards, children in care.

(e) Electrical fences must be inaccessible to children in care.

(f) Providers must take measures to protect children from the dangers of sun exposure and extreme heat.

(g) Outdoor equipment, whether stationary or portable, must be safe, in good repair, and designed to meet the developmental needs of the age groups of children using the space.

(gh) Equipment such as, but not limited to, climbing gyms, swings, and slides must:

~~(1) Be placed out of the path of the area's main traffic pattern;~~

~~(2) Be anchored or stable and have all parts in good working order and securely fastened;~~

~~(3) Have all climbing ropes anchored at both ends and not capable of looping back on themselves creating a loop with an interior perimeter of five inches or greater;~~

~~(4) Have s-shaped hooks that are closed to prevent the chain from slipping off of the hook and to prevent strangulation;~~

~~(5) Be free of rust, cracks, holes, splinters, sharp points, or edges, chipped or peeling paint, lead hazards, toxic substances, protruding bolts, or tripping hazards;~~

~~(6)~~(1) have no openings that are greater than three-and one-half inches, but less than nine inches to avoid entrapment of the head or other body parts;

(7) have protective barriers on platforms that are 30 inches high or higher. A protective barrier means an enclosing ~~device~~product around an elevated platform that is intended to prevent both inadvertent and deliberate attempts to pass through the ~~device;~~product; and

(8) be assembled, installed, and utilized according to manufacturer's guidelines.

~~(h) Outdoor play equipment designated for climbing, swinging, balancing, and sliding must have a fall zone of protective resilient material on the ground under and around the equipment. The fall zone must meet the guidelines under the Consumer Product Safety Commission. The material may be one of the following, but not limited to, washed pea gravel, mulch, sand, wood chips, engineered wood fiber, or shredded or recycled rubber mulch manufactured for this purpose.~~

~~(1) Equipment must not be placed directly over concrete, asphalt, blacktop, dirt, rocks, or any other hard surface.~~

~~(2) Synthetic surfaces must follow manufacturer's guidelines for depth.~~

~~(3) All loose fill materials used for protective resilient surfacing must be raked, as needed to retain their proper distribution and depth. Foreign materials are to be removed prior to use by children.~~

~~(4) Use and maintain a minimum of six inches of protective resilient surfacing for play equipment less than four feet in height.~~

~~(5) Use and maintain a minimum depth of nine inches of loose fill materials such as wood mulch/chips, engineered wood fiber, or shredded or recycled rubber mulch for equipment up to eight feet high; and nine inches of sand or pea gravel for equipment up to five feet high. The surfacing will also compact, displace, and settle, and should be periodically refilled to maintain at least a nine-inch depth.~~

~~(6) Loose fill materials must be contained by digging out around the perimeter of the playground or lining the perimeter with landscape edging.~~

~~(i) The license holder must cover any bare soil around their child care facility with mulch, plantings or grass or test any bare soil for lead by an Environmental Protection Agency-recognized National Lead Laboratory Accreditation Laboratory.~~

### Subd. 3. Emergency escape routes.

(a) At least one emergency escape route separate from the main exit from the space must be available in each room used for sleeping by anyone receiving licensed care, and a. Additionally, when the basement is used for care, there must be one emergency escape route from the basement.

(a)(b) One means of escape must be a stairway or door leading to the floor with an exit to the outside. The other must be a door or window leading directly outside. A window used for child care, as an emergency escape route must be openable without special knowledge.

(c) Required escape routes must not be obstructed and must be accessible without special knowledge.

**Subd. 4. Portable Wading Pools.**

- (a) A portable wading pool as defined in section 144.1222 may not be used by a child at a family child care program unless the parent of the child has provided written consent.
- (b) The written consent must include a statement that the parent has received and read material provided by the Minnesota Department of Health - Wading Pool Safety for Parents related to the risk of disease transmission as well as other health risks associated with the use of portable wading pools.
- (c) Wading pools must be emptied daily.
- (d) The caregiver must supervise children at all times while a wading pool is in use and must be able to clearly see all parts of the wading area.
- (e) When not in use under the supervision of a caregiver, wading pools must be inaccessible to children.

**Subd. 5. Swimming pools.**

(a) This subdivision governs swimming pools located at family child care programs. This subdivision does not apply to portable wading pools or whirlpools located at family child care programs. For a license holder to be eligible to allow a child ~~cared for~~ in care at the family child care program to use the swimming pool located at the program, the license holder must not have had a licensing sanction under section 245A.07 or a correction order or conditional license under section 245A.06 relating to the supervision or health and safety of children during the prior 24 months, and must satisfy the following requirements:

- (1) notify the county agency before initial use of the swimming pool ~~and annually~~ each calendar year;
- (2) obtain written consent from a child's parent allowing the child to use the swimming pool and renew the parent's written consent at least annually;
- (3) the written consent must include a statement that the parent has received and read materials provided by the Minnesota Department of Health related to the risk of disease transmission as well as other health risks associated with swimming pools;
- (4) the written consent must also include a statement that the ~~department,~~ Minnesota Department of Health, and county agency will not monitor or inspect the license holder's physical swimming pool ~~;~~  
~~(5)~~ (5) attend and successfully complete a swimming pool supervision training course annually;  
(6) attend and successfully complete a swimming pool operator training course once every five years. Acceptable training courses are one of the following:
  - (i) the National Swimming Pool Foundation Certified Pool Operator course;
  - (ii) the National Spa and Pool Institute Tech I and Tech II courses, both are required; or
  - (iii) the National Recreation and Park Association Aquatic Facility Operator course.

(~~6~~7) require a caregiver trained in pediatric first aid and ~~adult and child~~pediatric cardiopulmonary resuscitation to always ~~supervise and be present at~~be with the ~~swimming pool~~ children ~~are using~~while they use the swimming pool;

(~~7~~8) toilet all potty-trained children before they enter the swimming pool;

(~~8~~9) require all children who are not potty-trained to wear swim diapers while in the swimming pool;

(~~9~~10) if fecal material enters the swimming pool water, add three times the normal shock treatment to the pool water to raise the chlorine level to at least 20 parts per million, and close the pool to swimming for the 24 hours following the entrance of fecal material into the water or until the water pH and disinfectant concentration levels have returned to the standards specified in ~~section~~subd. 6 (12) whichever is later;

(~~10~~11) prevent any person from entering the swimming pool who has an open wound or any person who has or is suspected of having a communicable disease;

(~~11~~12) maintain the swimming pool water at a pH of not less than 7.2 and not more than 8.0, maintain the disinfectant concentration between two and five parts per million for chlorine or between 2.3 and 4.5 parts per million for bromine, and maintain a daily record of the swimming pool's operation with pH and disinfectant concentration readings on days when children cared for at the family child care program are present;

(~~12~~13) have a disinfectant feeder or feeders;

(~~13~~14) have a recirculation system that will clarify and disinfect the swimming pool volume of water in ten hours or less;

(~~14~~15) maintain the swimming pool's water clarity so that an object on the pool floor at the pool's deepest point is easily visible;

(~~15~~16) comply with the provisions in section 144.1222, subdivisions 1c and 1d;

(~~16~~17) have in place and enforce written safety rules and swimming pool policies;

(~~17~~18) have in place at all times a safety rope that divides the shallow and deep portions of the swimming pool;

(~~18~~19) maintain compliance with any existing local ordinances regarding swimming pool installation, decks, and fencing;

(~~19~~20) maintain a water temperature of not more than 104 degrees Fahrenheit and not less than 70 degrees Fahrenheit; and

(~~20~~21) for lifesaving equipment, have a United States Coast Guard-approved life ring attached to a rope, an exit ladder, and a shepherd's hook available at all times to the caregiver supervising the swimming pool.

~~(21) The requirements of clauses (2), (15), and (17) above only apply at times when children cared for at the family child care program are present.~~

**Subd. 6. Water hazards.**

(a) Swimming and wading pools, beaches, or other bodies of water on or adjacent to the site of the program must be inaccessible to children except during periods of supervised use.

(b) All water hazards, such as inground or above ground swimming pools, [hot tubs](#), stationary wading pools, fish ponds, and water retention or detention basins on the site of the program must be ~~fen~~[enclosed](#) with a permanent fence, wall, building wall, other physical barrier, or combination thereof that is at least four to six feet in height. All swimming pools need to be covered when not in use. A house exterior wall can constitute one side of a fence if the wall has no openings capable of providing direct access to the pool, including but not limited to doors or windows.

(c) When children use a swimming pool, as defined in Minnesota Rules, chapter 4717 or beach, an adult caregiver who is trained in first aid and CPR must be present. The program may not allow a child in care to use a swimming pool or beach without an adult caregiver trained in first aid and CPR present.

(d) With the exception of water tables designed for children to play in only with their hands, bodies of water must be separated from the play area by a fence or other physical barrier that prevents children from accessing the water. The house door alone is not a sufficient barrier.

**Subd. 7. Water Play.**

(a) Splash pads or sprinklers that spray or jet water on the users and do not have standing water do not need parental permission for use by children.

(b) Splash pads or sprinklers that have a standing water component are considered wading pools and required to meet the requirements of subdivision [45](#).

**Subd. 8. Door to attached garage.**

~~(a) If there is an opening between an attached garage and a family child care residence, there must be a door that is:~~

~~(1) a solid wood bonded core door at least 1-3/8 inch thick;~~

~~(2) a steel insulated door if the door is at least 1-3/8 inches thick; or~~

~~(3) a door with a fire protection rating of 20 minutes.~~

~~(b) The separation wall on the garage side between the residence and garage must consist of ½ inch thick gypsum wallboard or its equivalent.~~ [shall meet Minnesota Rules, part 1309.0302.](#)

**Subd. 9. Ventilation, heating, and cooling systems.** The following requirements must be met:

~~(a) For initial licensure~~On an ongoing basis, the heating, ventilation, and air conditioning (~~HVAC~~) system must be inspected by a licensed qualified contractor and operated according to the manufacturer's instructions.

~~(b) For renewal licensure, the heating, ventilation, and air conditioning (HVAC) system must be inspected by a licensed qualified contractor within twelve months prior to the filing of renewal application and maintained on an annual schedule.~~

~~(c) Inspections by licensed qualified heating contractors of the facility heating and cooling system must be obtained if alterations or additions to the heating and cooling system are made.~~

~~(d) Stove and heater locations must not block escape in case of a fire.~~

~~(e)~~ Gas, coal, wood, kerosene, or oil heaters must be vented to the outside in accordance with the State Building Code.

~~(f)~~ Items that can be ignited and support combustion, including but not limited to plastic, fabric, and wood products must not be located within:

- (1) 18 inches of a gas or fuel-oil heater or furnace-; or
- (2) 36 inches of a solid-fuel-burning appliance.

If a license holder produces manufacturer instructions listing a smaller distance, then the manufacturer instructions control the distance combustible items must be from gas, fuel-oil, or solid-fuel burning heaters or furnaces.

~~(g) Whenever~~(c) When in use and while warm to the touch, fireplaces, wood-burning stoves, solid fuel appliances, space heaters, steam radiators, outdoor fire pits, and other potentially hot surfaces, such as steam pipes, must be protected by guards or protective covering to keep hands and bodies away, to prevent burns, and prevent fires.

~~(h)~~ All fireplaces, wood-burning stoves, space heaters, steam radiators, and furnaces must be installed according to the State Building Code.

~~(i)~~ The furnace, hot water heater, and workshop area must be inaccessible to children. Separation may be by a door, partition, or gate. There must be allowance for air circulation to the furnace.

~~(j)~~ Ventilation of usable space must meet the requirements of the State Building Code.

~~(k)~~ Outside doors and windows used for ventilation in summer months must be screened when biting insects are prevalent. The screens must be in good repair.

~~(l)~~ The source of harmful and unpleasant odors including urine and pet waste must be removed to the extent possible by removing the source of the odor or by removing odors through cleaning and ventilation.

~~(m) The use of the following is prohibited:~~

- ~~(1) Aerosol sprays;~~

~~(2) Incense;~~

~~(3) Moth crystals or moth balls;~~

~~(4) Toilet or urinal deodorizer blocks;~~

~~(5) Chemical air fresheners; and~~

~~(6) Scent-enhanced products, including but not limited to, candles, essential oils, and spray and plug-in air fresheners.~~

Subd. 10. **Temperature.** A ~~draft-free~~minimum temperature of ~~68°F to 82°F~~62 degrees Fahrenheit must be maintained ~~at thirty to fifty percent relative humidity. All rooms that~~  
in indoor areas used by children ~~use must be heated and cooled to maintain the required temperatures and~~  
humidity.

Subd. 11. **Sewage disposal.** ~~Day~~Child care residences must have toilet facilities and sewage disposal systems that conform to the State Building Code or local septic system ordinances.

(a) ~~The~~ Toilets must ~~flush~~be flushed thoroughly ~~and clean. Toilet training equipment must be emptied and~~  
cleaned after each use.

(b) Outdoor toilets, including compostable toilets, are permissible in accordance with local septic system ordinances.

Subd. 12. **Construction, remodeling.** During construction or remodeling, children must not have access to ~~dangerous~~ construction or remodeling areas within or around the residence.

Subd. 13. **Interior walls and ceilings.** The ~~interior~~ walls and ceilings within the residence, as well as corridors, stairways, and lobbies must have a flame spread rating of 200 or less.

Subd. 14. **Electrical services.** The following electrical guidelines must be met:

(a) all electric receptacles accessible to children ~~who are under school age~~ must be tamper-proof or shielded when not in use;

(b) all major electrical appliances must be properly installed, grounded in accordance with the state electric code, and in good working order;

(c) extension cords must not be used as a substitute for permanent wiring; extension cords and flexible cords must not be affixed to structures, extended through walls, ceilings, floors, under doors or floor coverings, nor be subject to environmental damage or physical impact; and

(d) electrical wiring must be sized to provide for the load and be in good repair.

Subd. 15. **Fire extinguisher.** A portable, operational, multipurpose, dry chemical fire extinguisher with a minimum 2 A 10 BC rating must be located near the required exit door of ~~cooking areas of~~ the residence at all



times. The fire extinguisher must be serviced annually by a qualified inspector and evidence of annual service documented. All caregivers must know how to properly use the fire extinguisher.

Subd. 16. **Carbon monoxide and smoke alarms.**

(a) All programs must have an approved and operational carbon monoxide alarm installed within ten feet of each ~~room~~[area](#) used for sleeping children in care.

(b) Smoke alarms [that have been listed by the Underwriter Laboratory](#) must be properly installed and maintained on all levels including basements and in hallways outside rooms used for sleeping children in care. Smoke alarms are not required in crawl spaces and uninhabitable attics.

(c) In programs with construction that began on or after March 31, 2020, smoke alarms must be installed and maintained in each room used for children in care to sleep.

Subd. 17. ~~Infant and newborn sleeping space. There must be a safe sleeping space for each infant and newborn in care.~~

~~(a) There must be a safe sleeping space for each infant and newborn in care.~~

~~(b) Newborns and infants must not sleep anywhere other than an approved crib or playpen.~~

~~(c) Each playpen shall meet the requirements of section 245J.17, subdivision 4, paragraph (b), be of sturdy construction and have:~~

~~(1) Closely spaced bars with corner posts that do not exceed one sixteenth of an inch above the top of the end panel.~~

~~(2) Spaces between the bars of the playpen and between the bars and end panels of the playpen shall not exceed two and three eighths inches.~~

~~(3) Playpen mesh openings shall be less than one quarter inch.~~

~~Subd. 18. Stairways.~~ All stairways must meet the following conditions.

(a) Stairways of four or more steps must have handrails on at least one side.

(b) Any open area between the handrail and stair tread must be enclosed with a protective guardrail as specified in the State Building Code. ~~At open risers, opening located more than 30 inches or 762 millimeters as measured vertically to the floor or grade below must not permit the passage of a sphere four inches or 102 millimeters in diameter.~~[The back of the stair risers must be enclosed.](#)

(c) Gates must be used when children aged six to 18 months are in care.

(d) Stairways must be well-lit, in good repair, and free of clutter and obstructions.

Subd. ~~19~~[18](#). **Decks.** Decks, balconies, or lofts used by children more than 30 inches above the ground or floor must be surrounded by a protective guardrail and be constructed in accordance with the State Building Code.

Wooden decks must be free of splinters and coated with wood preservative, paint, or constructed with treated wood.

Subd. ~~20~~19. **Locks and latches.** Door locks and latches must meet the following guidelines:

(a) a door latch on a closet or other confining space ~~that a child could be confined~~ must be made so that children can open the door from inside the closet or other confining space;

(b) every interior door lock must permit opening of the locked door from the outside and the opening device must be readily accessible to all caregivers;

(c) double cylinder locks, where a key is required on both sides, on exit doors are prohibited; and

(d) installation of locks ~~or door chimes~~ may not be used in place of supervision.

Subd. ~~21~~20. **Tobacco products, vaping, drugs, and alcohol use prohibitions.**

(a) Smoking, including the use of tobacco products, vaping, electronic cigarettes, is prohibited ~~in a licensed family child care and licensed group family child care program~~ during hours of operation under section 144.414, subdivision 2.

~~(b)~~ (b) The use of alcohol, illegal or recreational drugs is prohibited during hours of operation.

(c) The use of tobacco products, vaping, electronic cigarettes, alcohol, and illegal or recreational drugs ~~on the premises of both indoor and outdoor licensed program environments, and~~ in any vehicles used by the program is prohibited during hours of operation.

~~(c)~~ (d) If a license holder ~~must disclose to parents~~ allows inhaling and exhaling of ~~children cared for~~ tobacco products or recreational drugs on the premises ~~if anyone in the program smokes or vapes~~ outside of child care hours. ~~Disclosure must include posting on the premises a conspicuous, the license holder must verbally provide notice to parents and must post~~ written notice ~~and verbally providing notice to parents~~ in an obvious location disclosing this information.

~~(d)~~ (e) While caring for children, no license holder or caregiver shall be under the influence of any substance that impairs the individual's ability to supervise children or perform the individual's duties.

## 245J.22~~15~~ Cleaning, Sanitizing, and Disinfecting

- **Note:** “Admissions; License Holder Records; Reporting” requirements that were found in 245J.15 in Draft 1 have been moved to 245J.06 in Draft 2.
- **Note:** “Cleaning, Sanitizing, and Disinfecting” requirements that were found in 245J.22 in Draft 1 have been moved to this section in Draft 2.

Subdivision 1. ~~Definitions.~~ **General Requirements.** The program must be free from accumulations of dirt, peeling paint, visible or known debris, soiled items, hazardous clutter, and pet waste, including odor from pet waste.

~~(a) **Cleaning.** “Cleaning” means the mechanical process using fragrance free soap or detergent and water to physically remove dirt, debris, and many germs. It also removes invisible debris that interferes with disinfection.~~

~~(b) **Sanitizing.** “Sanitizing” means the chemical or heating process of reducing the number of disease-causing germs on cleaned surfaces to a safe level.~~

~~(c) **Disinfecting.** “Disinfecting” means the chemical process that uses specific products to destroy harmful germs on cleaned environmental surfaces.~~

~~(d) **High hazard body fluid.** “High hazard body fluid” means urine, feces, vomit, blood, and other body fluids with blood present.~~

~~Subd. 2. Sanitizers.~~ Sanitizers must meet the following requirements:

~~(a) License holders must use sanitizers with the signal word Caution rather than Warning on the product label and a zero rating on the Hazardous Materials Identification System health rating scale. The manufacturer’s label or instructions must state that the disinfectant is effective with a ten minute or less contact time;~~

~~(b) The chemical must have an Environmental Protection Agency registration number and designation as a food contact surface sanitizer, and be used in accordance with labeled instructions, including:~~

~~(1) Concentration;~~

~~(2) Contact time;~~

~~(3) Method; and~~

~~(4) Surfaces~~

~~(c) The sanitizer must not require the final rinse step.~~

~~(d) Sanitizers must be used on surfaces that commonly come into contact with food, hands, the mouth, eyes, nose, and exposed skin of children and staff;~~

(a) ~~(e) Sanitizers and disinfectants~~ must not be used prior to or in place of cleaning compounds ~~which are intended to remove soil from surfaces, such as soaps or detergents;~~

~~(f) For a community-based child care program operating in a nonresidential space, the frequency of sanitizer use for food contact surfaces must be in accordance with the requirements of Minnesota Rules, chapter 4626. Toys used by preschool and older children must be washed, rinsed, and sanitized at least once a week and whenever visibly soiled;~~

~~(g) Toys that are placed in children's mouths or are otherwise contaminated by body fluids must be washed, rinsed, and sanitized prior to use by another child;~~

~~(h) For sanitizers requiring mixing, test kits must be used to verify the required concentration. Solutions must be tested upon mixing and daily. The required concentration for a bleach disinfectant solution is about 100 parts per million (ppm);~~

~~(i) Sanitizers obtained as ready-to-use solutions and used in accordance with the manufacturer's labeled instructions, do not require the use of test strips; and~~

(b) (j) Disinfectants must be mixed and used according to the manufacturer's instructions.

(c) Disinfectants must be used on surfaces that are contaminated with high hazard bodily fluids.

(b)(d) Nothing in this section prohibits the use of a dishwashing machine, clothes washing machine, or clothes dryer, for sanitization of toys or other program materials.

Subd. 3 Disinfectants. ~~Disinfectants must meet the following requirements:~~

~~(a) License holders should use disinfectants certified by the Environmental Protection Agency's Design for the Environment;~~

~~(b) The chemical must be effective against viruses;~~

~~(c) The chemical must be used in accordance with labeled instructions, including:~~

~~(1) Concentration;~~

~~(2) Contact time;~~

~~(3) Method; and~~

~~(4) Surfaces.~~

~~(d) Disinfectants must be used on surfaces that are commonly contaminated with high hazard body fluids, such as but not limited to door handles, toilet seat inserts, diaper changing areas and tables, diaper pails, and surfaces that have been in contact with high hazard body fluid;~~

~~(e) Disinfectants must not be used prior to or in place of cleaning compounds which are intended to remove soil from surfaces, such as soaps, detergent;~~

~~(f) Toys, food, or body contact surfaces that become contaminated with high hazard body fluids must be disinfected and then washed, rinsed, and sanitized before returned to use;~~

~~(g) Carpeting, rugs, and upholstery that have been contaminated by high hazard body fluids must be cleaned by removing all visible debris and treated through the use of a chemical or steam;~~

~~(h) The frequency of disinfectant use must be in accordance with the requirements of this statute or immediately upon clean-up of or contact with high hazard bodily fluids;~~

~~(i) Disinfectants, including household bleach, must be mixed, and used according to the manufacturer's labeled instructions, including concentration and contact time;~~

~~(j) For disinfectants requiring mixing, test kits must be used to verify the required concentration. Solutions must be tested daily and upon mixing. The required concentration for a bleach disinfectant solution is between 800-850 parts per million; and~~

~~(k) Disinfectants obtained as ready to use solutions and used in accordance with the manufacturer's labeled instructions, do not require the use of test strips.~~

~~Subd 4. **Cleaning frequency.**~~

~~(a) The indoor and outdoor space and equipment of the program must be clean.~~

~~(b) A license holder must develop and follow a cleaning schedule that includes:~~

~~(1) Food preparation areas, tables and chairs, high chairs, and food service counters, must be cleaned and sanitized before and after each meal and snack with single use paper towels, one-time use wiping cloths, or microfiber cloths;~~

~~(2) Eating utensils, bottles, drinking equipment, and dishes, must be cleaned and sanitized prior to next use. If a parent is bringing a bottle from home, the bottle does not need to be cleaned by the license holder upon arrival;~~

~~(3) Pacifiers must be cleaned and sanitized after each use or may be reused by an individual child if they have been rinsed after each use and stored in a manner that prevents contamination. The pacifier must be cleaned and sanitized daily. If the pacifier is stored in a storage device or container, it must also be cleaned and sanitized daily;~~

~~(4) Appliances used to prepare food must be cleaned after each use and sanitized daily or more often as needed;~~

~~(5) Refrigerators must be cleaned and sanitized monthly or more often as needed;~~

~~(6) Freezers must be cleaned and sanitized quarterly or more often as needed;~~

~~(7) Toys must be cleaned and sanitized ~~as follows~~ [to the following specifications](#):~~

- (a) ~~(i) infant and toddler toys~~ Toys that children place in their mouths must be cleaned and sanitized ~~at least daily or more often as needed;~~ prior to use by another child.
- (b) ~~(ii) all other~~ Toys that come into contact with high hazard bodily fluids must be cleaned and disinfected prior to next use.
- ~~(b)(c)~~ \_\_\_\_\_ Toys must be cleaned and sanitized weekly or more often as needed; and if there are visible or known contaminants or debris on them.

~~Subd. 3. (ii) When a toy comes into contact with a child's mouth or bodily fluids, it~~ **Food and eating areas.** Surfaces and tools that are used for preparing or serving food must be ~~removed from use until it can be~~ cleaned and sanitized prior to ~~reuse.~~ next use.

~~Subd. (8) Furniture~~ **4. Indoor and outdoor equipment** ~~must be cleaned monthly or more often as needed;~~

~~(9) Machine washable clothes provided by.~~ The indoor and outdoor space and equipment of the program must be ~~laundered as needed;~~ clean from visible or known illnesses or contaminants, including high hazard bodily fluids or hazardous debris.

~~(10)~~ **Subd. 5. Sleeping equipment.** Sleeping materials must be:

- ~~(i)~~ cleaned and sanitized ~~after each use if used by more than one child; or~~
- ~~(ii)~~ ~~cleaned and sanitized weekly or more often as needed if assigned to only one child.~~

~~(11)~~ Bedding must be:

- ~~(i)~~ ~~laundered and sanitized after each use if used by more than one child; or~~
- ~~(ii)~~ ~~laundered and sanitized weekly or more often as needed if assigned to only one child.~~

~~(12) The following~~ there is required of toileting areas: visible or known contaminants and follow specifications found in section 245J.17, subdivision 10.

- ~~(i)~~ ~~must be cleaned daily;~~

~~(ii)~~ **Subd. 6. Toilet training chairs.** Toilet training chairs, stools, and seats must be ~~emptied, washed with soap and water,~~ cleaned and disinfected after each use; ~~and.~~

- ~~(iii) toilets and seats~~ **Subd. 7. Hand washing.** A child's hands must be washed with soap and running water ~~and disinfected~~ when soiled, after the use of a toilet or ~~at least daily.~~

~~(13) Garbage cans and receptacles~~ toilet training chair, and before eating a meal or snack. The license holder must monitor and assist the child who needs help. Children's hands must be ~~emptied daily and~~ dried on a separate or single-use towel.

(a) In sinks and tubs accessible to children, the water temperature must not exceed 120 degrees Fahrenheit to prevent children from scalding themselves while washing their hands.

(b) Caregivers must wash their hands with soap and water after each diaper change, after assisting a child on the toilet, after washing the diapering surface, and before food preparation. Caregiver’s hands must be dried on a separate or single-use towel.

Subd. 8. Diapers, changing areas, and disposal. The following sanitary procedures must be used to reduce the spread of communicable disease.

(a) An adequate supply of clean diapers must be available for each child and stored in a clean place inaccessible to children. Diapers may be disposable or made of cloth.

(b) If cloth diapers are used the following requirements must be met:

(1) cloth diapers must have an absorbent inner layer that is completely covered with an outer waterproof layer that has a waist closure;

(2) the cloth diaper and waterproof layer should be changed at the same time;

(3) cloth diapers supplied by parents, except those supplied by a commercial diaper service, must be labeled with the child's name;

(4) cloth diapers, except those supplied by a commercial diaper service, and soiled clothing must be placed in a plastic bag after removal and sent home with the parent daily; and

(5) no rinsing or dumping of the contents of cloth diapers must be performed at the family child care program.

(c) Clothes must be worn over diapers while the child is in the program.

(d) Children in diapers must be kept clean and dry. Diapers and clothing must be changed promptly when wet or soiled.

(e) Single service disposable wipes or freshly laundered cloths must be used for washing a soiled child before rediapering.

(f) Changing tables, changing pads, and other diaper changing areas must be cleaned and disinfected as needed;

~~(14) Floors must be cleaned by either sweeping with a damp mop or vacuuming at least once per day or more often as needed. Moisture resistant flooring must be cleaned at least once per day or more often as needed;~~

~~(15) Large area rugs or installed carpet must be cleaned at least once every six months, or when visible dirt or stains are present, between children, even if using a carpet shampoo machine, steam cleaner, or other method that minimizes the exposure of children in care to pathogens and allergens; and nonabsorbent covering that is discarded after each use.~~

~~(16) Small~~ (g) The diaper changing area rugs must be shaken covered with a smooth, nonabsorbent surface.

(h) For disposable diapers, diapers must be disposed of in a covered diaper disposal receptacle located in the diaper changing area and lined with a disposable plastic bag. Diapers must only be disposed of in the diaper changing area or directly outdoors ~~or vacuumed daily and laundered as needed.~~ in a garbage can.

(i) Diapering must not take place in a food preparation area.

(j) A caregiver must disinfect the diaper changing areas, tables, and diaper pails with either chlorine bleach in a manner consistent with label directions for disinfection or with a surface disinfectant.



## 245J.2516 Environmental Health

- **Note:** “Children with Special Health Care Needs or Disabilities” requirements that were found in 245J.16 in Draft 1 have been moved to 245J.21 in Draft 2.
- **Note:** “Environmental Health” Requirements that were found in 245J.52 in Draft 1 have been moved to this section in Draft 2.

### Subdivision 1. ~~Facility.~~

~~(a) All license holders and applicants must report to the commissioner when their facility was first built. For applicants, this information must be included with their initial licensure application. For license holders, this information must be submitted upon request of the commissioner.~~

~~(b) In order to protect children from lead exposure, license holders must cover any bare soil that is within the outdoor play area with grass, bushes, wood chips, mulch, or sand. License holders are exempt from this requirement if they have documentation showing the concentration of lead in their soil is at a safe level for children, in accordance with Minnesota Department of Health guidance. All soil testing for lead contamination must be conducted by an Environmental Protection Agency-recognized National Lead Laboratory Accreditation Laboratory (NLLAP).~~

~~Subd. 2. **Water supply.** There must be a safe water supply in the family child care and group family child care program for all programs licensed under this section.~~

~~(a) A license holder must test the water supply to the program according to the requirements found in this subdivision. If the license holder declines to test the program’s water supply, they must follow the requirements found in paragraph (e).~~

~~(b) Programs that obtain water from a municipal public water system must:~~

~~—(1) retain a copy of the consumer confidence report from their water supplier; and~~

~~—(2) test for lead in drinking water and manganese if not tested by their public water system.~~

~~(c) Programs that obtain water from privately owned wells or sources must test any water used for cooking or drinking by a Minnesota Department of Health certified laboratory to verify safety and that, if the license holder declines to test the program’s water standards supply, they must follow the requirements found in paragraph (d) of this subdivision have been met.~~

~~(d) The (b) A copy of the most recent water supply tested in paragraphs (b) and (c) testing results must meet be kept on the following standards: licensed premises.~~

~~(e)(c)~~ If the water test results are at or above the [Minnesota Department of Health recommended](#) levels ~~found in paragraph (d)~~ or if the license holder declined to test the water supply in the program, the license holder must:

(1) supply bottled or packaged water;

(2) use water filtration devices that have been certified by the National Science Foundation or American National Standards Institute to remove the contaminant. The water filtration device must be attached directly to water faucets, inserted into the refrigerator water dispenser, or inserted into water pitchers or bottles. [The water filtration device must be maintained according to manufacturer guidelines](#);

(3) use a water cooler dispenser;

~~—(4) close the program to prevent children from using or consuming water; or~~

~~—(5) (4) attempt to reduce the contamination. The program must retest after attempting to reduce contamination to verify that results are below the [Minnesota Department of Health](#) levels ~~found in paragraph (d)~~; or \_\_\_\_\_~~

(5) close the program to prevent children from using or consuming water.

~~(f) All license holders who test their water supply must file a record of the test results with the Minnesota Department of Health.~~

~~(g) Retesting and corrective measures may be recommended by the Minnesota Department of Health if results exceed state drinking water standards in paragraph (d) or where the supply may be subject to off-site contamination.~~

~~(h) License holders must follow the testing requirements of lead in drinking water in child care settings in Minnesota Statutes, section 145.9273.~~

~~(j) A copy of the most recent water testing results must be kept on the licensed premises.~~

~~(k) If test results are at or above health guidance values the license holder must notify all parents of enrolled children that the water test results are at or above health guidance values found in paragraph (d), and the steps taken to protect the enrolled children.~~

#### Subd. ~~3.2~~ **Radon testing.**

~~(a) **Radon testing.** “Radon testing” means the measurement [exposure](#). There must be safe levels of radon gas levels within the building and includes both short term and long term radon testing. [in all programs licensed under this section.](#)~~

~~(b) **Heating Season.** “Heating season” means between November 1<sup>st</sup> and March 31<sup>st</sup>.~~

~~(c) **Non Heating season.** “Non-heating season” means between April 1<sup>st</sup> and October 31<sup>st</sup>.~~

~~(d) **Short term testing.** “Short-term testing” means radon tests that are conducted for a minimum of 48 hours.~~

~~(e) Long term testing. “Long term testing” means radon tests that are conducted for a minimum of 90 days.~~

~~(f)(a)~~ Family child care programs must ensure radon testing is performed:

~~(1) prior to within two calendar years of~~ initial licensure ~~and once every five calendar years or once every~~ within two calendar years if a radon mitigation system is installed. If a of the effective date of this section, and

~~(2) every five calendar years thereafter. Family child care applicant seeks a license outside of the heating season, the applicant must complete a short term radon test within the same calendar year as initial licensure.~~

~~(g) Testing must be~~ programs that are newly licensed after the effective date must ensure testing is performed every five calendar years after the date their initial license was issued.

(b) Family child care programs are exempt from the radon testing requirement in paragraph (a)(1) if the program has already completed radon testing according to the requirements of this section, and the testing was conducted within five years of the effective date or initial licensure.

(c) Radon testing must be conducted by:

(1) the owner or renter, of the residential building where the program is operating; or

(2) a radon measurement professional licensed by the Minnesota Department of Health. Owners and renters are defined as the natural person listed in the property title, deed, lease, or equivalent legal document, and according to the requirements of MN statute 144.4961.

~~(1d)~~ Testing conducted by owners or renters must be conducted according to ~~manufacturer instructions, and at least one test~~ the ‘ANSI/AARST MAH-2023 Protocol for Conducting Measurements of Radon and Radon Decay Products in Homes’ or successor ANSI/AARST standards.

(e) Radon testing must be conducted in ~~a room used for child care in~~ the lowest level. of the licensed space.

~~(2) Testing conducted by a radon measurement professional must be conducted according to section 144.4961.~~

~~(h)(f)~~ Test devices ~~must be approved according to the requirements of Minnesota Radon Licensing Act found in Minnesota Statutes, section 144.4961. The following testing requirements~~ by a national radon proficiency program must be used.

(g) Radon mitigation must be ~~followed:~~

~~(1) Radon levels must first be checked through short term testing. All short term testing must be conducted during the heating season. If short term testing indicates a radon level at or above 4.0 pCi/l, the license holder must:~~

~~(i) ensure radon mitigation is completed by a licensed professional, within four months of receiving results;~~

~~(ii) hire a licensed professional to conduct another short-term test, within one month of receiving results; or~~

~~(iii) initiate long-term radon testing within one month of receiving results.~~

~~(2) All long-term testing must be conducted in consecutive months where at least half of the test is completed during the heating season and the other half during the non-heating season. If long-term when testing indicates a radon level at or over 4.0 picocuries per liter (pCi/L) in a child care room, except when testing is conducted with a continuous monitor that indicates the average is under 4.0 pCi/L, a license holder must ensure during operating hours of the family child care.~~

~~(h) Radon mitigation ~~is~~ must be completed within 120 days of ~~receiving the results~~ completion of testing.~~

~~(i) Radon mitigation must be completed by a radon mitigation professional licensed by the Minnesota Department of Health according to Minnesota Statutes, section 144.4961. After mitigation, the building must be retested within 30 days to verify radon reduction MN Statute 144.4961 Minnesota Radon Licensing Act.~~

~~(j) Mitigation must reduce radon to under 4.0 pCi/L.~~

~~(k) The building must be retested within 30 days after mitigation is completed, to verify radon reduction to under 4.0 pCi/L.~~

~~(l) The results of each radon test must be on file at the program and available for review ~~as requested from the commissioner or parent.~~~~

~~(m) The license holder must provide the results of the radon test ~~with~~ to parents and guardians if the radon level is at or above 4.0 pCi/l.~~

~~(n) Community-based child care programs that are operating in a nonresidential space must comply with the requirements found in this subdivision, except items (c)(1), (d), and (e). Rooms not used for child care are not required to be tested. and these additional requirements:~~

~~(1) Testing conducted by owners or renters must be completed in rooms that are used for child care.~~

~~(2) Testing must be conducted on days the program is operating or the heating, ventilation, and air conditioning is operating as if the space was occupied.~~

## 245J.17 Activities and Equipment

Subdivision 1. **General activities.** Child care activities must provide for the physical, intellectual, emotional, and social development of the child. The environment must facilitate the implementation of the activities.

(a) Activities must include infants, toddlers, preschoolers, and school age children and:

(1) be scheduled indoors and outdoors daily, weather permitting ~~daily~~.

~~(2)~~ When determining if the weather permits outdoor play, defer to weather advisory notifications, including air quality emergencies, provided by local weather experts or a local or state authority on air quality or public health ~~;~~

~~(b) Outdoor activities must be scheduled as follows:~~

~~(1) For any infant over twelve months of age, toddler, preschool and school age child in attendance;~~

~~(2) Indoor gross motor play such as climbing, jumping, running, riding wheel toys, yoga, other physical fitness or music and movement on days when outdoor play is not provided;~~

~~(3)~~ (2) be appropriate to the developmental stage and age of the child;

~~(4)~~ (3) include active and quiet activity; and

~~(5)~~ (4) include both ~~license holder-caregiver~~ directed and child-initiated activity.

Subd. 2. **Equipment.** The license holder must meet the following equipment requirements daily.

(a) The license holder must have sufficient equipment that each child can be actively involved in an age-appropriate activity.

(b) The license holder must supply children in care with early learning materials, equipment and space that are age-and developmentally appropriate, and culturally ~~appropriate~~. ~~The quantity of equipment required is based on the number and ages of children in care~~diverse.

~~(a) The license holder must have equipment sufficient in quantity that each child can be actively involved in an activity.~~

~~(b) For each age group of children in care, a license holder must supply a variety of materials that satisfy individual, developmental, and cultural needs.~~

~~(c) Early learning materials must be nonpoisonous and free of harmful chemicals and heavy metals, including lead, polyvinyl chloride (PVC)- soft flexible plastic, polystyrene foam (Styrofoam), phthalates, and bisphenols: hard, inflexible, clear plastic.~~

~~(d)~~ (c) Unless otherwise restricted by law, equipment may be new, used, commercial, or ~~program~~ madehandmade, as long as it is appropriate for the ages and developmental level of the children ~~and activities for which it~~who will ~~be used~~use it.

~~(e)~~ Equipment must be safe, in good repair, and used in accordance with manufacturer’s instructions, ~~safe, and in good repair.~~

~~(f) The primary provider of care must provide developmentally appropriate play materials to be used as part of the daily schedule.~~

Subd. 3. **Newborn or infant activities.** The ~~license holder~~caregiver must:

~~(a) Remove each newborn or infant from their crib or playpen for all~~(a) hold newborns and infants during feedings. Newborn or Infants must be held or fed sitting up for bottled feedings. until the child can hold their own bottle. A bottle cannot be propped up for ~~an~~a newborn or infant.

~~(b)~~(b) respond to the infant’s or newborn’s attempts to communicate;

(c) develop infant language and communication by responding to the ~~newborn or~~newborn’s and infant’s ~~or~~ attempts to communicate by mirroring similar sounds, sharing the child’s focus of attention, talking to the newborn or infant, naming objects, and describing actions.

~~(c) Provide~~(d) provide the newborn and infant with freedom of movement ~~indoors and outdoors to the newborn or infant during a large part of the waking day to the extent that safety and weather permits. The non-creeping child must spend part of each day outside of a piece of equipment including a crib or seat. The creeping newborn or infant must have freedom to explore outside of the crib or seat.~~

~~(d) Allow newborns or infants to sit safely and comfortably, crawl, toddle, walk, and play according to~~both indoors and outdoors throughout the day;

(e) provide the newborn ~~or infant's stage of development. Give the~~and infant ~~or newborn~~ an opportunity to stimulate the senses by providing a variety of activities and objects to see, touch, feel, smell, hear, and taste.;

~~(e)~~(f) provide activities for the infant or newborn that develop the child's manipulative and fine motor skills.

~~(f) Provide activities for self-awareness.~~

(g) provide activities for self-awareness;

(h) provide activities to support the infant or newborn to develop social-emotional skills.;

~~(h)~~(i) provide activities to support the infant or newborn to develop gross motor skills. ~~;~~ and

(i) allow each newborn ~~or~~and infant actively supervised tummy time ~~to help develop muscles needed to roll over, sit up, crawl, strengthen neck and back muscles.~~ Tummy time should occur throughout the day when the newborn or infant is awake. Tummy time means placing the newborn or infant in a nonrestrictive prone position, lying on their stomach when not in sleeping equipment.

Subd. 4. **Newborn ~~or~~and infant equipment.** The following minimum equipment is required:

(a) an infant seat or high chair, as appropriate, for each newborn and infant in attendance;

(b) a crib, portable crib, or playpen with a mattress or pad [for each newborn and infant in attendance](#), which are in compliance with current Consumer Product Safety Commission ~~and American Society for Testing Materials International~~ safety standards [and chapter 245A.146](#). The license holder must maintain documentation onsite that the equipment used meets these requirements and provide it to the commissioner and parents as requested;

(c) blocks and dramatic play equipment ~~including, but not limited to:~~

- ~~(1) Blocks of various sizes;~~
- ~~(2) Soft dolls to grasp and squeeze;~~
- ~~(3) Soft washable animals;~~
- ~~(4) Play telephone;~~
- ~~(5) Non-breakable mirror located at eye level for crawling infants;~~
- ~~(6) Various pots and pans; and~~
- ~~(7) Play materials that represent a diversity of cultural and ethnic groups.~~

(d) books and literacy materials, ~~including, but not limited to:~~

- ~~(1) Board, cloth, or plastic books;~~
- ~~(2) Simple story books with one picture per page;~~
- ~~(3) Activity books; and~~
- ~~(4) Pictures and books that reflect the different cultures and background of children and families served by the program.~~

(e) gross motor activity equipment ~~and areas, including but not limited to:~~ [and](#)

- ~~(1) Small push and pull toys;~~
- ~~(2) Riding toys;~~
- ~~(3) Balls;~~
- ~~(4) Use of equipment such as bouncers or swings limited to less than 30 minutes per day; and~~
- ~~(5) Safe, open space in the room to encourage movement; extending arms and legs, sitting, rolling, crawling, and walking with supports.~~

(f) fine motor activity materials, ~~including but not limited to:~~

- ~~(1) Rattles with different noises, shapes, colors, and textures;~~
- ~~(2) Easy fit together toys, such as large building block toy sets;~~

~~(3) Hanging items for infants to grasp or bat;~~

~~(4) Pop-up or activity boxes;~~

~~(5) Teething toys; and~~

~~(6) Soft toys to grasp.~~

Subd. 5. **Toddler activities.** The license holder must:

(a) provide the toddler with freedom of movement and freedom to explore outside the crib or playpen and allow the toddler to comfortably sit, crawl, toddle, walk and play according to the toddler's stage of development;

(b) talk to, listen to, and interact with the toddler to encourage language development;

(c) provide the toddler with large muscle activities and activities which develop the child's small muscles and manipulative skills;

~~(d) Develop and stimulate learning by reading stories to the child or looking at picture books together;~~

~~(e)~~ (d) give the toddler opportunities to stimulate the senses by providing a variety of age-appropriate activities and objects to see, touch, feel, smell, hear, and taste; and

~~(f) Provide social and emotional development activities including imaginative play with puppets, clothes, or other toys, singing, dancing, or doing a job together, such as clean-up time.~~

(e) provide activities to support the toddler to develop social-emotional skills.

Subd. 6. **Toddler equipment.** The following minimum equipment is required:

(a) ~~Each toddler must be provided with a~~ clean and separate sleeping equipment for each toddler such as a mat, crib, cot, bed, sofa, or sleeping bag that is cleaned and maintained as required in section 245J.215, subdivision 4, ~~paragraph (b), clauses (10) and (11)~~5, and section 245J.2317, subdivision 11.10;

(b) blocks and dramatic play~~other large motor~~ equipment ~~including at least 3 of each of the following:~~

~~(1) Block sets (with 10 blocks each) that are different in weight, size, and shape;~~

~~(2) Block accessories such as, cars and trucks, road signs, or garages;~~

~~(3) Play furniture such as kitchen, woodworking bench or doll furnishings;~~

~~(4) Puppets or dolls;~~

~~(5) Play telephone;~~

~~(6) Toy people such as different races, genders, and ages~~

~~(7) common animals;~~



~~(8) Play materials representing a diversity of cultural or ethnic groups;~~

~~(9) Play kitchen and housekeeping materials such as pots and pans, dishes, and food; and~~

~~(10) Simple dress-up clothing such as washable caps, handbags, and shirts.~~

(c) books and literacy materials ~~including at least five books representing a mix of the following;~~

~~(1) Multicultural books reflecting diverse races and cultures;~~

~~(2) Picture books;~~

~~(3) Books about routines, such as eating and sleeping;~~

~~(4) Books about familiar objects used at program or at child care;~~

~~(5) Books with rhymes and repetition of phrases; and~~

~~(6) Concept books, such as nature and science.~~

(d) fine motor, math, and science materials ~~including at least five of each the following; and~~

~~(1) Nesting cups;~~

~~(2) Puzzles with single or few pieces that have knobs for easy grasping;~~

~~(3) Bead mazes;~~

~~(4) Large watercolor markers~~

~~(5) Interlocking blocks or beads to string;~~

~~(6) Non-toxic finger paints; and~~

~~(7) Lacing toys or cards with simple shapes.~~

(e) music, movement, and art activity materials, ~~including but not limited to:~~

~~(1) At least one musical instrument per child;~~

~~(2) CDs, records, or tapes;~~

~~(3) Toys that make noise;~~

~~(4) Large non-toxic crayons, washable non-toxic markers, large pencils, colored and white paper;~~

~~(5) Modeling clay or play dough and rolling pin or small plastic utensils;~~

~~(6) Collage materials which are safe and blunt scissors, left and right handed; and~~

~~(7) Non-toxic tempera or finger paints, paint brushes, and smocks.~~

Subd. 7. **Preschooler activities.** The license holder must:

- (a) encourage conversation between the child and other children and adults;
- (b) provide opportunity to play near and with other children; provide time and space for individual and group play; allow for quiet times to talk or rest; allow for unplanned time and individual play time;
- (c) foster understanding of personal and peer feelings and actions and allow for the constructive release of feelings and anger through discussion or play;
- (d) give assistance in toileting and provide time to carry out self-help skills and provide ~~opportunity~~opportunities to be responsible for activities ~~like putting away play equipment and helping around the house;~~
- (e) provide ~~opportunity~~opportunities for each child to make decisions about daily activities and to take credit for the consequences of decisions;
- (f) provide time and areas for age-appropriate large muscle play;
- (g) provide learning, small muscle, manipulative, creative or sensory activities; and
- (h) read stories, look at books together, and talk about new words and ideas with the child.

Subd. 8. **Preschooler equipment.** The following minimum equipment is required:

- (a) ~~Each preschooler must be provided with~~ a mat, bed, cot, sofa, or sleeping bag for each preschooler that is clean and maintained as required ~~in~~under section 245J.2217, subdivision ~~4, paragraph (b), clauses (10) and (11),~~ and section 245J.2315, subdivision ~~11.5;~~
- (b) blocks and dramatic play equipment ~~including at least three of each of the following:~~
  - ~~(1) Block sets with 20 blocks each that are different in weight, size, and shape;~~
  - ~~(2) Block accessories such as, cars and trucks, road signs, or garages;~~
  - ~~(3) Play furniture such as kitchen, woodworking bench with tools or doll furnishings;~~
  - ~~(4) Puppets or dolls;~~
  - ~~(5) Play telephone;~~
  - ~~(6) Toy people such as different races, genders, and ages~~
  - ~~(7) common animals;~~
  - ~~(8) Play materials representing a diversity of cultural or ethnic groups;~~
  - ~~(9) Play kitchen and housekeeping materials such as pots and pans, dishes, and food; and~~
  - ~~(10) A variety of dress-up clothing in an amount to allow three or more children to use the items simultaneously.~~

(c) books and literacy materials ~~including the following:~~

~~(1) A book for each child in care;~~

~~(2) A variety of developmentally appropriate books in good condition without torn or missing pages or covers;~~

~~(3) Pictures and books reflecting different cultures, and backgrounds of children and families served by the program;~~

~~(4) Concept books teaching opposites, including but not limited to, up-down, in-out, same-different, cause-effect; and~~

~~(5) At least five other books representing a mix of the following:~~

~~(i) Multicultural books reflecting diverse race and cultures;~~

~~(ii) Bilingual books;~~

~~(iii) Books reflecting diverse abilities;~~

~~(iv) Fictional stories;~~

~~(v) Books with rhymes and repetition of phrases;~~

~~(vi) Concept books about math, nature, or science;~~

~~(vii) Books about problem-solving or sharing; and~~

~~(viii) Books with familiar objects used at program or at child care.~~

(d) fine motor materials ~~including at least three of each the following:~~

~~(1) Manipulative toys such as beads and strings, pegs with peg boards, nuts and bolts, toy train tracks, counters, and sorting containers;~~

~~(2) Puzzles, that are not missing any pieces, with different numbers and sizes of pieces;~~

~~(3) Interlocking blocks, blocks that fit together, magnetic blocks; and~~

~~(4) Shape sorters.~~

(e) math materials ~~including at least three of each the following:~~

~~(1) Collections of objects to count such as play money, buttons, or pony beads;~~

~~(2) Comparison activity materials such as nested cups, abacus, dominoes, or playing cards;~~

~~(3) Number recognition games and activities such as clocks, calendar, or number puzzles;~~

~~(4) Shape recognition activities such as matching cards or magnetic shapes; and~~

~~(5) Tools for measuring such as balance, tape measure, ruler, scale, or measuring cups.~~

(f) science materials ~~including at least three of each of the following:~~

~~(1) Collection of natural objects, such as leaves or rocks;~~

~~(2) Living things such as plants or animals;~~

~~(3) Nature (g) music and science activity area, such as sink and float, gardening, cooking; and~~

~~(4) Tools for investigating the environment such as magnets, magnifying glass, or binoculars;~~

~~(g) Music, movement, and art activity materials, including at least three of each of the following areas; and~~

~~(1) Music and movement;~~

~~(i) Music played through a device manually or digitally;~~

~~(ii) Movement toys such as scarves, ribbons, parachutes; and~~

~~(iii) Musical instruments including at least one instrument per child.~~

(h) art materials, ~~including at least three of each of the following:~~

~~(1) Collage materials, such as yarn, felt, sticky tape, buttons, assorted paper, or feathers;~~

~~(2) Construction materials, such as modeling clay, popsicle sticks, pipe cleaners, glue sticks, blunt scissors, both left and right handed;~~

~~(3) Drawing materials including non-toxic washable markers, crayons, colored pencils or chalk, white and colored paper; and~~

~~(4) Painting materials such as easels, watercolors, tempera and finger paint, brushes, sponges, and smocks.~~

Subd. 9. **School-age activities, and equipment.** The license holder must:

(a) provide opportunities for individual discussion about the ~~happenings of the~~ day and planning for activities;

(b) provide space, ~~opportunity~~opportunities, and materials or equipment for games, activities, or sports using the whole body, ~~outdoors, weather permitting;~~

(c) provide space and ~~opportunity~~opportunities for individual rest and quiet time;

(d) allow increased freedom as the child demonstrates increased responsibility;

(e) provide opportunities for group experiences with other children;

(f) provide opportunities to develop or expand self-help skills or real-life experiences; and

(g) provide opportunities and materials for creative and dramatic activity, arts, and crafts, ~~or field trips.~~

Subd. 10. ~~Written permissions. Written permission~~ **Bedding.** Clean, separate, individual bedding such as sheets, towels, blankets, or sleeping bags must be ~~obtained from the parent to allow a school-age~~ provided for each child in care to participate.

(a) For children not using cribs or playpens, the license holder must provide developmentally appropriate mats, cots, or other sleep equipment that can be cleaned and sanitized.

(b) Mats, cots, and other sleep equipment used in ~~activities away from~~ the program must be in good condition and have no tears or holes and be covered in individual bedding.

Subd. 11. **Separation of personal articles.** Separate towels, wash cloths, water bottles and drinking cups must be used for each child.

## **245J.1918 Infant Sleep and Crib Safety Requirements**

- **Note:** “Physical Environment and Space Requirements” that were found in 245J.18 in Draft 1 have been moved to 245J.14 in Draft 2, and has been renamed to “Physical Space Requirements”.
- **Note:** “Infant Sleep Supervision Requirements” that were found in 245J.20 in Draft 1 have been moved to this section in Draft 2. Additionally “Crib Safety Requirements” that were found in 245J.19 in Draft 1 have been combined with this section in Draft 2.

Subdivision 1. **Documentation requirements for license holders.** All license holders must follow the crib safety requirements in ~~Minnesota Statutes~~, section 245A.146.

Subd. 2. **Commissioner inspection.** During routine licensing inspections, and when investigating complaints regarding alleged violations of this section, the commissioner must review the license holder's documentation required under subdivision 1.

## **245J.20 Infant Sleep Supervision Requirements**

~~Subdivision 1.~~ Subd. 3. **Infant safe sleep.** All license holders must follow the requirements in section 245A.1435.

~~Subd. 4.~~ Subd. 2. **Monitoring sleeping newborns and infants.**

(a) Caregivers must ~~provide supervision as follows:~~ directly supervise newborns once they are placed in a crib or playpen.

~~(1b) Caregivers must provide direct supervision as defined in section 245J.01, subdivision 38 when a newborn or infant is placed in a crib or playpen to sleep.~~

~~(2) When a newborn or infant is placed in a crib or playpen to sleep the caregiver must~~ conduct in-person checks every ~~15~~20 minutes– once an infant has been placed in a crib or playpen.

~~(3c) Infant monitors must be used when infants are sleeping in a separate room out of the direct supervision of the primary caregiver. Caregiver personal cell phones are not permitted to be used as an infant monitor.~~ When in use, infant monitors must meet the following conditions:

~~(i1)~~ (i) the sound monitoring equipment must be able to pick up the sounds of all infants in the separate room;

~~(ii2)~~ (ii) the receiver of the sound monitoring equipment must be actively monitored by the primary provider or adult caregiver at all times; and

~~(iv3)~~ (iv) sound monitoring equipment must be checked daily prior to use to ensure it is working correctly. If the sound equipment is not functioning, infants must be slept in the same room as the caregiver.

(4d) If music or other sounds are played in the infant sleep area, the music or other sound equipment must not be played at a loud volume that would prevent infants from being heard by the caregiver(s). Music or sound equipment must not be placed under a crib or within three feet of the sleeping infant. ~~Music or sound equipment is not permitted in a separate sleeping room that is out of the direct supervision of the caregiver.~~ If fans are used to create sound, these standards apply.

~~(5) The use of mirrors to view sleeping infants in separate rooms does not meet the supervision requirements.~~

## 245J.~~21~~19 Health Policies and Safety Requirements

- **Note:** “Crib Safety Requirements” that were found in 245J.19 in Draft 1 have been moved to 245J.18 in Draft 2 and has been combined with “Infant Sleep Requirements”.
- **Note:** “Health and Safety Requirements” that were found in 245J.21 in Draft 1 have been moved to this section in Draft 2. Additionally, “Health Policies” requirements that were found in 245J.23 in Draft 1 have been combined with this section in Draft 2.

Subdivision 1. **Handling and disposal of bodily fluids.** The license holder must comply with the following procedures for safely handling and disposing of bodily fluids:

- (a) surfaces that come in contact with potentially infectious bodily fluids, including blood and vomit, must be cleaned, and disinfected as described in section 245J.~~22, subdivision 315~~;
- (b) blood-contaminated material must be disposed of in a plastic bag ~~with a secure tie;~~and securely tied;
- (c) sharp items used for a child must be disposed of in a Food and Drug Administration-approved sharps disposal container. The sharps container must be stored out of reach of a child; and
- (d) the license holder must have the following bodily fluid disposal supplies available: disposable gloves, disposal bags, and eye protection. Prescription eyewear does not meet the requirement of eye protection.

Subd. 2. **Emergency preparedness plan.**

(a) A license holder must have a written emergency preparedness plan for emergencies that require evacuation, sheltering, or other protection of children, such as fire, natural disaster, intruder, or other threatening situation that may pose a health or safety hazard to children. The plan must be written on a form ~~developed~~prescribed by the commissioner and updated at least annually. The plan must include:

- (1) procedures for an evacuation, relocation, shelter-in-place, or lockdown;
- (2) a designated relocation site and evacuation route;
- (3) procedures for notifying a child's parent of the evacuation, shelter-in-place, or lockdown, including procedures for reunification with families;
- (4) accommodations for a child with a disability or a ~~chronic~~ medical condition;
- (5) procedures for storing a child's medically necessary medicine that facilitate easy removal during an evacuation or relocation;
- (6) procedures for continuing operations in the period during and after a crisis;
- (7) procedures for communicating with local emergency management officials, law enforcement officials, or other appropriate state or local authorities; and
- (8) accommodations for infants and toddlers.



(b) The license holder must train ~~caregivers~~each caregiver before the caregiver provides care and at least annually on the emergency preparedness plan and document ~~on the emergency preparedness plan the~~ completion of this training.

(c) The emergency preparedness plan must be available for review by the ~~Department~~agency during inspections.

(d) The licenser holder must complete a monthly fire drill log and have documentation available for review by the agency during inspections.

Subd. 3. **Emergencies.** The license holder must be prepared for emergencies.

(a) An operable telephone must be located ~~within~~at the program. A license holder may use a cellular telephone if the cellular telephone is sufficiently charged for use at all times.

(c) The emergency phone numbers of the parents ~~and~~, child's physician, and dentist must be readily available within the program and taken on emergency drills and evacuations.

(d) For severe storms and tornadoes, the license holder must have a designated area that children ~~must~~ go to for shelter, ~~an operable~~a battery-operated flashlight, and ~~access to~~ a portable radio or TV available. An application on a smartphone may meet these requirements. The license holder must listen to the Emergency Alert System or local alerting systems for current emergency information and instructions.

(e) The license holder must have a written fire escape plan. The plan must specify:

(1) address of the program;

(2) emergency phone numbers;

(3) a designated place to meet ~~for roll call~~and confirm that all children in attendance are present;

(4) smoke detector and fire extinguisher locations;

(5) plans for monthly fire and ~~tornado drill sessions~~storm drills;

(6) escape routes to the outside from all levels used by children. In buildings with three or more dwelling units, enclosed exit stairs must be indicated.

(e) The license holder must keep a log of monthly fire and storm drills. The log must include the date of the drill, the time of day the drill occurred, the name of the caregiver who conducted the drill and the length of time taken to evacuate all children safely.

Subd. 4. **Transporting children.** Children shall be transported only in motor vehicles as defined in section 168.002, subdivision 18 and the motor vehicle must be permanently enclosed. When transporting children in a motor vehicle other than a bus or school bus operated by a common carrier, the following provisions for their safety must be made:

(a) A~~the~~ license holder must ensure compliance with all seat belt and child passenger restraint system requirements under sections 169.685 and 169.~~86~~686;

(b) a child may be transported only if the child is fastened in a safety seat, seat belt, or harness appropriate to the age and weight of the child and the restraint is installed and used in accordance with the manufacturer’s instructions;

~~(c) A child under the age of four may be transported only if the child is securely fastened in a child passenger restraint system which meets the federal motor vehicle safety standards contained in Code of Federal Regulations, subtitle B, chapter V, part 571.~~

~~(d)~~(c) any vehicle operated by the license holder for the transportation of children must be licensed in accordance with the laws of the state and the driver must hold a current, valid motor vehicle ~~s~~ license. A copy of the current driver’s license, for each caregiver who transports a child in care, must be kept at the program;

~~(e)~~ written permission to transport children must be obtained from parents prior to transport; and

~~(f)~~ no child is permitted to remain unattended in any vehicle.

## ~~245J.23 Health Policies~~

Subdivision ~~1. Sanitation and cleanliness. The program must be free from accumulations of dirt, food and beverage debris, rubbish, peeling paint, hazardous clutter, and pet waste.~~

~~Subd. 25. Pets.~~ All pets housed ~~within~~at the indoor licensed program ~~space or~~ that have contact with children must be maintained in good health ~~and~~. Pets are limited to dogs, cats, fish, guinea pigs, gerbils, rabbits, hamsters, rats, mice, and birds, if the birds are clear of chlamydia psittaci bacteria. The license holder must ensure that:

(a) all pets are properly housed, cared for, licensed per local ordinances, and ~~inoculated~~up to date with vaccines. All local and state ordinances governing the keeping of animals must be followed ~~and updated as required~~;

~~Verification of license or compliance with local and state requirements and inoculations, for each pet requiring such license or inoculations, or regulated by local or state government must be on file at the facility.~~ (b) rabies shots and tags must beare current for all dogs and cats ~~housed within the indoor program space~~;

(c) parents are notified prior to admission of the presence of pets in the program and prior to the introduction of a new pet for children already enrolled in care; ~~and~~

~~Children handle~~ (d) children shall interact with animals only with adult supervision;

(e) pet cages and enclosures ~~and~~including fish tanks accessible to children in care are located and cleaned away from any food preparation, storage, or serving areas;

(f) all areas accessible to children are free of animal ~~excrement, animal hair or feathers and kept free of offensive or unpleasant animal odors including urine and~~ waste, including litter ~~box odors.~~ boxes and their contents;

(g) the ~~parent~~ parents of a child ~~whose skin is broken by~~ that received an animal bite or scratch are immediately notified of the injury;

(h) the licensing agency ~~must be immediately~~ is notified ~~if anyone in the~~ when any animal bite occurs from an animal housed at the licensed program ~~has been bitten, including the parent or caregiver of a child.; and~~

(i) the agent of a community health board as authorized under section 145A.04 is immediately notified whenever ~~a child in care~~ an individual is bitten by an animal. The notification must be given before any steps are taken to destroy the animal, and the license holder must take reasonable steps to confine the animal.

Subd. ~~3~~ 6. **Pest control.** Effective measures must be taken to protect the program against ~~vermin and insects~~ pests.

(a) Chemicals for ~~insect and rodent~~ pest control must not be applied in areas accessible to children when children are present.

~~(b) Pest control steps must include:~~

~~(1) A~~ License holder must ~~take steps~~ use chemicals according to manufacturer instructions.

~~(c)~~ (b) Steps must be taken to prevent attracting pests.

~~(2) A pest found in~~ Once pests are present inside the ~~licensed space must be identified so the pest may be properly removed or exterminated.~~

~~(d)~~ (c) ~~(3) A license holder must document steps~~ program, steps must be taken to remove or exterminate the ~~pests if found in the licensed space.~~

~~(4) If pesticides are used, the license holder must notify the parents of enrolled children what pesticide will be applied and where it will be applied.~~ (d) License holders must have a policy stating what their pest control plans are. The policy must emphasize prevention and use chemicals as a last resort.

~~(5)~~ (e) Only approved, U.S. Environmental Protection Agency registered insecticides, rodenticides, and herbicides may be used. Application must strictly follow all label instructions. ~~Baits and traps must be used instead of spray treatments.~~

~~(6) A license holder must have a pest control policy that emphasizes prevention and natural, nonchemical, low-toxicity methods where least toxic pesticides or herbicides are used as a last resort.~~

Subd. 4. ~~Rubbish.~~ Indoor and outdoor garbage and ~~rubbish containers~~ 7. Garbage. Garbage must ~~not be accessible~~ inaccessible to infants and, toddlers. ~~All indoor garbage must be removed from indoor space as needed or at least daily., and preschoolers.~~ Garbage is considered inaccessible when the garbage container has a lid on it.

Subd. ~~5~~**8. Toxic and hazardous materials.**

(a) Toxic and hazardous materials such as chemicals or similar items that are likely to or capable ~~to cause of~~ causing injury, illness, or death when ingested, inhaled, absorbed, or comes into contact with a child's ~~skin, eyes, mouth, or mucous membranes~~body must be inaccessible to children.

(b) All medicines, vitamins, chemicals, detergents, poisonous plants, alcoholic beverages, ~~CBG, THC~~cannabigerol compounds (CBG), tetrahydrocannabinol (THC), controlled substances, and other toxic substances must be inaccessible to children. They must be stored away from food products.

~~(c) Equipment or toys which are mouthed or chewed must be free of lead-based paint.~~(c) Toys and equipment with chipped, cracked, or peeling ~~paint~~parts must be removed from the program.

(d) The license holder must ~~document and~~ check the U.S. Consumer Product Safety Commission's website on a monthly basis or when a new toy is incorporated into the program for warnings of potential lead exposure to children and recalls of play equipment, toys, jewelry used for play, imported vinyl mini-blinds, and bibs, lunchboxes, and other food contact products. If items are found to have lead or be recalled, they must be removed immediately. Signing up for monthly alerts from USCPSC is sufficient.

(e) Knives ~~or other,~~ sharp objects, ~~lighters, matches~~fire ignitors, plastic bags, and other potential hazards must be inaccessible to children. The use of potentially hazardous materials and tools must be supervised.

Subd. ~~6. Use and storage of art and science materials.~~

~~(a) Art and science materials must be used safely. Children using potentially toxic materials must be directly supervised by a caregiver.~~

~~(b) The use or storage of carcinogenic materials; toxic organic solvents; aerosol products; and materials with heavy metals such as lead, mercury, or cadmium are prohibited.~~

~~Subd. 7. Firearms.~~ **9. Weapons.** The program must have a policy that requires all parents, household members, and visitors to the program to comply with the following during program hours:

(a) All ~~firearms~~weapons, including but not limited to ~~loaded or unloaded~~ pellet or ball bearing (BB) guns, darts, bows, ~~and~~ arrows, cap pistols, stun guns, paintball guns or any devices that shoot projectiles must be unloaded and inaccessible to children. Ammunition and firearms must be stored in separate locked areas.

(b) License holders must notify parents prior to admission of the presence of firearms or weapons listed in (a) or status change of ownership.

(c) Loaded and unloaded weapons may be carried by a law enforcement official who is a household member or a parent of a child in care and who can document ~~that his or her~~their jurisdiction requires ready and immediate access to the weapon.

Subd. **8**10. First aid kit. The license holder must have a first aid kit that is accessible to caregivers in the program at all times and taken on field trips. The first aid kit must contain the following:

- (a) adhesive bandages in assorted sizes and tape;
- (b) sterile compresses;
- (c) ~~triangular bandages;~~
- (~~d~~) scissors;
- (~~ed~~) an ice bag or cold pack;
- (~~f~~) ~~digital or tympanic ear~~ (~~e~~) thermometer;
- (~~gf~~) mild liquid soap, hand sanitizer, or alcohol wipes;
- (~~hg~~) disposable powder-free, latex-free gloves;
- (~~i~~) ~~mouthpiece for giving CPR;~~ and
- (~~jh~~) access to first aid instructions; ~~in a~~ manual or via ~~a smart~~ phone or ~~smart~~ device.

~~Subd. 10. **Separation of personal articles.** Separate towels, wash cloths, and water bottles or single service drinking cups, or individual drinking cups must be used for each child.~~

~~Subd. 11. **Bedding.** Clean, separate, individual bedding must be provided for each child in care.~~

~~(a) For children not using cribs or playpens, the license holder must provide developmentally appropriate mats, cots, or other sleep equipment made of water-resistant material that can be cleaned and sanitized.~~

~~(b) Mats, cots, and other sleep equipment used in the program must be:~~

~~(1) in good condition, have no tears or holes and have no repairs with tape;~~

~~(2) have a clean sheet or blanket to cover the sleeping surface and a clean blanket for the child that is suitable given the child's size and room temperature;~~

~~(3) stored so sleeping surfaces are not touching each other unless cleaned and sanitized after each use; and~~

~~(c) Floor mats designed for sleeping and mattresses must be at least one inch thick.~~

~~Subd. 12. **Diapers, changing areas, and disposal.** The following sanitary procedures must be used to reduce the spread of communicable disease.~~

~~(a) An adequate supply of clean diapers must be available for each child and stored in a clean place inaccessible to children. Children may use disposable diapers with absorbent material or cloth diapers.~~

~~(b) If cloth diapers are used the following requirements must be met:~~

~~(1) cloth diapers must have an absorbent inner layer that is completely covered with an outer waterproof layer that has a waist closure;~~

~~(2) the cloth diaper and waterproof layer should be changed at the same time;~~

~~(3) cloth diapers supplied by parents, except those supplied by a commercial diaper service, must be labeled with the child's name;~~

~~(4) cloth diapers, except those supplied by a commercial diaper service, and soiled clothing must be placed in a plastic bag after removal and sent home with the parent daily;~~

~~(5) no rinsing or dumping of the contents of cloth diapers must be performed at the family child care program;~~

(c) Regardless of which diapering system is used in the program, clothes must be worn over diapers while the child is in the program.

(d) Children in diapers must be kept clean and dry. Diapers and clothing must be changed immediately when wet or soiled.

(e) Single-service disposable wipes or freshly laundered cloths must be used for washing a soiled child. A child who has soiled or wet diaper must be washed with a disposable wipe or a freshly laundered cloth before rediapering.

(f) Changing tables and changing pads must be cleaned and disinfected between children, even if using a nonabsorbent covering that is discarded after each use.

(g) The diaper changing area must be covered with a smooth, nonabsorbent surface.

(h) Diaper changing areas including, but not limited to, counters, sinks, and floors must be cleaned and disinfected daily or when soiled.

(i) For disposable diapers, diapers must be disposed of in a covered diaper disposal receptacle located in the diaper changing area and lined with a disposable plastic bag. Diapers must only be disposed of with the diaper changing area or directly outside in a garbage can.

(j) Diaper receptacles must be emptied, cleaned, and disinfected daily or more often as needed. Contents of a diaper receptacle must be removed from the licensed space and replaced with a new liner at least daily or more often if odor is present.

(k) Diapering must not take place in a food preparation area.

(l) A family child care license holder may disinfect the diaper changing areas, tables, and diaper pails with either chlorine bleach in a manner consistent with label directions for disinfection or with a surface disinfectant.

Subd. 13. **Toilet training chairs.** Toilet training chairs, stools, and seats must be cleaned and disinfected after each use in accordance with the requirements in section 245J.22, subdivision 4, paragraph (b), clause 12.

~~Subd. 14. Hand washing.~~ A child's hands must be washed with soap and water when soiled, after the use of a toilet or toilet training chair, and before eating a meal or snack. The license holder must monitor and assist the child who needs help.

~~(a) In sinks and tubs accessible to children, the water temperature must not exceed 120 degrees Fahrenheit to prevent children from scalding themselves while washing.~~

~~(b) Caregivers must wash their hands with soap and water after each diaper change, after assisting a child on the toilet, after washing the diapering surface, and before food preparation. Hands must be dried on a single use towel.~~

**Subd. 15. Care of sick children.** The following ~~provisions~~ must be followed for the care of sick children.

(a) If the child becomes sick while at the program, the child must be ~~isolated~~separated from other children in care to the extent possible while still maintaining appropriate supervision, and the parent must be called immediately. ~~When determining if a child is sick and exclusion is necessary, license holders must follow:~~

~~(1) the requirements on reportable diseases in Minnesota Rules, parts 4605.7040, 4605.7070, and 4605.7080; and~~

~~(2) guidelines from the commissioner of health on infectious diseases in child care settings.~~

(b) ~~License holders must~~When notified a child in care is sick with a reportable disease, the license holder must comply with the following requirements ~~on reportable diseases:~~

(1) the ~~policies of the license holder~~caregiver must ~~require a parent to inform~~follow the program ~~within 24 hours, when a child is diagnosed by their source of medical or dental care as having a~~policies on reportable or infectious disease ~~as specified in paragraph (a).~~

(2) the license holder must ensure that the commissioner of health is notified of any suspected case of reportable disease as specified in Minnesota Rules, parts 4605.7040, 4605.7050, or 4605.7080, within 24 hours of receiving the parent or staff report. Documentation of the notification must be kept at the program.

~~(3) the policies of the license holder must require notification of the parents of exposed children within 24 hours of when a parent or caregiver notifies the license holder of a reportable disease under paragraph (b), item (1). The notice must be posted in a clearly visible, accessible place or provided individually to each parent of a child who was exposed.~~

(c) Children with a reportable disease as specified in paragraph ~~(a)~~(b), item (2) must be excluded from the program for a length of time as specified in the commissioner of health guidelines on infectious diseases in child care settings; or until the health care provider has determined that the child can return; or the child can participate in routine activities without more ~~staff~~caregiver supervision than usual.

Subd. ~~16~~12. **Medication administration requirements.** The administration of medication by the ~~license holder~~caregiver to children in care must meet the following requirements:

~~(a) all medications administered by the license holder must be prescribed by a licensed physician, physician assistant, certified nurse practitioner, advanced practice registered nurse, or dentist;~~

~~(b)~~(a) the license holder must obtain written permission from the parent of a child prior to administering nonprescription medicine, diapering products, sunscreen lotions, and insect repellents. ~~Nonprescription medicines, diapering products, sunscreen lotions, and insect repellents~~These items must be administered according to the instructions of the manufacturer unless there are written instructions for their use provided by a licensed physician, physician assistant, advanced practice registered nurse, certified nurse practitioner or dentist; and

~~(c)~~(b) the license holder must obtain and follow written instructions from a licensed physician, advanced practice registered nurse, physician assistant, or dentist prior to administering ~~any~~each prescribed medication. Medicine with child's name and current prescription ~~or over~~information on the ~~counter~~label constitutes instructions.

~~(d) non-prescription sunscreen and insect repellent require parental consent but do not require instructions from each child's prescribing health professional; and~~

~~(e) a license holder must not give children in care herbal remedies, folk medicines or use essential oils unless a script is provided by a licensed physician, physician assistant, advanced practice registered nurse, certified nurse practitioner or dentist.~~



## 245J.2420 Food and Nutrition

- **Note:** “Infant Sleep Supervision Requirements” that were found in 245J.20 in Draft 1 have been moved to 245J.18 in Draft 2, and has been combined with “Crib Safety Requirements”.
- **Note:** “Food and Nutrition” requirements that were found in 245J.24 in Draft 1 have been moved to this section in Draft 2.

### Subdivision 1. Feeding.

(a) Bottles of frozen formula or breast milk must be thawed under ~~cold~~warm running water, ~~or~~ in a ~~crock-~~pot~~container of warm water~~ or warming device, or in a refrigerator. The date the milk was thawed must be written on the bottle or container.

(b) Plastic bottles, sippy cups, or other plastic food containers must never be warmed in a microwave oven.

~~(c) License holders must use bottles or sippy cups that are:~~

~~(1) glass, covered with a silicone sleeve;~~

~~(2) stainless steel; or~~

~~(3) plastic labeled with 1, 2, 4 or 5 recycling codes.~~

(c) Once bottle feeding is complete, any unused portion must be refrigerated, or disposed of and inaccessible to children in care. Bottles provided by or stored at the program must be washed prior to the next use.

(d) License holders must not serve food to infants or toddlers using polystyrene foam (Styrofoam) cups, bowls, or plates.

Subd. 2. **Milk.** ~~Milk or Cow’s~~ milk ~~alternatives~~ served to children in care must be pasteurized. Milk alternatives that are nutritionally equivalent to cow’s milk can be served in place of fluid milk for children who require it.

~~Subd. 3~~Subd.3. **Drinking water.** Drinking water must be readily available and offered throughout the day in indoor and outdoor areas.

Subd. 4. **Meals and snacks.** Well-balanced meals and snacks must be supplied by the license holder or parents daily.

(a) ~~Food~~Each meal and snack served ~~during the day~~to children in care must ~~include servings from each of the food components as defined by the United States Department of Agriculture~~ meet the requirements for a reimbursable meal per the Child and Adult Care Food Program ~~according to Code of Federal Regulations, title 7, Subtitle B, Chapter II, part 226-,~~ which can be found here [Nutrition Standards for CACFP Meals and Snacks | Food and Nutrition Service](#) regardless of whether the program is registered with or participates in the food program.

(b) Meals and snacks provided from home must be labeled with the child's name and meet United States Department of Agriculture's Child and Adult Care Food Program requirements. If a meal component is missing, the license holder must provide the missing component. When special diets are required for cultural~~, or~~, religious, or medical reasons, the provider shall obtain written, dated, and signed instructions from the child's parent ~~unless the special diet is part of the program. The license holder must ensure that any alternate diet, except those required for religious, cultural, or medical reasons, include items from each of the following food groups: meat or meat alternative, grain, fruit and vegetable, fluid milk or milk alternative.~~

~~(c) The license holder must follow written instructions obtained from the parent at the time of enrollment, on individual foods needs for each child. Parents must be consulted about food preferences.~~

~~(d)~~ (c) Flexible feeding schedules must be provided for infants ~~and toddlers and the usual diet and feeding schedule for the infant or toddler must be followed.~~

(e) Food, ~~lunches~~, liquids, and bottles brought from home must be labeled with the first and last name of each child.

~~(f) Bottles must be washed after each use and sent home with the child each day.~~

Subd. 45. **Food and liquid safety.** Food and liquids must be handled and stored properly to prevent contamination and spoilage.

~~(a) All food and cooking utensils must be stored to protect them from dust, vermin, pipe leakage, or other contamination.~~

~~(b) Perishable~~ Foods and liquids requiring refrigeration must be refrigerated. Perishable foods and liquids are those that are subject to decay, spoilage, or bacteria.

(b) Foods and liquids requiring refrigeration must be maintained at no more than 40 degrees Fahrenheit. Food requiring heating must be maintained at no less than ~~150~~140 degrees Fahrenheit until ready to serve. Frozen food must be maintained in a solid state until used. Liquids must be refrigerated until time of serving.

(c) Appliances used in food and liquid storage and preparation must be safe and clean.

(d) All canned food provided by the license holder must be commercially processed. Locally grown fresh and frozen fruits and vegetables may be served at the program.

(e) Food canned or preserved at home is not permitted to be served at the program.

(f) Home butchered meats, poultry, and fish are not permitted to be served at the program. Non-commercially prepared wild game is permitted to be served in programs which primarily serve Native American children.

## 245J.1621 Children with Special Health Care Needs or Disabilities

- **Note:** “Health and Safety Requirements” that were found in 245J.21 in Draft 1 have been moved to 245J.19 in Draft 2 and has been combined with “Health Policies” requirements.
- **Note:** “Children with Special Health Care Needs or Disabilities” requirements that were found in 245J.16 in Draft 1 have been moved to this section in Draft 2

Subdivision 1. **Children with special health care needs or disabilities.** For children with disabilities who require therapy, additional behavior guidance, or programming, or children with alternative accommodations, the parents, physician, or therapist must provide written instructions to the license holder. The license holder must follow the written instructions.

~~(a) "Child with special health care needs or disabilities" for purposes of this subdivision means a child of child care age who:~~

~~(1) has developmental disabilities or is otherwise eligible for case management as specified in Minnesota Rules, parts 9525.0004 to 9525.0036; or~~

~~(2) has been identified by the local school district as a child with a disability as specified in section 125A.02, subdivision 1; or~~

~~(3) has been determined by another person licensed to identify disabling conditions as having a special need relating to physical, social, or emotional development.~~

~~(b) All activities should be designed to include all children unless a specific medical contraindication exists, or an exclusion is otherwise noted in the child's individual child care plan.~~

~~(c) The individual child All caregivers responsible for the care plan required under this subdivision must meet the following requirements:-~~

~~(1) When a license holder enrolls of a child with a disability or special needs or a special need is identified, the license holder must ensure that an individual child health care plan is developed with consultation by the parent.~~

~~(2) When developing the individual child care plan, the license holder must, need shall demonstrate to the best of their ability, coordinate with the child's primary care provider, any authorized service coordinator, any provider of intervention services, parents and the agency how the child's parent, and the caregiver. If the license holder is unable to coordinate with any of the individuals in this subdivision, the license holder shall document the attempt to coordinate in the individual child care plan.~~

~~(3) The license holder must ensure that all other caregivers who interact with the child specific needs are trained on and follow the individual child care plan prior to interacting with the child. Documentation of caregiver training must be kept at the program. being met.~~

~~(4) At least annually, the individual child care plan must be reviewed with the parent and updated as needed. The updated individual child care plan must be signed and dated by the parent and the license holder.~~

~~(5) If the child has developmental disabilities or is otherwise eligible for case management as specified in subdivision 1, paragraph (a), the individual child care plan must be coordinated with the child's individual service plan developed under Minnesota Rules, parts 9525.0004 to 9525.0036.~~

~~(6) Parents must provide written consent for the individual child care plan before implementation for the child. The individual child care plan must be signed and dated by the parent and the license holder. The individual child care plan must be kept in the child's file at the program.~~

(d) Before enrolling a child for care, the license holder must obtain documentation of any known ~~allergy~~allergies on a form prescribed by the commissioner, The form must be readily available to all caregivers, and reviewed ~~annually~~ by the license holder and each caregiver ~~or upon changes~~annually and when updated.

(1) If a child has a known allergy, the license holder must maintain current information about the allergy in the child's record and follow the allergy ~~and asthma action~~ plan or emergency care plan signed by a ~~physician~~treating medical professional including the following:

(i) description of the allergy;

(ii) specific triggers and avoidance techniques;

(iii) symptoms of an allergic reaction;

(iv) procedures for responding to an allergic reaction, including medication and dosage to be administered in an emergency situation ~~and dosages; and~~.

(2) The ~~license holder~~caregiver must call emergency medical services when epinephrine is administered to a child in the license holder's care.

(3) The license holder must contact the child's parent immediately after any instance of exposure to an allergen or allergic reaction. –

~~(e) The license holder must ensure that all caregivers receive any training required by the child's individual child care plan.~~

~~Subd. 2. **Nondiscrimination.** A caregiver is prohibited from discriminating in relation to enrollment in their program based on race, color, creed, religion, national origin, sex, gender identity, marital status, disability, status regarding public assistance, sexual orientation, or familial status.~~

## 245J.0322 Community-based Child Care

- **Note:** “Cleaning, Sanitizing, and Disinfecting” requirements that were found in 245J.22 in Draft 1 have been moved to 245J.15 in Draft 2.
- **Note:** “Community-based Child Care” requirements that were found in 245J.03 in Draft 1 have been moved to this section in Draft 2

### Subdivision 1. Community-Based Child Care.

(a) When the license holder is an organization, and the program is a community-based program:

- (1) the program must identify only one primary provider of care;
- (2) a program may identify more than one primary provider of care as specified in paragraph (f);
- (3) the license type of the program is determined by the primary provider of care's qualifications as established in section 245J.08;
- (4) the primary provider of care must complete the training that is required by license holders in section 245J.10; and
- (5) the primary provider of care is authorized to communicate with the county licensing agency and the department on matters related to licensing.

(b) Nonresidential child care programs serving ~~14~~18 or fewer children that are conducted at a location other than the license holder's own home must be licensed under this section in addition to the ~~rules~~regulations governing family child care or group family child care if one of the following applies:

- (1) the license holder is the primary provider of care, and the nonresidential child care program is conducted in a dwelling that is located on a residential lot;
- (2) the license holder is an employer who may or may not be the primary provider of care, and the main purpose for the child care program is to provide child care services to children of the license holder's employees;
- (3) the license holder is a church or religious organization;
- (4) the license holder is a community collaborative child care license holder. For purposes of this subdivision, a community collaborative child care license holder is a license holder participating in a cooperative agreement with a community action agency as defined in section 256E.31;
- (5) the license holder is a not-for-profit agency that provides child care, and the license holder maintains two or more contracts with community employers or other community organizations to provide child care services. The county licensing agency may grant a capacity variance to a license holder licensed under this paragraph to exceed the licensed capacity of ~~14~~18 children by no more than five children during transition periods related to the work schedules of parents, if the license holder meets the following requirements:

(i) the program does not exceed a capacity of ~~14~~18 children more than a cumulative total of four hours per day;

(ii) the program meets a one to seven staff-to-child ratio during the variance period;

(iii) all employees receive at least an extra four hours of training per year than required in [sections 245J.~~06~~10](#), [245J.~~07~~11](#), and [245J.~~08~~12](#);

(iv) the facility has square footage required per child under [section 245J.~~18~~14](#);

(v) the program is in compliance with local zoning regulations; [and](#)

(vi) the program is in compliance with the applicable fire code as follows:

(A) if the program serves more than five children older than 2-1/2 years of age, but no more than five children 2-1/2 years of age or less, the applicable fire code is educational occupancy, as provided in Group E Occupancy under the Minnesota State Fire Code 2020, Section 202; or

(B) if the program serves more than five children 2-1/2 years of age or less, the applicable fire code is Group I-4 Occupancies, as provided in the Minnesota State Fire Code 2015, Section 202, unless the rooms in which the children are cared for are located on a level of exit discharge and each of these child care rooms has an exit door directly to the exterior, then the applicable fire code is Group E occupancies, as provided in the Minnesota State Fire Code 2020, Section 202; and

(C) any age and capacity limitations required by the fire code inspection and square footage determinations must be printed on the license; ~~or~~

(6) the [individual](#) license holder is the primary provider of care and has located the licensed child care program in a commercial space, if the license holder meets the following requirements:

(i) the program is in compliance with local zoning regulations; [and](#)

(ii) the program is in compliance with the applicable fire code as follows:

(A) if the program serves more than five children older than 2-1/2 years of age, but no more than five children 2-1/2 years of age or less, the applicable fire code is educational occupancy, as provided in Group E Occupancy under the Minnesota State Fire Code 2020, Section 202; or

(B) if the program serves more than five children 2-1/2 years of age or less, the applicable fire code is Group I-4 Occupancies, as provided under the Minnesota State Fire Code 2020, Section 202, unless the rooms in which the children 2 ½ years of age or younger are cared for are located on a level of exit discharge and each of these child care rooms has an exit door directly to the exterior, then the applicable fire code is Group E Occupancy, as provided in the Minnesota State Fire Code 2020, section 202.

~~(b) Any age and capacity limitations required by the fire code inspection and square footage determinations must be printed on the license.~~

(c) The license holder ~~must display the license where parents and the commissioner can access and view it. The license~~ issued by the commissioner ~~contains~~must contain the statement "This community-based child care license holder is not licensed as a child care center."

(d) The commissioner may issue up to four licenses to an organization licensed under paragraph (b), clauses (2), (3), or (4). Each license must have its own primary provider of care as required under clause (1). Each license must operate as a distinct and separate program in compliance with all applicable laws and regulations.

(e) For licenses issued under paragraph (b), clauses (2), (3), (4), (5), or (6), the commissioner may approve up to four licenses at the same location or under one contiguous roof if each license holder is able to demonstrate compliance with all applicable rules and laws. Each licensed program must operate as a distinct and separate program and within the capacity, age, and ratio distributions of each license- ~~as noted by the state fire marshal.~~ Only one license will be issued per single family residential home.

(f) For a license issued under paragraph (b), clauses (2), (3), (4) or (5), the license holder must designate an individual to be the primary provider of care at the licensed location on a form and in a manner prescribed by the commissioner-~~Each~~ as follows:

(1) When a program is limited to identifying operates for 8 or fewer hours per day, the program must identify one individual to be the primary provider of care.

(2) When a program operates for more than 8 hours per day but no more than 16 hours per day, the program may identify up to two primary providers of care.

(3) When a program operates for more than 16 hours per day, the program may identify up to three primary providers of care.

(g) The license holder must notify the commissioner in writing before there is a change of the ~~person~~persons designated to be the primary provider of care. The primary provider of care:

(i) must be present during the hours of operation;

(ii) must operate the program in compliance with applicable laws and regulations under chapters 245A and 245J;

(iii) is considered a child care background study subject as defined in section 245C.02, subdivision 6a, and must comply with background study requirements in chapter 245C;

(iv) must complete the training that is required of license holders in section 245J.~~07; and~~10;

~~(v) is authorized to communicate with the county licensing agency and the department on matters related to licensing; and~~

(vi) is a controlling individual as provided in section 245A.02, subdivision 5a, paragraph (5).

(g) For any license issued under this subdivision, the license holder must ensure that any ~~other~~ caregiver, substitute, [intermittent caregiver](#), or helper who assists in the care of children meets the training requirements in sections [245J.0710](#), [245J.0811](#), and [245J.0912](#) and background study requirements under chapter 245C.

~~(h) Except as provided in this section, a county agency must not grant a license holder a variance to exceed the maximum allowable family child care license capacity or 14 children.~~

[\(i\) The commissioner-developed Community-based Child Care Program Plan must be completed at initial application by each Community-based Child Care Program. The plan must be reviewed annually no later than December 31<sup>st</sup> and updated prior to information on the plan or within the program being changed.](#)

**Note:**

- 245J.23 “Health Policies” in Draft 1 has moved to 245J.19 in Draft 2
- 245J.24 “Food and Nutrition” in Draft 1 has moved to 245J.20 in Draft 2
- 245J.25 “Environmental Health” in Draft 1 has moved to 245J.16 in Draft 2