

## **HUMAN SERVICES DEPARTMENT[441]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code section 237A.12, the Department of Human Services amends Chapter 109, “Child Care Centers,” Iowa Administrative Code.

The federal Child Care and Development Block Grant (CCDBG) was reauthorized in November 2014. As a result, there are new federal laws outlining state requirements for child care providers that receive child care assistance dollars.

Some of these proposed amendments are the result of the changes to CCDBG. The amendments implement an orientation training in health and safety content areas required for all staff within three months of employment and enhance emergency planning requirements. The amendments also implement safe sleep practice requirements.

These amendments also provide for enhancements to current regulations, including a requirement for the regulatory fee to be a part of a sufficient application. Including the fee with the application is a current practice but is not found in administrative rule. The amendments also limit the need for separate group and self-study training, add another approved training organization, require child care centers to implement a policy to protect child confidentiality, and require the same number of training hours for all staff, whether or not staff are employed for less than 20 hours per week as identified in the current rule.

These amendments also provide for technical cleanup of the administrative rules, such as removing form numbers, removing unnecessary citations to other agencies’ rules, and removing references to years no longer applicable.

In addition, the amendments remove the requirement to “fully” comply with all standards to avoid downgrading to a provisional license. The amendments allow for being

“imperfect.” The Department does not require a provisional license if a provider is not 100 percent compliant at the time of annual inspection at the licensed child care facility.

Finally, these amendments update the education table to include postbachelor education, clarify expectations for sole providers in a child care center, and amend the definition of “child care” to be compliant with language found in Iowa Code chapter 237A.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2554C** on May 25, 2016. The Department received comments from four respondents during the public comment period. The comments from the respondents and the Department’s responses are as follows:

**Comment 1.** A respondent who already has an approved training program by the Department requested that rule language for first aid and cardiopulmonary resuscitation (CPR) be modified to include the American Safety and Health Institute as an approved training organization. The request was specific to Chapter 441 IAC 109 rule changes.

**DHS Response 1.** The Department has long approved the American Safety and Health Institute as an approved training organization for first aid and CPR. Emergency Medical Planning, which is currently identified in the rules, has merged into the Health and Safety Institute and is a major training organization for these content areas. The Department agreed with this comment and will modify these amendments to include this organization as follows:

**109.7(1)“c”**

c. Certification in American Red Cross ~~or~~ American Heart Association, American Safety and Health Institute, or MEDIC First Aid infant, child, and adult cardiopulmonary

resuscitation (CPR) or equivalent certification approved by the department. A valid certificate indicating the date of training and expiration date shall be maintained.

**109.7(1)“d”**

d. Certification in infant, child, and adult first aid that uses a nationally recognized curriculum or is received from a nationally recognized training organization including the American Red Cross, American Heart Association, the National Safety Council, the American Safety and Health Institute, or MEDIC First Aid and Emergency Medical Planning (Medic First Aid) or an equivalent certification approved by the department. A valid certificate indicating the date of training and expiration date shall be maintained.

**109.7(3)“c”**

~~c. At least one staff person on duty in the center and outdoor play area when children are present and on field trips shall have certification~~ Certification in American Red Cross, ~~or~~ American Heart Association, American Safety and Health Institute, or MEDIC First Aid infant, child, and adult cardiopulmonary resuscitation (CPR) or equivalent certification approved by the department. A valid certificate indicating the date of training and expiration date shall be maintained.

**109.7(3)“d”**

~~d. At least one staff person on duty in the center and outdoor play area when children are present and on field trips shall receive certification~~ Certification in infant, child, and adult first aid that uses a nationally recognized curriculum or is received from a nationally recognized training organization including the American Red Cross, American Heart Association, the National Safety Council, the American Safety and Health Institute or MEDIC First Aid and Emergency Medical Planning (Medic First Aid) or an equivalent

certification approved by the department. A valid certificate indicating the date of training and expiration date shall be maintained.

**Comment 2.** A respondent requested that language be included that allows changes to the 5 year requirement for health and safety training if information changes. Modifications will allow the Department to require the training more often or to be renewed if significant changes to the content occur.

**Department Response 2.** The Department agreed with the respondent's request and will add language to allow for health and safety training to be taken more frequently if content areas change significantly, as follows:

Adopt a **new** paragraph **109.7(1)“f”** as follows:

f. Minimum health and safety training may be required prior to the 5 year period if content has significant changes that warrant the training be renewed.

**Comment 3.** A respondent suggested additional modifications to these amendments to add standards regarding nutrition, physical activity, and screen time within child care homes and centers. The respondent recommended requiring nutrition standards based on Child and Adult Care Food Program (CACFP), physical activity standards consistent with YMCA's Healthy Eating and Physical Activity (HEPA) as well as "Screen time standards" for Early Childhood Programs.

**Department Response 3.** Child Care Centers are currently required (rule 441--109.15) to meet CACFP guidelines for nutritionally balanced meals and snacks. Activity program requirements including written curriculum and program structure that use developmentally appropriate practices are also outlined in subrule 441--109.12(1). Activities must include a balance of active and quiet activities, individual and group

activities, gross and fine motor development, as well as others. Lastly, while encouraging quality programming, screen time standards are not a requirement to meet the intent of the federal legislation to meet health and safety requirements. For these reasons, the Department will not modify these amendments based on the respondent's comments.

**Comment 4.** A respondent requested that training in the use of an automated external defibrillator (AED) be included in the first aid and cardiopulmonary resuscitation (CPR) training requirements.

**Department Response 4.** At this time, it is not known if AED is always provided during CPR courses. Additionally, if the Department required AED training, it would be reasonable to assume that the Department would need to require an AED on the child care premises, which would have a fiscal impact to child care providers. The National Resource Center on Health and Safety of Child Care and Early Education's document, "Caring for Our Children" was also reviewed. The suggestion in that document is that child care facilities should consider having an AED on the premises for potential use with adults. It further indicates that the use of AED's with children would be rare. For these reasons, the Department will not modify these amendments based on the comments at this time.

**Comment 5.** A respondent requested that clarifications be made regarding items that are not designed for sleeping in the section regarding safe sleep practices

**Department Response 5.** The Department agreed with the respondent and will modify language in these amendments as follows:

**109.12(5) "e"(3)**

(3) Infants shall not be allowed to sleep on a bed, sofa, air mattress or other soft surface. No child shall be allowed to sleep in any items not designed for sleeping, but not limited to, an infant seat, car seat, swing, bouncy seat, ~~or any item not designed for sleeping.~~

**Comment 6.** A respondent requested that these amendments should clarify that cribs are not allowed to have moving railings.

**Department Response 6.** Administrative rules require cribs to meet current federal Consumer Product Safety Commission (CPSC) or ASTM standards. Drop-side cribs are not allowed within current approved standards. However, there are some cribs that have partial “safe reach” options that do meet CPSC standards. There would be a fiscal impact to providers if the cribs with approved “safe reach” options are currently being used and then become prohibited as the result of these amendments. For these reasons, the Department will not modify these amendments based on the respondent’s comment.

The Council on Human Services adopted these amendments on July 13, 2016.

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 237A.12.

These amendments will become effective October 1, 2016.

The following amendments are adopted.

ITEM 1. Amend rule **441—109.1(237A)**, definition of “Child care,” as follows:

“Child care” means the care, supervision, or guidance of a child by a person other than the parent, guardian, or custodian for periods of less than 24 hours per day per child on a regular basis in a place other than the child’s home, but does not include care, supervision, or guidance of a child by any of the following:

1. An instructional program for children attending prekindergarten as defined by the state board of education under Iowa Code section 256.11 or a higher level and are at least four years of age and administered by a public or nonpublic school system accredited by the department of education or the state board of regents or a nonpublic school system which is not accredited by the department of education or the state board of regents.

2. to 5. No change.

~~6. A nationally accredited camp.~~

~~7.~~ 6. A program administered by a political subdivision of the state which is primarily for recreational or social purposes and is limited to children who are five years of age or older and attending school.

~~8. An instructional program for children at least four years of age who are attending prekindergarten, as defined by the state board of education, or a higher grade level, administered by a nonpublic school system which is not accredited by the department of education or the state board of regents.~~

~~9.~~ 7. An after-school program continuously offered throughout the school year to children who are at least five years of age and enrolled in school and attend the program intermittently, or a summer-only program for such children. The program must be provided through a nominal membership fee or at no cost.

~~10.~~ 8. A special activity program which meets less than four hours per day for the

sole purpose of the special activity. Special activity programs include but are not limited to music or dance classes, organized athletic or sports programs, recreational classes, scouting programs, and hobby or craft clubs or classes.

9. A nationally accredited camp.

~~11.~~ 10. A structured program for the purpose of providing therapeutic, rehabilitative, or supervisory services to children under any of the following:

- A purchase of service or managed care contract with the department.
- A contract approved by a local decategorization governance board.
- An arrangement approved by a juvenile court order.

~~12.~~ 11. Care provided on site to children of parents residing in an emergency, homeless, or domestic violence shelter.

~~13.~~ 12. A child care facility providing respite care to a licensed foster family home for a period of 24 hours or more to a child who is placed with that licensed foster family home.

~~14.~~ 13. A program offered to a child whose parent, guardian, or custodian is engaged solely in a recreational or social activity, remains immediately available and accessible on the physical premises on which the child's care is provided, and does not engage in employment while the care is provided. However, if the recreational or social activity is provided in a fitness center or on the premises of a nonprofit organization, the parent, guardian, or custodian of the child may be employed to teach or lead the activity.

ITEM 2. Amend subrule 109.2(1) as follows:

**109.2(1)** Application for license.

- a. Any adult or agency has the right to apply for a license. The application for a

license shall be made to the department on ~~Form 470-0722, Application for a License to Operate a Child Care Center,~~ provided by the department a department-provided application for a license to operate a child care center.

b. Requested reports including the fire marshal's report and other information relevant to the licensing determination shall be furnished to the department upon application and renewal. A building owned or leased by a school district or accredited nonpublic school that complies with rules adopted by the state fire marshal for school buildings ~~under 661—Chapter 5~~ is considered appropriate for use by a child care facility.

c. When a center makes a sufficient application for an initial license, ~~it~~ the center may operate for a period of up to 120 calendar days from the date of issuance of ~~Form 470-4690, Permission to Open Without a License~~ the form granting permission to open without a license, pending a final licensing decision. A center has made a sufficient application when it has submitted the following to the department:

- (1) An application for a license.
- (2) An approved fire marshal's report.
- (3) A floor plan indicating room descriptions and dimensions, including location of windows and doors.
- (4) Information sufficient to determine that the center director meets minimum personnel qualifications.
- (5) The regulatory fee as specified in subrule 109.2(7), and the fee is received by the department's division of fiscal management.

d. Applicants shall be notified of approval or denial of initial applications within 120 days from the date the application is submitted.

(1) If the applicant has been issued ~~Form 470-4690, Permission to Open Without a License~~ a form granting permission to open without a license, the applicant shall be notified of approval or denial within 120 calendar days of the date of issuance of ~~Form 470-4690~~ the form.

(2) No change.

e. and f. No change.

ITEM 3. Amend paragraph **109.2(2)“a”** as follows:

a. An applicant showing ~~full~~ compliance with center licensing laws and these rules, including department approval of center plans and procedures and submission of the regulatory fee as specified in subrule 109.2(7) to the department by the date due, shall be issued a license for 24 months. In determining whether or not a center is in compliance with the intent of a licensing standard outlined in this chapter, the department shall make the final decision.

ITEM 4. Amend paragraph **109.2(3)“c”** as follows:

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

ITEM 5. Amend subrule 109.2(4) as follows:

**109.2(4) Denial.** Initial applications or renewals shall be denied when:

a. to d. No change.

e. The center is not able to obtain an approved fire marshal’s certificate as prescribed by the state fire marshal ~~in 661—Chapter 5 or Iowa Code chapter 100~~ or fails to comply in correcting or repairing any deficiencies in the time determined by the fire

marshal or the fire marshal determines the facility is not safe for occupancy.

f. The regulatory fee as specified in subrule 109.2(7) is not received by the department's division of fiscal management by the due date indicated on ~~Form 470-4834, Child Care Center Licensing Fee Invoice~~ the child care center licensing fee invoice.

ITEM 6. Amend paragraph **109.2(5)“e”** as follows:

e. The facility is not able to obtain an approved fire marshal's certificate as prescribed by the state fire marshal in ~~661—Chapter 5 or Iowa Code chapter 100~~ or fails to comply in correcting or repairing any deficiencies in the time determined by the fire marshal or the fire marshal determines the facility is not safe for occupancy.

ITEM 7. Amend subrule 109.2(7) as follows:

**109.2(7)** Regulatory fees. ~~For relicensures with an effective date on or after August 1, 2010, as indicated on the license certificate, and for initial applications for licensure submitted on or after June 1, 2010, a~~ A fee based upon center capacity is due to the department before the issuance of the license in accordance with this subrule.

a. and b. No change.

c. Notification. Upon final determination of center capacity by the licensing consultant, the licensing consultant or designee shall sign and provide ~~Form 470-4834, Child Care Center Licensing Fee Invoice,~~ the child care center licensing fee invoice to the center.

d. Payment. The center shall return ~~Form 470-4834~~ the child care center licensing fee invoice to the department with the licensing fee payment within 30 calendar days from the date of the licensing consultant's or designee's signature on ~~Form 470-4834~~ the invoice. Payment may be in the form of cash, check, money order, or cashier's check.

(1) Payment must be received before the department will issue a full or provisional license.

(2) Regulatory fees are nonrefundable and ~~nontransferable~~ nontransferable.

ITEM 8. Adopt the following new paragraph in subrule **109.4(2)**:

i. Develop and implement a policy for protection of each child's confidentiality.

ITEM 9. Amend paragraph **109.4(3)“a”** as follows:

a. Postings are required for the certificate of license, notice of exposure of children to a communicable disease, and notice of ~~action~~ decision to deny, suspend, or revoke the center's license or reduce the center's license to a provisional status. The center's license, reflecting current regulatory status, and all other required postings shall be conspicuously placed at the main entrance to the center. If the center is located in a building used for additional purposes and shares the main entrance to the building, the required postings shall be conspicuously placed in the center in an area that is frequented daily by parents or the public.

ITEM 10. Amend subrule 109.4(5) as follows:

**109.4(5)** Handbook. A copy of ~~Form SS-0711,~~“Child Care Centers and Preschools Licensing Standards and Procedures ~~,”~~” shall be available in the child care center, and a notice stating that a copy is available for review upon request from the center director shall be conspicuously posted. The name, office mailing address and telephone number of the child care consultant shall be included in the notice.

ITEM 11. Amend subrule 109.5(2) as follows:

**109.5(2)** Parental evaluation. If requested by the department, centers shall assist the department in conducting an annual survey of parents being served by their center ~~by~~

providing to parents Form 470-3409, Parent Survey: Child Care Centers. The department shall notify centers of the time frames for distribution and completion of the survey and the procedures for returning the survey to the department. The purpose of the survey shall be to increase parents' understanding of developmentally appropriate and safe practice, solicit statewide information regarding parental satisfaction with the quality of care being provided to children and obtain the parents' perspective regarding the center's compliance with licensing requirements.

ITEM 12. Amend paragraph **109.6(1)“e”** as follows:

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

| EDUCATION   |        | EXPERIENCE<br>(Points multiplied by<br>years of experience)                         | CHILD DEVELOPMENT-<br>RELATED TRAINING |
|---|--------|---|--|
| Bachelor's or higher degree in early childhood, child development, or elementary education                              | 7<br>5 | Full-time (20 hours or more per week) in a child care center or preschool setting   | 2<br>0                                 |
| Associate's degree in child development or bachelor's degree in a child-related field                                   | 5<br>0 | Part-time (less than 20 hours per week) in a child care center or preschool setting | 1<br>0                                 |
| Child development associate (CDA) or one-year diploma in child development from a community college or technical school | 4<br>0 | Full-time (20 hours or more per week) child development-related experience          | 1<br>0                                 |
| Bachelor's or higher degree in a non-child-related field  | 4<br>0 | Part-time (less than 20 hours per week) child development-related experience        | 5                                      |
| Associate's degree in a non-child-related field or completion of at least two years of a four-year degree               | 2<br>0 | Registered child development home provider  | 1<br>0                                 |
|   |        | Nonregistered family home provider  | 5                                      |

(1) to (4) No change.

ITEM 13. Amend paragraph **109.6(2)“d”** as follows:

d. Has achieved a total of 75 points obtained through a combination of education, experience, and child development-related training as outlined in the following chart:

| EDUCATION   |    | EXPERIENCE<br>(Points multiplied by years of experience)                            |    | CHILD DEVELOPMENT-RELATED TRAINING     |
|---|----|---|----|--|
| Bachelor's or higher degree in early childhood, child development, or elementary education                              | 75 | Full-time (20 hours or more per week) in a child care center or preschool setting   | 20 | One point per contact hour of training |
| Associate's degree in child development or bachelor's degree in a child-related field                                   | 50 | Part-time (less than 20 hours per week) in a child care center or preschool setting | 10 |  |
| Child development associate (CDA) or one-year diploma in child development from a community college or technical school | 40 | Full-time (20 hours or more per week) child development-related experience          | 10 |  |
| Bachelor's or higher degree in a non-child-related field  | 40 | Part-time (less than 20 hours per week) child development-related experience        | 5  |  |
| Associate's degree in a non-child-related field or completion of at least two years of a four-year degree               | 20 | Registered child development home provider  | 10 |  |
|   |    | Nonregistered family home provider  | 5  |  |

(1) to (4) No change.

ITEM 14. Rescind and reserve subrule **109.6(4)**.

ITEM 15. Amend subparagraph **109.6(6)“c”(2)** as follows:

(2) Unless a record check has already been conducted in accordance with subparagraph (1), the department shall conduct a criminal and child abuse record check in Iowa for a person who is subject to a record check. When the department conducts the records check, the fee shall be ~~\$25 for each record check through June 30, 2010, and \$35 effective July 1, 2010~~ for each record check. The center shall submit the fee before the department initiates the record check process. Payment must be in the form of cash, check, money order, or cashier's check. The department may access SING to conduct the records

check. The department may also conduct dependent adult abuse, sex offender, and other public or civil offense record checks in Iowa for a person who is subject to a record check.

ITEM 16. Amend subparagraph **109.6(6)“d”(8)** as follows:

(8) A center shall submit all required fingerprints to the department of public safety before the issuance or renewal of the center’s license ~~on or after June 1, 2010. EXCEPTION: Centers that have an initial or renewal licensure date of June 1, 2010, shall have until July 1, 2010, to submit the fingerprints to the department of public safety.~~

ITEM 17. Amend rule 441—109.7(237A) as follows:

**441—109.7(237A) Professional growth and development.** The center director, on-site supervisor, and staff counted as part of the staff ratio shall meet the following minimum staff training requirements:

**109.7(1)** Required training within the first ~~six~~ three months of employment. During their first ~~six~~ three months of employment, all staff shall receive the following training:

- a. Two hours of Iowa’s training for mandatory reporting of child abuse.
- b. At least one hour of training regarding universal precautions and infectious disease control.
- c. Certification in American Red Cross American Heart Association, American Safety and Health Institute, or MEDIC First Aid infant, child, and adult cardiopulmonary resuscitation (CPR) or equivalent certification approved by the department. A valid certificate indicating the date of training and expiration date shall be maintained.
- d. Certification in infant, child, and adult first aid that uses a nationally recognized curriculum or is received from a nationally recognized training organization including the

American Red Cross, American Heart Association, the National Safety Council, the American Safety and Health Institute, or MEDIC First Aid or an equivalent certification approved by the department. A valid certificate indicating the date of training and expiration date shall be maintained.

e. Minimum health and safety trainings, approved by the department, in the following areas and every five years thereafter:

- (1) Prevention and control of infectious disease, including immunizations.
- (2) Prevention of sudden infant death syndrome and use of safe sleep practices.
- (3) Administration of medication, consistent with standards for parental consent.
- (4) Prevention of and response to emergencies due to food and allergic reactions.
- (5) Building and physical-premises safety, including identification of and protection from hazards that can cause bodily injury, such as electrical hazards, bodies of water, and vehicular traffic.
- (6) Prevention of shaken baby syndrome and abusive head trauma.
- (7) Emergency preparedness and response planning for emergencies resulting from a natural disaster or a human-caused event.
- (8) Handling and storage of hazardous materials and the appropriate disposal of biocontaminants.
- (9) Precautions in transporting children.

f. Minimum health and safety training may be required prior to the 5 year period if content has significant changes that warrant the training be renewed.

~~109.7(2) Center directors and all staff employed 20 hours or more per week. The requirements of this subrule apply to all center directors, regardless of whether the director~~

~~works on a full-time or part-time basis.~~

a. During their first year of employment, all center directors and all staff employed ~~20 hours or more per week~~ shall receive the following training:

~~(1) Certification in American Red Cross or American Heart Association infant, child, and adult cardiopulmonary resuscitation (CPR) or equivalent certification approved by the department. A valid certificate indicating the date of training and expiration date shall be maintained.~~

~~(2) Certification in infant, child, and adult first aid that uses a nationally recognized curriculum or is received from a nationally recognized training organization including the American Red Cross, American Heart Association, the National Safety Council, and Emergency Medical Planning (Medic First Aid) or an equivalent certification approved by the department. A valid certificate indicating the date of training and expiration date shall be maintained.~~

~~(3)~~ (1) Ten contact hours of training from one or more of the following content areas:

1. Planning a safe, healthy learning environment (includes nutrition).
2. Steps to advance children's physical and intellectual development.
3. Positive ways to support children's social and emotional development (includes guidance and discipline).
4. Strategies to establish productive relationships with families (includes communication skills and cross-cultural competence).
5. Strategies to manage an effective program operation (includes business practices).

6. Maintaining a commitment to professionalism.
7. Observing and recording children's behavior.
8. Principles of child growth and development.

~~(4)~~ (2) At least four hours of the ten contact hours of training shall be received in a group setting as defined in subrule 109.7(7). Six hours may be received in self study using a training package approved by the department as defined in subrule 109.7(8). Training received for cardiopulmonary resuscitation (CPR), first aid, mandatory reporting of child abuse, and universal precautions shall not count toward the ten contact hours. A provider shall not use a specific training or class to meet minimum continuing education requirements more than one time every five years.

~~(5)~~ Center directors and on-site supervisors shall receive all ten hours of training in a group setting as defined in subrule 109.7(7).

~~(6)~~ (3) Staff who have completed a comprehensive training package of at least ten contact hours offered through a child care resource and referral agency or community college within six months prior to initial employment shall have the first year's ten contact hours of training waived.

b. Following their first year of employment, all center directors and all staff ~~who are employed 20 hours or more a week~~ shall:

(1) Maintain current certification for Iowa's training for the mandatory reporting of child abuse; infant, child and adult CPR; and infant, child and adult first aid.

(2) Receive six contact hours of training annually from one or more of the content areas listed in subparagraph 109.7(2)"a"~~(3)~~(1). A provider shall not use a specific training or class to meet minimum continuing education requirements more than one time every

five years.

(3) Center directors and on-site supervisors shall receive eight contact hours of training annually from one or more of the content areas listed in subparagraph 109.7(2)“a”(3)(1). ~~At least four of the eight contact hours shall be in a group setting as defined in subrule 109.7(7).~~

c. Initial training obtained as identified in paragraph 109.7(1)“e” may be counted toward annual training hours during the year of employment in which the training is taken.

d. Training identified in paragraph 109.7(1)“e” shall not count towards annual professional development more than once.

~~**109.7(3) Staff employed less than 20 hours per week.**~~

~~a. During their first year of employment, all staff who are employed less than 20 hours a week shall receive the following training:~~

~~(1) Five contact hours of training from one or more of the following topical areas: child development, guidance and discipline, developmentally appropriate practices, nutrition, health and safety, communication skills, professionalism, business practices, and cross-cultural competence.~~

~~(2) At least two of the five contact hours shall be in a sponsored group setting.~~

~~(3) Staff who have completed a comprehensive training package of at least ten contact hours offered through a child care resource and referral agency or community college within six months prior to initial employment shall have the five contact hours required in the first year waived.~~

~~b. Following their first year of employment, all staff who are employed less than 20 hours a week shall:~~

~~(1) Maintain current certification for Iowa's training for mandatory reporting of child abuse.~~

~~(2) Receive four contact hours of training annually from one or more of the following topical areas: child development, guidance and discipline, developmentally appropriate practices, nutrition, health and safety, communication skills, professionalism, business practices, and cross-cultural competence. At least two of the four contact hours shall be in a sponsored group setting.~~

~~109.7(4)~~ **109.7(3)** Staff employed in centers that operate summer-only programs. Staff who are employed in centers that operate only in the summer months when school is not in session shall receive the following training During their first three months of employment, all staff shall receive the following training:

- a. Two hours of Iowa's training for mandatory reporting of child abuse.
- b. At least one hour of training regarding universal precautions and infectious disease control.
- c. ~~At least one staff person on duty in the center and outdoor play area when children are present and on field trips shall have certification~~ Certification in American Red Cross, ~~or~~ American Heart Association, American Safety and Health Institute, or MEDIC First Aid infant, child, and adult cardiopulmonary resuscitation (CPR) or equivalent certification approved by the department. A valid certificate indicating the date of training and expiration date shall be maintained.
- d. ~~At least one staff person on duty in the center and outdoor play area when children are present and on field trips shall receive certification~~ Certification in infant, child, and adult first aid that uses a nationally recognized curriculum or is received from a

nationally recognized training organization including the American Red Cross, American Heart Association, the National Safety Council, the American Safety and Health Institute or MEDIC First Aid and Emergency Medical Planning (Medic First Aid) or an equivalent certification approved by the department. A valid certificate indicating the date of training and expiration date shall be maintained.

e. Minimum health and safety trainings, approved by the department, in the following areas:

- (1) Prevention and control of infectious disease, including immunizations.
- (2) Prevention of sudden infant death syndrome and use of safe sleep practices.
- (3) Administration of medication, consistent with standards for parental consent.
- (4) Prevention of and response to emergencies due to food and allergic reactions.
- (5) Building and physical-premises safety, including identification of and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic.
- (6) Prevention of shaken baby syndrome and abusive head trauma.
- (7) Emergency preparedness and response planning for emergencies resulting from a natural disaster or a human-caused event.
- (8) Handling and storage of hazardous materials and the appropriate disposal of biocontaminants.
- (9) Precautions in transporting children.

~~109.7(5)~~ **109.7(4)** Training plans. Training shall supplement the educational and experience requirements in rule 441—109.6(237A) and shall enhance the staff's skill in working with the developmental and cultural characteristics of the children served.

~~109.7(6)~~ **109.7(5)** Substitution. A provider who submits documentation from a child care resource and referral agency that the provider has completed the Iowa Program for Infant/Toddler Care (IA PITC), ChildNet, or Beyond Business Basics training series may use those hours to fulfill a maximum of two years' training requirements, not including first-aid and mandatory reporter training.

~~109.7(7)~~ **109.7(6)** Group Approved training. ~~Training received in a group setting is not self-study, but is training received with other adults, either in or out of the child care center.~~

a. The training must be conducted by a trainer who is employed by or under contract with one of the following entities or who uses curriculum or training materials developed or obtained with the written permission of one of the following entities:

(1) to (13) No change.

(14.) Organizations that are certified by the International Association for Continuing Education and Training (IACET).

b. to f. No change.

g. A training organization not approved by the department may submit ~~training for approval~~ review to the department on ~~Form 470-4528, Request for Child Care Training Approval~~ a request for child care training approval. All approvals, unless otherwise specified, shall be valid for five years. The department shall issue its decision within 30 business days of receipt of a complete request.

~~109.7(8)~~ Self-study training.

a. ~~Self-study training packages approved by the department include curriculum developed and materials distributed by:~~

- ~~(1) Department child care licensing consultants,~~
- ~~(2) Iowa State University Extension, or~~
- ~~(3) A child care resource and referral agency.~~

~~b. Self-study training materials not distributed by these entities may be submitted by the training organization to the department for approval on Form 470-4528, Request for Child Care Training Approval. All approvals, unless otherwise specified, shall be valid for five years. The department shall issue its decision within 30 business days of receipt of a complete request.~~

~~109.7(9)~~ **109.7(7)** Approved Elements of training. Training provided to Iowa child care providers shall offer:

- a. and b. No change.
- c. An opportunity for ongoing interaction and timely feedback, including questions and answers within the contact hours ~~if training is delivered in a group setting.~~
- d. A certificate of training for each participant that includes:
  - (1) to (7) No change.
  - ~~(8) An indication of whether the training was delivered through self-study or in a group setting.~~

**109.7(8)** Training for supervisors and designees. The director, on-site supervisor, and any person designated a lead in the absence of supervisory staff shall have completed all preservice/orientation training outlined in subrule 109.7(1).

ITEM 18. Amend paragraph **109.8(2)“h”** as follows:

- h. For a period of two hours or less at the beginning or end of the center’s hours of operation, one staff may care for six or fewer children ~~or less~~, provided no more than two

of the children are under the age of two years and there are no more than six children in the center.

ITEM 19. Amend subparagraph **109.9(1)“b”(1)** as follows:

(1) A copy of ~~Form 595-1396, a DHS Criminal History Record Check Form B,~~ criminal history record check form or any other permission form approved by the department of public safety for conducting an Iowa or national criminal history record check.

ITEM 20. Amend subparagraph **109.9(1)“b”(2)** as follows:

(2) A copy of ~~Form 470-0643, Request for Child Abuse Information~~ a request for child abuse information form, when applicable.

ITEM 21. Amend subrule 109.10(15) as follows:

**109.10(15)** Emergency plans.

a. The center shall have written emergency plans and diagrams for responding to fire, tornado, and flood (if area is susceptible to flood), and plans for responding to intruders within the center, intoxicated parents, and lost or abducted children. In addition, the center shall have guidelines for responding or evacuating in case of blizzards, power failures, bomb threats, chemical spills, earthquakes, or other disasters that could create structural damage to the center or pose health hazards. If the center is located within a ten-mile radius of a nuclear power plant or research facility, the center shall also have plans for nuclear evacuations. Emergency plans shall include written procedures including plans for ~~transporting children and notifying parents, emergency telephone numbers, diagrams,~~ and specific considerations for immobile children. the following:

(1) Evacuation to safely leave the facility.

(2) Relocation to a common, safe location after evacuation.

(3) Shelter-in-place to take immediate shelter when the current location is unsafe to leave due to the emergency issue.

(4) Lockdown to protect children and providers from an external situation.

(5) Communication and reunification with parents or other adults responsible for the children which shall include emergency telephone numbers.

(6) Continuity of operations.

(7) To address the needs of individual children, including those with functional or access needs.

b. Emergency instructions, telephone numbers, and diagrams for fire, tornado, and flood (if area is susceptible to floods) shall be visibly posted by all program and outdoor exits. Emergency plan procedures shall be practiced and documented at least once a month for fire and for tornado. Records on the practice of fire and tornado drills shall be maintained for the current and previous year.

c. The center shall develop procedures for annual staff and volunteer training on these emergency plans and shall include information on responding to fire, tornadoes, intruders, intoxicated parents, and lost or abducted children in the orientation provided to new employees and volunteers.

d. The center shall conduct a daily check to ensure that all exits are unobstructed.

ITEM 22. Amend paragraph **109.12(5)“e”** as follows:

~~e. Children under the age of one year shall be placed on their backs when sleeping unless otherwise authorized by a parent or physician. A crib or criblike furniture which has a waterproof mattress covering and sufficient bedding to enable a child to rest comfortably~~

~~and which meets the current standards or recommendations from the Consumer Product Safety Commission or the American Society for Testing and Materials for juvenile products shall be provided for each child under two years of age if developmentally appropriate. Crib railings shall be fully raised and secured when the child is in the crib. A crib or criblike furniture shall be provided for the number of children present at any one time. The center shall develop procedures for maintaining all cribs or criblike furniture and bedding in a clean and sanitary manner. There shall be no restraining devices of any type used in cribs. The provider shall follow safe sleep practices as recommended by the American Academy of Pediatrics for infants under the age of one. Requirements are as follows:~~

- (1) Infants shall always be placed on their backs for sleep.
- (2) Infants shall be placed on a firm mattress with a tight fitted sheet that meets U.S. Consumer Product Safety Commission federal standards.
- (3) Infants shall not be allowed to sleep on a bed, sofa, air mattress or other soft surface. No child shall be allowed to sleep in any items not designed for sleeping, but not limited to, an infant seat, car seat, swing, bouncy seat.
- (4) No toys, soft objects, stuffed animals, pillows, bumper pads, blankets, or loose bedding shall be allowed in the sleeping area with the infant.
- (5) No co-sleeping shall be allowed.
- (6) Sleeping infants shall be actively observed by sight and sound.
- (7) If an alternate sleeping position is needed, a signed physician authorization with statement of medical reason is required.

ITEM 23. Amend paragraph **109.12(5)“f”** as follows:

f. ~~When playpens are provided, no more than one child shall be placed in one at any time.~~ A crib or criblike furniture which has a waterproof mattress covering and sufficient bedding to enable a child to rest comfortably and which meets the current standards or recommendations from the Consumer Product Safety Commission or ASTM International for juvenile products shall be provided for each child under two years of age if developmentally appropriate. Crib railings shall be fully raised and secured when the child is in the crib. A crib or criblike furniture shall be provided for the number of children present at any one time. The center shall develop procedures for maintaining all cribs or criblike furniture and bedding in a clean and sanitary manner. There shall be no restraining devices of any type used in cribs.

## Information on Proposed Rules

| Name of Program Specialist | Telephone Number | E-mail Address        |
|----------------------------|------------------|-----------------------|
| Ryan Page                  | 515-281-7714     | rpage@dhs.state.ia.us |

### 1. Give a brief summary of the rule changes:

The Child Care and Development Block Grant was reauthorized in November 2014. As a result, there are new federal laws outlining State requirements for child care providers that receive child care assistance dollars.

The following changes are the result of federal legislation:

- Required orientation training in health and safety content areas for all staff within 3 months of employment.
- Enhanced emergency planning requirements
- Safe Sleep practice requirements

The following changes are enhancements to current regulations:

- Includes requirement for regulator fee to be part of sufficient application, current practice but not in rule
- Limit the need for separate group and self-study training.
- Adds another approved training organization
- Requires centers to implement a policy to protect child confidentiality
- Requires the same number of training hours, regardless if staff are full or part time

The following changes are to clean up areas within the rules:

- Remove form numbers
- Remove unnecessary external agency rule citations
- Removes references to years no longer applicable
- Removes requirement to “fully” comply with all standards to be downgraded to provisional. Allows for being “imperfect”. Current practice does not require provisional if not 100% compliant
- Updates education table to include post-bachelor education
- Clarifies expectations for sole providers in a center
- Amend child care definition to be in line with 237A language

### 2. What is the reason for the Department to request these changes?

A number of rule modifications are the result of federal legislation.

While working to improve the child care system, other modifications are suggested to streamline requirements and simplify processes as appropriate.

**3. What will be the effect of the rule adoption? (who, what, when, how)?**

Federal legislation will affect a number of child care centers through increase regulation of orientation training. These regulations will be in place for any person becoming registered after September 30, 2016. Current programs will have 3 months to complete orientation training after September 30, 2016.

Child Care Providers will, however, find greater ease in training availability as they will no longer be limited to group and self-study training hours.

Parents will be assured that the health and safety of children in care is a priority by outlining expectations regarding safe sleep and emergency preparedness. Parents will also be assured that child care providers are receiving training that is relevant to the care being provided to children.

**4. Is the change mandated by State or Federal Law? (Cite the authorizing state and federal statutes and federal regulations)**

Changes being made as a result of federal legislation are a direct result of the Child Care and Development Block Grant Act of 2014. Federal rules are currently being completed but draft rules went out in December 2015 for public comment

**5. Will anyone be affected by this rule change? If yes who will be affected and will it be to the person(s) benefit or detriment?**

Child Care providers will be affected by these rules changes. While some of the minor changes will likely have little effect, providers will have a number of training requirements that they have not currently had. Despite this, all of the rules modifications that have been identified are a direct improvement to the quality of care that is provided to children in licensed child care settings

**6. What are the potential benefits of this rule?**

Benefits to the rule modifications are increased quality of care and increase in health and safety expectations. When parents enroll their children in a child care center, they will know that the location has been pre-inspected and that the provider and staff have received specific training

**7. What are the potential costs, to the regulated community or the State of Iowa as a whole, of this rule?**

The Department of Human Services does not intend to ask for additional funding to requirements. This will be completed by existing staff.

There is no intended cost to providers for minimum health and safety training or additional training modifications.

There is no intended cost related to emergency planning or safe sleep standards

**8. Do any other agencies regulate in this area? If so, what agencies and what Administrative Code Sections apply?**

No

**9. What alternatives to direct regulation in this area are available to the agency? Why were other alternatives not used?**

No other alternatives have been identified.

**10. Does this rule contain a waiver provision? If not, why?**

These rules do not contain waiver provisions. Individuals may request an exception pursuant to the Department General Rule 441 IAC 1.8 on Exception to Policy.

**11. Do these rules have an impact on private-sector jobs and employment opportunities in Iowa? (If yes, describe nature of impact, categories and number of jobs affected, state regions affected, costs to employer per employee)**

There is no known impact.

# ADMINISTRATIVE RULE FISCAL IMPACT STATEMENT

Date: 3/1/16

**Agency:** Human Services  
**IAC citation:** 441 IAC 109  
**Agency contact:** Ryan Page

**Summary of the rule:** The rules related to Child Care Centers under chapter 109 are modified to comply with new federal requirements and to simplify processes.

*Fill in this box if the impact meets these criteria:*

No fiscal impact to the state.

Fiscal impact of less than \$100,000 annually or \$500,000 over 5 years.

Fiscal impact cannot be determined.

**Brief explanation:** There is no fiscal impact to the state for requirements that must be met by child care centers. These rule changes mainly relate to required training, and health and safety standards for child care centers.

*Fill in the form below if the impact does not fit the criteria above:*

Fiscal impact of \$100,000 annually or \$500,000 over 5 years.

**Assumptions:**

**Describe how estimates were derived:**

**Estimated Impact to the State by Fiscal Year**

|                                | Year 1 (FY _____ ) | Year 2 (FY _____ ) |
|--------------------------------|--------------------|--------------------|
| <b>Revenue by each source:</b> |                    |                    |
| General fund                   | _____              | _____              |
| Federal funds                  | _____              | _____              |
| Other (specify):               | _____              | _____              |
| <b>TOTAL REVENUE</b>           | _____              | _____              |
| <b>Expenditures:</b>           |                    |                    |
| General fund                   | _____              | _____              |
| Federal funds                  | _____              | _____              |
| Other (specify):               | _____              | _____              |
| <b>TOTAL EXPENDITURES</b>      | _____              | _____              |
| <b>NET IMPACT</b>              | _____              | _____              |

\_\_\_\_\_ This rule is required by state law or federal mandate.  
*Please identify the state or federal law:*

\_\_\_\_\_ Funding has been provided for the rule change.  
*Please identify the amount provided and the funding source:*

\_\_\_\_\_ Funding has not been provided for the rule.  
*Please explain how the agency will pay for the rule change:*

***Fiscal impact to persons affected by the rule:***

Child care centers are currently regulated, therefore the rule modifications are anticipated to have minimal impact on their costs.

***Fiscal impact to counties or other local governments (required by Iowa Code 25B.6):***

None anticipated.

Agency representative preparing estimate: Kathy Blume  
 Telephone number: (515) 281-4196