Kansas Administrative Regulations

Department of Health and Environment

Article 4.—Maternal and Child Health—Licensed Day Care Homes and Group Day Care Homes for Children.

28-4-114. Applicant; licensee.

(a) Application process.

(1) Any person desiring to operate a facility shall apply for a license on forms provided by the department.

(2) The granting of a license to any applicant or applicant with a temporary permit may be refused by the secretary if the applicant or applicant with a temporary permit is not in compliance with the applicable requirements of the following:

(A) K.S.A. 65-504 through 65-506, and amendments thereto;

(B) K.S.A. 65-508, and amendments thereto;

(C) K.S.A. 65-512, and amendments thereto;

(D) K.S.A. 65-530 and 65-531, and amendments thereto; and

(E) all regulations governing facilities.

(3) Failure to submit the application forms for renewal of a license may result in closure of the facility.

(b) Applicant and licensee requirements. Each applicant, if an individual, and each licensee, if an individual, shall meet the following requirements:

(1) Be at least 18 years of age;

(2) not be involved in child care or a combination of child care and other employment for more than 18 hours in a 24-hour period; and

(3) not be engaged in either business or social activities that interfere with the care or supervision of children.

(c) Multiple child care facilities.

(1) Each applicant with a temporary permit and each licensee who operates more than one child care facility, as defined in K.S.A. 65-503, and amendments thereto, shall maintain each child care facility as a separate entity.

(2) A license for an additional child care facility shall not be granted until all existing child care facilities for which the licensee has been granted a license are in compliance with licensing regulations.

(d) Multiple licenses. No licensee shall be licensed concurrently for or provide more than one type of child care or child and adult care on the same premises.

(e) Maximum group size for family child care homes. Each applicant with a temporary permit and each licensee shall ensure that the requirements of this subsection are met.

(1) The maximum group size for a family child care home shall be the following:

TABLE I – MAXIMUM GROUP SIZE, ONE PROVIDER

Maximum Number of Children Under 12 Months	Maximum Number of Children at Least 12 Months but Under 5 Years of Age	Maximum Number of Children at Least 5 Years but Under 10 Years of Age	Maximum Group Size
0	8	2	10
1	6	3	10
2	5	2	9
3	3	2	8
4	2	0	6

TABLE II – MAXIMUM GROUP SIZE, ONE PROVIDER

Ages of Children Enrolled	Maximum Group Size
At Least 2.5 Years but Under 10 Years of Age	10
At Least 3 Years but Under 10 Years of Age	11
At Least 5 Years but Under 10 Years of Age	12

TABLE III – MAXIMUM GROUP SIZE, TWO PROVIDERS*

Maximum Number of Children Under 12 Months	Maximum Number of Children at Least 12 Months but Under 5 Years of Age	Maximum Number of Children at Least 5 Years but Under 10 Years of Age	Maximum Group Size*
0	10	2	12
1	9	2	12
2	8	2	12
3	7	2	12
4	5	3	12
5	4	3	12

*A second provider shall be present when the number of children exceeds the maximum number allowed for one provider. See Table I.

(2) If the ages of children enrolled are at least 2.5 years but under 10 years of age, the maximum group size for two providers is 12.

(3) Children at least 10 years of age but under 16 years of age unrelated to the provider on the premises for the purpose of receiving child care in the facility shall be included in the maximum group size if child care for this age group as a whole exceeds five hours a week.

(f) Developmental levels. Any child who does not function according to age-appropriate expectations shall be counted in the age group that reflects the developmental age level of the child.

(g) License capacity not exceeded. Each applicant with a temporary permit and each licensee shall ensure that the total number of children on the premises, including children under 10 years of age related to the applicant with a temporary permit, the licensee, or any other provider, does not exceed the license capacity, except for additional children permitted in subsection (i).

(h) Group size not exceeded. Except as provided by subsection (i), each applicant with a temporary permit and each licensee shall ensure the following requirements are met:

(1) The maximum number of children in each age category, including children under 10 years of age related to the applicant with a temporary permit, the licensee, or any other provider, does not exceed the maximum number of children in each age category as specified in subsection (e), except as specified in paragraph (h)(3).

(2) The total number of children on the premises, including children under 10 years of age related to the applicant with a temporary permit, the licensee, or any other provider, does not exceed the maximum group size based on the age of the youngest child present and the number of providers present as specified in subsection (e).

(3) For each child under five years of age not in attendance, the maximum number of children ages five and older may be increased by one. The total number of children in attendance shall not exceed the maximum group size.

(i) Additional children on the premises. In addition to the number of children permitted under the terms of the temporary permit or the license and specified in subsection (e), other children may be permitted on the premises.

(1) Not more than two additional children 2.5 years of age or older who attend part-day preschool or part-day kindergarten may be present at any time between the hours of 11:00 a.m. and 1:00 p.m. for the noon meal on days that school is in session.

(2) Not more than two additional children at least five years of age but under 10 years of age may be present between the hours of 6:00 a.m. and 6:00 p.m. The additional children may be present as follows:

(A) During the academic school year before and after school, in-service days, school holidays, scheduled or emergency closures, and school breaks not to exceed two consecutive weeks; and

(B) during the two consecutive weeks before the opening of the academic school year in August or September and following the end of the academic school year in May or June.

(3) Not more than two additional children 10 years of age or older, unrelated to the applicant with a temporary permit or the licensee, may be present for not more than two hours a day during child care hours if all of the following conditions are met:

(A) The additional children are not on the premises for the purpose of receiving child care in the facility.

(B) The additional children are visiting the applicant's or the licensee's own child or children.

(C) The additional children are supervised by a provider if they have access to the children in care.

(j) Substitute. Each applicant with a temporary permit and each licensee shall arrange for a substitute to care for children in the event of a temporary absence or extended absence of the primary care provider.

(k) Posting of temporary permit or license and availability of regulations. Each applicant with a temporary permit and each licensee shall post any temporary permit or license conspicuously as required by K.S.A. 65-504, and amendments thereto. A copy of the current regulations governing facilities shall be kept on the premises and shall be available to all providers at all times.

(l) Closure. Any applicant may withdraw the application for a license. Any applicant with a temporary permit and any licensee may submit, at any time, a request to close the facility. If an application is withdrawn or a facility is closed, any temporary permit or license granted to the applicant or licensee for that facility shall become void. (Authorized by K.S.A. 2025 Supp. 65-508; implementing K.S.A. 65-504, and K.S.A. 2025 Supp. 65-508; effective, E-80-18, Oct. 17, 1979; effective May 1, 1980; amended May 1, 1981; amended May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended Feb. 26, 1990; amended Feb. 3, 2012; amended Aug. 2, 2024; amended Sept. 4, 2026.)

***** Authenticated Kansas Administrative Regulation *****