CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Child Care
(Amended After Comments)

922 KAR 2:090. Child-care center licensure.

RELATES TO: KRS Chapter 13B,[~~17.165, 17.500–17.580,~~] Chapter 157, 158.030, 199.011(3)[~~(1)~~], (4), (16), 199.892, 199.894(1), (3), 199.895, 199.896, 199.898, 214.010, 314.011(5), 600.020(1), 620.020(8), 620.030[~~(4)~~], 45 C.F.R. 98.2, 42 U.S.C. 601-619, 42 U.S.C. 9857-9858q

STATUTORY AUTHORITY: KRS 194A.050(1), 199.896(2), (6)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate programs and fulfill the responsibilities vested in the cabinet, qualify for the receipt of federal funds, and cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. KRS 199.896(2) authorizes the Cabinet for Health and Family Services to promulgate administrative regulations to establish license fees and standards for a child-care center. KRS 199.896(6) requires the cabinet to establish an informal dispute resolution process. This administrative regulation establishes licensure standards for a child-care center and describes the informal dispute resolution process.

Section 1. Definitions. (1) "Applicant" means an individual or entity applying to become a licensee or renew status as a licensee["~~Address check" means a cabinet search of the Sex Offender Registry to determine if a person's residence is a known address of a registered sex offender~~].

(2) "Cabinet" is defined by KRS 199.011(3) and 199.894(1).

(3) "Child" is defined by KRS 199.011(4).

(4) "Child care" means care of a child in a center or home that regularly provides full or part-time care, day or night, and includes developmentally appropriate play and learning activities.

(5) "Child-care center" is defined by KRS 199.894(3).

(6) "Director" means an individual who meets the education and training requirements established in Section 10 of this administrative regulation.

(7)[~~(5)~~] "Finding of fraud" means a suspected intentional program violation referred in accordance with 922 KAR 2:020, Section 4(4)(a)1, that is accepted for investigation and substantiated by the cabinet's Office of Inspector General.

(8) "Health professional" means a person actively licensed as a:

(a) Physician;

(b) Physician assistant;

(c) Advanced practice registered nurse; or

(d) Registered nurse as defined by KRS 314.011(5) under the supervision of a physician or advanced practice registered nurse.

(9) "Infant" means a child who is less than twelve (12) months of age.

(10)[~~(6)~~] "Licensee" means the owner or[~~and~~] operator of a child-care center to include:

(a) Sole proprietor;

(b) Corporation;

(c) Limited liability company;

(d) Partnership;

(e) Association; or

(f) Organization, such as:
1. Board of education,
2. Private school;
3. Faith-based organization;
4. Government agency; or
5. Institution.
(11)[~~(7)~~] "Nontraditional hours" means the hours of:
(a) 7 p.m. through 5 a.m. Monday through Friday; or
(b) 7 p.m. on Friday until 5 a.m. on Monday.
(12)[~~(8)~~] "Parent" is defined by 45 C.F.R. 98.2.
(13) "Parental or family participation" means a child-care center's provision of information or inclusion of a child's parent in the child-care center's activities, including:
(a) Distribution of a newsletter;
(b) Distribution of a program calendar; or
(c) A conference between the provider and a parent.
(14) "Pediatric abusive head trauma" is defined by KRS 620.020(8).
(15)[~~(9)~~] "Premises" means the building and contiguous property in which child care is licensed.
(16) "Preschool-age" means a child who is older than a toddler and younger than school-age.
(17) "Qualified substitute" means a person who meets the requirements of a staff person established in Section 11 of this administrative regulation.
(18) "School-age" means a child who meets the age requirements of KRS 158.030 or who attends kindergarten, elementary, or secondary education.
(19)[~~(10)~~] "Secretary" is defined by KRS 199.011(16)[~~(1)~~].
(20) "Toddler" means a child between the age of twelve (12) and thirty-six (36) months[~~(11)"Sex Offender Registry" means the registration system for adults who have committed sex crimes or crimes against minors established in accordance with KRS 17.500 through 17.580~~].

Section 2. Child-care Centers. The following child-care centers shall meet the requirements of this administrative regulation:
(1) A Type I child-care center. This child-care center shall be licensed to regularly provide child care services for:
(a) Four (4) or more children in a nonresidential setting; or
(b) Thirteen (13) or more children in a designated space separate from the primary residence of a licensee; and
(2) A Type II child-care center. This child-care center shall be primary residence of the licensee in which child care is regularly provided for seven (7), but not more than twelve (12), children including children related to the licensee.

Section 3. Exempt Child Care Settings. The following child-care settings shall be exempt from licensure requirements of this administrative regulation,[~~922 KAR 2:110, and~~] 922 KAR 2:120, and 922 KAR 2:280:
(1) Summer camps certified by the cabinet as youth camps that[~~which~~] serve school-age children;
(2) Kindergarten through grade 12 in private schools while school is in session;
(3) All programs and preschools regulated by the Kentucky Department of Education governed by KRS Chapter 157;

(4) Summer programs operated by a religious organization that[~~which~~] a child attends no longer than two (2) weeks;

(5) Child care provided while parents are on the premises, other than the employment and educational site of parents;

(6) Child care programs operated by the armed services located on an armed forces base;

(7) Child care provided by educational programs that include parental involvement with the care of the child and the development of parenting skills;

(8) Facilities operated by a religious organization while religious services are being conducted;[~~and~~]

(9) A program providing instructional and educational programs **that**:

(a) **Operates[~~That operates~~]** for a maximum of twenty (20) hours per week; and

(b) **A[~~That~~]**[~~Which~~]**[a]** child attends for no more than ten (10) hours per week;

(10) A child-care center that meets requirements of KRS 199.896(19) or (20); and

(11) An after-school program, which is:

(a) A continuation of the school day during the academic year;

(b) Operated and staffed by an accredited private or public school under the purview of the Kentucky Department of Education; and

(c) Not participating in the Child Care Assistance Program in accordance with 922 KAR 2:160.

Section 4. Application. (1) An applicant for a license shall submit to the cabinet a completed OIG-DRCC-01, Initial Child-Care Center License Application.

(2) Approval of an applicant for initial licensure shall result in the issuance of a preliminary license for a probationary period not to exceed six (6) months.

(3) The issuance of a preliminary license, or the issuance or reapproval of a regular license, shall be governed under the provisions of this section and Sections 6 and[~~5 through~~] 7 of this administrative regulation.

(4) If the applicant for licensure is a:

(a) Corporation or a limited liability company, the application shall include a current certificate of existence or authorization from the Secretary of State; or

(b) Partnership, the application shall include:

1. A written statement from each partner assuring that the partnership is current and viable; and

2. Proof that each individual is twenty-one (21) years or older by photo identification or birth certificate.

(5) If the status of a corporation, partnership, or ownership of the child-care center changes, the new entity shall submit a completed OIG-DRCC-01.

(6) If ownership of a child-care center changes and the cabinet approves preliminary licensure upon inspection of the child-care center under the new ownership, the effective date on the preliminary license shall be the date of the approved inspection under the new ownership.

(7) The cabinet shall return the OIG-DRCC-01 and accompanying fee to an applicant if the applicant:

(a) Has an ownership interest in a facility that is licensed or regulated by the cabinet, and that is subject to a finding of fraud or is involved in an[~~other~~] investigation of alleged fraud by:

1. The cabinet's Office of Inspector General; or

2. An agency with investigative authority; and

(b) Is requesting a:

1. Change in ownership; or

2. License for a new facility.

(8) An applicant**[~~or an applicant's lead representative~~]** shall submit to background checks in accordance with 922 KAR 2:280[~~Section 6(5) of this administrative regulation to confirm compliance with Section 11(7)(j) of this administrative regulation even if the applicant for licensure is not described in Section 6(4) of this administrative regulation~~].

(9) A child may include a person eighteen (18) years of age if the person has a special need for which child care is required.

Section 5. Evacuation Plan. (1) A licensed child-care center shall have a written evacuation plan in the event of a fire, natural disaster, or other threatening situation that may pose a health or safety hazard for a child in care in accordance with KRS 199.895 and 42 U.S.C. 9858c(c)(2)(U).

(2) The cabinet shall post an online template of an evacuation plan that:

(a) Fulfills requirements of KRS 199.895;

(b) Is optional for a child-care center's use; and

(c) Is available to a licensed child-care center without charge.

Section 6. License Issuance. (1) The cabinet shall monitor a child-care center that operates under a preliminary license issued pursuant to Section 4(2) of this administrative regulation.

(2) Upon completion of the probationary period required in Section 4(2) of this administrative regulation, the cabinet shall:

(a) Approve regular licensure for a child-care center operating under a preliminary license; or

(b) If a condition specified in Section 16[~~11~~] of this administrative regulation exists, deny regular licensure.

(3) A preliminary or regular license shall not be issued unless each background check required by 922 KAR 2:280[~~KRS 199.896(19)~~] has been completed on behalf of an applicant for licensure.

(4) Background checks in accordance with 922 KAR 2:280 shall apply to:

(a) An applicant**[~~or an applicant's representative~~]**;

(b) A director;

(c)[~~(b)~~] An employee**[~~or volunteer~~]** who is present during the time a child is receiving care;

(d)[~~(c)~~] Any person with supervisory or disciplinary control over a child in care; or

(e) A[~~(d) Any~~] person in accordance with 42 U.S.C. 9858f and 45 C.F.R. 98.43[~~having unsupervised contact with a child in care~~].

(5)[~~An individual described in subsection (4) of this section shall:~~

~~(a) Submit to background checks described in paragraph (b) of this subsection;~~

~~(b) May be employed or work with a child on a probationary basis for up to ninety (90) calendar days, pending completion of a:~~

~~1. Child abuse or neglect check using the central registry in accordance with 922 KAR 1:470;~~

~~2. Criminal records check required by KRS 199.896(19);~~

~~3. Criminal records check for any previous state of residence if the person resided outside the state of Kentucky in the last five (5) years; and~~

~~4. An address check of the Sex Offender Registry; and~~

~~(c) Not be left alone in the presence of a child until copies of the background checks in accordance with paragraph (b) of this subsection have been received by the licensee.~~

~~(6) Upon completion of background checks described in subsection (4)(b) of this section, a licensee shall discharge immediately:~~

~~(a) An individual whose name is listed on the central registry established by 922 KAR 1:470;~~

~~(b) An individual who has been convicted of, or has entered an Alford plea or a plea of guilty to, a crime in accordance with KRS 17.165;~~

~~(c) An individual who is confirmed by an address check of the Sex Offender Registry and supporting documentation as a registered sex offender;~~

~~(d) An individual who has been convicted of, or entered an Alford plea or plea of guilty to, a drug-related felony, and five (5) years has not elapsed since the person was fully discharged from imprisonment, probation, or parole;~~

~~(e) A director who has been convicted of, or entered an Alford plea or a plea of guilty to, a felony offense involving fraud, embezzlement, theft, or forgery; and~~

~~(f) An individual who has been convicted of, or has entered an Alford plea or a plea of guilty to, an offense under a criminal statute of the United States or of another state similar to an offense specified in this subsection.~~

~~(7) An individual who has been convicted of, or entered an Alford plea or a plea of guilty to, a nonviolent felony or misdemeanor not specified in this section shall be handled on a case-by-case basis by the licensee with consideration given to the:~~

~~(a) Nature of the offense;~~

~~(b) Length of time that has elapsed since the event; and~~

~~(c) Individual's life experiences after conviction, Alford plea, or guilty plea.~~

~~(8)~~] If an applicant for licensure has had a previous ownership interest in a child-care provider that[~~which~~] has had a prior certification, license, **or** registration**[~~, or permit to operate~~]** denied,**[~~suspended,~~]** revoked, or voluntarily relinquished as a result of an investigation or pending adverse action, the cabinet shall grant the applicant a license if:

(a) A seven (7) year period has expired from the:

1. Date of the prior denial**[~~, suspension,~~]** or revocation;

2. Date the certification, license, **or** registration**[~~, or permit~~]** was voluntarily relinquished as a result of an investigation or pending adverse action;

3. Last day of legal remedies being exhausted; or

4. Administrative hearing decision; and

(b) The applicant has:

1. Demonstrated compliance with the provisions of this administrative regulation,[~~922 KAR 2:110,~~] 922 KAR 2:120, 922 KAR 2:280, and KRS 199.896;

2. Completed, since the time of the prior denial,**[~~suspension,~~]** revocation, or relinquishment, sixty (60) hours of training in child development and child care practice, approved by the cabinet or its designee; and

3. Not had an application, certification, license, **or** registration**[~~, or permit~~]** denied, revoked,**[~~suspended,~~]** or voluntarily relinquished as a result of an investigation or pending adverse action:

a. For one (1) of the reasons set forth in:

(i) KRS 199.896(19); or

(ii) 922 KAR 2:280[~~Subsection (6) of this section; or~~

~~(iii) Section 11(2) or 11(7)(j) of this administrative regulation~~]; or

b. Due to a disqualification from:

(i) The Child Care Assistance Program established by 922 KAR 2:160, including an intentional program violation in accordance with 922 KAR 2:020; or

(ii) Another governmental assistance program for fraud,[~~or~~] abuse, or criminal conviction related to[~~of~~] that program.

(6)[~~(9)~~] If a license is granted after the seven (7) year period specified in subsection (5)(a)[~~(8)(a)~~] of this section, the licensee shall serve a two (2) year probationary period during which the child-care center shall be inspected no less than semi-annually[~~on at least a quarter-~~

~~ly basis~~].

(7)[~~(10)~~] A preliminary or regular license shall specify:

(a) A particular premises;

(b) A designated licensee;

(c) Age category of the children in care;

(d) The maximum number of children allowed under center supervision at one (1) time, including a child related to the licensee or an employee, based upon:

1. Available space as determined by the State Fire Marshal's Office in conjunction with the cabinet;

2. Adequacy of program;

3. Equipment; and

4. Staff;

(e) If provided, nontraditional hours;

(f) If provided, transportation; and

(g) A list of services to be provided by the child-care center.

(8)[~~(11)~~] To qualify for a preliminary license, or maintain a regular license, a child-care center shall:

(a) Provide written documentation from the local authority showing compliance with local zoning requirements;

(b) Be approved by the Office of the State Fire Marshal or designee;

(c) Have an approved water and sewage system in accordance with local, county, and state laws;

(d) Provide written proof of liability insurance coverage of at least $100,000 per occurrence;

(e) Comply with provisions of this administrative regulation,[~~922 KAR 2:110, and~~] 922 KAR 2:120, and 922 KAR 2:280;

(f) Cooperate with the cabinet, the cabinet's designee, or another agency with regulatory authority during:

1. An investigation of an alleged complaint, including an allegation of child abuse or neglect pursuant to KRS 620.030(4); and

2. Unannounced inspections; and

(g) Have a director who meets the requirements listed in Section 10 of this administrative regulation[~~922 KAR 2:110~~].

(9)[~~(12)~~] A child-care center shall allow the cabinet or its designee, another agency with regulatory authority, and a parent of an enrolled child unannounced access to the child-care center during the hours of operation.

(10)[~~(13)~~] Denial of access, including any effort to delay, interfere with, or obstruct an effort by a representative of the cabinet or another agency with regulatory authority, to enter the child-care center or deny access to records relevant to the inspection shall result in the cabinet pursuing adverse action in accordance with Section 15, 16, or 17[~~10, 11, or 12~~] of this administrative regulation.

(11)[~~(14)~~] A regular license shall be issued[~~and reapproved~~] if the center has met the requirements contained in this administrative regulation,[~~922 KAR 2:110,~~] 922 KAR 2:120, 922 KAR 2:280, and KRS 199.896(3), (13), (15), (16), (18), and (19).

(12)[~~(15)~~] A preliminary or regular license shall not be sold or transferred.

(13)[~~(16) Changes to a child-care center as listed in 922 KAR 2:110, Section 6(4) shall be:~~

~~(a) In writing to the cabinet or its designee; and~~

~~(b) Signed by each owner listed on the preliminary or regular license.~~

~~(17) The cabinet or its designee shall not charge a fee for acting upon reported changes.~~

~~(18) The preliminary or regular license shall be posted in a conspicuous place in the child-~~

~~care center.~~

~~(19)~~] A child-care center shall not begin operation without a preliminary license to operate from the cabinet.

(14)[~~(20)~~] A child-care center operating without a preliminary or regular license shall be subject to legal action.

(15)[~~(21)~~] The voluntary relinquishment of a preliminary or regular license shall not preclude the cabinet's pursuit of adverse action.

Section 7. Fees. (1) A nonrefundable initial licensing fee of fifty (50) dollars shall be charged according to KRS 199.896(3).

(2) A nonrefundable renewal fee of twenty-five (25) dollars shall be charged in accordance with KRS 199.896(3).

(3) Licensing fees shall be:

(a) Payable to the Kentucky State Treasurer;

(b) Attached to the licensure application; and

(c) Paid by:

1. Cashier's check;

2. Certified check;[~~or~~]

3. Business check; or

4. Money order.

Section 8. General. (1) A licensee shall be responsible for the operation of the child-care center pursuant to this administrative regulation, 922 KAR 2:120, and 922 KAR 2:280.

(2) Child-care center staff shall be:

(a) Instructed by the child-care center's director regarding requirements for operation; and

(b) Provided with a copy of this administrative regulation, 922 KAR 2:120, and 922 KAR 2:280.

(3) A volunteer or board member shall comply with the policies and procedures of the child-care center.

(4) Program policies and procedures shall:

(a) Be in writing; and

(b) Include:

1. Staff policies;

2. Job descriptions;

3. An organization chart;

4. Chain of command; and

5. Other procedures necessary to ensure implementation of:

a. KRS 199.898, Rights for children in child-care programs and their parents, custodians, or guardians - posting and distribution requirements;

b. 922 KAR 2:120, Child-care center health and safety standards;

c. 922 KAR 2:280, Background checks for child care staff members, reporting requirements, and appeals; and

d. This administrative regulation.

(5) An activity of a person living in a child-care center that is a dwelling unit shall not interfere with the child-care center program.

(6) In addition to the posting requirement of KRS 199.898(3), a child-care center shall post the following in a conspicuous place and make available for public inspection:

(a) The provider's preliminary or regular license;

(b) Each statement of deficiency and civil penalty notice issued by the cabinet during the

current licensure year;

(c) Each plan of correction submitted by the child-care center to the cabinet during the current licensure year;

(d) Information on the Kentucky Consumer Product Safety Program and the program's Web site as specified in KRS 199.897;

(e) A description of services provided by the child-care center, including:

1. Current rates for child care; and

2. Each service charged separately and in addition to the basic rate for child care;

(f) Minimum staff-to-child ratios and group size established in 922 KAR 2:120; and

(g) Daily planned program.

(7) If a director, employee, volunteer, or any person with supervisory or disciplinary control over, or having unsupervised contact with a child in care is named as the alleged perpetrator in a child abuse or neglect report accepted by the cabinet in accordance with 922 KAR 1:330, the individual shall be removed from direct contact with a child in care:

(a) For the duration of the assessment or investigation; and

(b) Pending completion of the administrative appeal process for a cabinet substantiation of child abuse or neglect in accordance with 922 KAR 1:320 or 922 KAR 1:480.

Section 9. Records. (1) A child-care center shall maintain:

(a) A current immunization certificate for each child in care within thirty (30) days of the child's enrollment, unless an attending physician or the child's parent objects to the immunization of the child pursuant to KRS 214.036;

(b) A written record for each child:

1. Completed and signed by the child's parent;

2. Retained on file on the first day the child attends the child-care center; and

3. To contain:

a. Identifying information about the child, which includes, at a minimum, the child's name, address, and date of birth;

b. Contact information to enable a person in charge to contact the child's:

(i) Parent at the parent's home or place of employment;

(ii) Family physician; and

(iii) Preferred hospital;

c. The name of each person who is designated in writing to pick-up the child;

d. The child's general health status and medical history including, if applicable:

(i) Allergies;

(ii) Restriction on the child's participation in activities with specific instructions from the child's parent or health professional; and

(iii) Permission from the parent for third-party professional services in the child-care center;

e. The name and phone number of each person to be contacted in an emergency involving or impacting the child;

f. Authorization by the parent for the child-care center to seek emergency medical care for the child in the parent's absence; and

g. A permission form for each trip off the premises signed by the child's parent in accordance with 922 KAR 2:120, Section 12;

(c) Daily attendance records documenting the arrival and departure time of each child, including records that are required in accordance with 922 KAR 2:160, Section 13, if a child receives services from the child-care center through the Child Care Assistance Program;

(d) A written schedule of staff working hours;

(e) A current personnel file for each child-care center staff person to include:

1. Name, address, date of birth, and date of employment;
2. Proof of educational qualifications;
3. Record of annual performance evaluation;
4. Documentation of compliance with tuberculosis screening in accordance with Section 11(1)(b) of this administrative regulation; and
5. The results of background checks conducted in accordance with 922 KAR 2:280;
(f) A written annual plan for child-care staff professional development;
(g) A written evacuation plan in accordance with Section 5 of this administrative regulation;
(h) A written record of quarterly practiced earthquake drills and tornado drills detailing the date, time, and children who participated in accordance with 922 KAR 2:120, Section 3;
(i) A written record of practiced fire drills conducted monthly detailing the date, time, and children who participated in accordance with 922 KAR 2:120, Section 3;
(j) A written plan and diagram outlining the course of action in the event of a natural or manmade disaster, posted in a prominent place;
(k) A written record of reports to the cabinet required in Section 12 of this administrative regulation; and
(l) A written record of transportation services provided in accordance with 922 KAR 2:120, Section 12.
(2) A child-care center shall:
(a) Maintain the confidentiality of a child's record and information concerning a child or the child's parent;
(b) Maintain all records for five (5) years; and
(c) Provide the cabinet access and information in the completion of the investigation pursuant to KRS 620.030(4) and (5).

Section 10. Director Requirements and Responsibilities. (1) A director shall:
(a) Be at least twenty-one (21) years of age;
(b) Have a high school diploma, a general equivalency diploma (GED), or qualifying documentation from a comparable educational entity;
(c) Not be employed in a position other than an onsite child care director, or director of multiple facilities, during the hours the child-care center is in operation;
(d) Ensure:
1. Compliance with 922 KAR 2:120, 922 KAR 2:280, and this administrative regulation; and
2. The designation of one (1) adult staff person in charge to carry out the director's duties if the director is not present in the child-care center during operating hours. The director shall be responsible for the actions of the designee during the director's absence;
(e) Manage the staff in their individual job descriptions;
(f) Assure the development, implementation, and monitoring of child-care center plans, policies, and procedures;
(g) Supervise staff conduct to ensure implementation of program policies and procedures;
(h) Post a schedule of daily activities, to include dates and times of activities to be conducted with the children in each classroom;
(i) Conduct, manage, and document in writing recurring staff meetings;
(j) Assess each staff person's interaction with children in care and classroom performance through an annual written performance evaluation;
(k) Assure that additional staff are available during cooking and cleaning hours, if necessary, to maintain staff-to-child ratios pursuant to 922 KAR 2:120;
(l) Assure the health, safety, and comfort of each child;
(m) Notify the parent immediately of an accident or incident requiring medical treatment of a

child;

(n) Assure that a person acting as a caregiver of a child in care shall not be left alone with a child, if the licensee has not received the results of the background checks as described in 922 KAR 2:280;

(o) Assure each mandatory record specified in Section 9 of this administrative regulation has not been altered or falsified;

(p) Coordinate at least one (1) annual activity involving parental or family participation; and

(q) Not have had previous ownership interest in a child-care provider that had its certification, license, or registration**[~~, or permit to operate~~]** denied**[~~, suspended,~~]** or revoked.

(2) The director of a Type I child-care center shall meet one (1) of the following educational requirements:

(a) Master's degree in education or child development field;

(b) Bachelor's degree in education or child development field;

(c) Master's degree or a bachelor's degree in a field other than education or child development, including a degree in pastoral care and counseling, plus twelve (12) clock hours of child development training;

(d) Associate degree in Early Childhood Education and Development;

(e) Associate degree in a field other than Early Childhood Education and Development, plus twelve (12) clock hours of child development training, and two (2) years of verifiable full-time paid experience working directly with children;

(f) A Director's Credential in Early Childhood Development and one (1) year of verifiable full-time paid experience working directly with children in:

1. A school-based program following Department of Education guidelines;

2. An early childhood development program, such as Head Start; or

3. A licensed or certified child-care program;

(g) Child development associate plus one (1) year of verifiable paid experience working directly with children in:

1. A school-based program following Department of Education guidelines;

2. An early childhood development program, such as Head Start; or

3. A licensed or certified child-care program; or

(h) Three (3) years of verifiable full-time paid experience working directly with children in:

1. A school-based program following Department of Education guidelines;

2. An early childhood development program, such as Head Start; or

3. A licensed or certified child-care program.

(3) The director of a Type II child-care center shall:

(a) Meet the requirements in subsection (2) of this section; or

(b) Meet two (2) of the following:

1. Have twelve (12) hours of orientation and child development training;

2. Have one (1) year of verifiable full-time paid experience working directly with children in:

a. A school-based program following Department of Education guidelines;

b. An early childhood development program, such as Head Start; or

c. A licensed or certified child-care program; or

3. Obtain six (6) additional hours of training in child day care program administration.

Section 11. Staff Requirements. (1) Child-care center staff:

(a) Hired after January 1, 2009, who have supervisory power over a minor and are not enrolled in secondary education, shall have a:

1. High school diploma;

2. GED or qualifying documentation from a comparable educational entity; or

3. Commonwealth Child Care Credential as described in 922 KAR 2:250; and

(b) Shall provide, prior to employment and every two (2) years thereafter:

1. A statement from a health professional that the individual is free of active tuberculosis; or

2. A copy of negative tuberculin results.

(2)(a) A child-care center shall not employ a person:

1. With a disqualifying background check result in accordance with 922 KAR 2:280; or

2. Determined by a physician to have a health condition that renders the person unable to care for children.

(b) An individual described in Section 6(4) of this administrative regulation shall report to the licensee if the individual:

1. Meets a disqualifying criterion or has a disqualifying background check result as specified in 922 KAR 2:280;

2. Is the subject of a cabinet child abuse or neglect investigation; or

3. Is determined by a physician to have a health condition that renders the person unable to care for children.

(3) For a child-care center licensed for infant, toddler, or preschool-age children, at least one (1) person on duty and present with the children shall be currently certified by a cabinet-approved training agency in the following skills:

(a) Infant and child cardiopulmonary resuscitation; and

(b) Infant and child first aid.

(4) For a child-care center licensed for school-age children, at least one (1) person on duty and present with the children shall be currently certified by a cabinet-approved training agency in the following skills:

(a) Adult cardiopulmonary resuscitation; and

(b) First aid.

(5) Cardiopulmonary resuscitation (CPR) and first aid training shall be in addition to the fifteen (15) clock hours requirement in subsection (16) of this section.

(6) Child-care centers shall have available in case of need:

(a) One (1) qualified substitute staff person for a Type II child-care center; or

(b) Two (2) qualified substitute staff persons for a Type I child-care center.

(7) Each qualified substitute staff person shall:

(a) Meet the staff requirements of this administrative regulation; and

(b) Provide the required documentation to verify compliance with this administrative regulation.

(8) A qualified substitute who works in more than one (1) licensed child-care center shall provide the required documentation to verify compliance with this administrative regulation at the time of employment with each child-care center.

(9) If the operator of a Type II child-care center is unable to provide care in accordance with this administrative regulation, 922 KAR 2:280, or 922 KAR 2:120, the Type II child-care center shall:

(a) Close temporarily until the operator is able to resume compliance; and

(b) Immediately notify parents of enrolled children of the temporary closure.

(10) The minimum number of adult workers in a child-care center shall be sufficient to ensure that:

(a) Minimum staff-to-child ratios in accordance with 922 KAR 2:120 are followed;

(b) Each staff person under eighteen (18) years of age and each student trainee are under the direct supervision of a qualified staff person who meets the requirements of this section; and

(c) Unless providing care with a qualified staff person, a person under the age of eighteen

(18) shall not be counted as staff for the staff-to-child ratio.

(11) Except for medication as prescribed by a physician, a controlled substance shall not be permitted on the premises during hours of operation.

(12) Alcohol shall:

(a) Not be consumed by any person on the licensed child-care center's premises during hours of operation; and

(b) Be kept out of reach and sight of a child in care.

(13) Each staff person shall remain awake while on duty except as specified in 922 KAR 2:120, Section 2(11)(f).

(14) For each adult residing at a Type II child-care center, the results of the following shall be maintained on file at the center:

(a) Background checks conducted in accordance with 922 KAR 2:280; and

(b) A copy of negative tuberculin results or a health professional's statement documenting that the adult is free of tuberculosis. Every two (2) years, the adult shall provide negative tuberculin results or health professional's statement documenting that the adult is free of tuberculosis.

(15) If a new adult begins residing in a Type II child-care center, the adult shall submit to background and health checks within thirty (30) calendar days of residence within the household.

(16) In accordance with KRS 199.896(15) and (16), a staff person with supervisory authority over a child shall complete the following:

(a) Six (6) hours of cabinet-approved orientation within the first three (3) months of employment;

(b) Nine (9) hours of cabinet-approved early care and education training within the first year of employment, including one and one-half (1 1/2) hours of cabinet-approved pediatric abusive head trauma training; and

(c) Fifteen (15) hours of cabinet-approved early care and education training during each subsequent year of employment, including one and one-half (1 1/2) hours of cabinet-approved pediatric abusive head trauma training completed once every five (5) years.

(17) A staff person's compliance with training requirements of this section shall be verified through the cabinet-designated database maintained pursuant to 922 KAR 2:240.

Section 12. Reports. (1) The following shall be reported to the cabinet or designee and other agencies specified in this section within twenty-four (24) hours from the time of discovery:

(a) Communicable disease, which shall also be reported to the local health department pursuant to KRS 214.010;

(b) An accident or injury to a child that requires medical care initiated by the child-care center or the child's parent;

(c) An incident that results in legal action by or against the child-care center that:

1. Affects a child or staff person; or

2. Includes the center's discontinuation or disqualification from a governmental assistance program due to fraud, abuse, or criminal conviction related to that program;

(d) An incident involving fire or other emergency, including a vehicular accident when the center is transporting a child receiving child care services;

(e) A report of child abuse or neglect that:

1. Has been accepted by the cabinet in accordance with 922 KAR 1:330; and

2. Names a director, employee, volunteer, or person with supervisory or disciplinary control over, or having unsupervised contact with a child in care as the alleged perpetrator; or

(f) An individual specified in Section 6(4) of this administrative regulation meeting a disquali-

fying criterion or background check result pursuant to 922 KAR 2:280.

(2) An incident of child abuse or neglect shall be reported to the cabinet pursuant to KRS 620.030.

(3) A licensee shall report to the cabinet within one (1) week:

(a) Any resignation, termination, or change of director; and

(b) The name of the acting director who satisfies the requirements of Section 10 of this administrative regulation.

(4)(a) Written notification of the following shall be:

1. Made to the cabinet, in writing, to allow for approval before implementation:

a. Change of ownership;

b. Change of location;

c. Increase in capacity;

d. Change in hours of operation;

e. Change of services in the following categories:

(i) Infant;

(ii) Toddler;

(iii) Preschool-age;

(iv) School-age;

(v) Nontraditional hours; or

(vi) Transportation; or

f. Addition to or reduction of the square footage of a child-care center's premises; and

2. Signed by each owner listed on the preliminary or regular license.

(b) The cabinet or its designee shall not charge a fee for acting upon reported changes.

(5) The death of a child in care shall be reported to the cabinet within one (1) hour.

(6) The cabinet and the parent of a child enrolled in a child-care center shall receive notice as soon as practicable, and prior to, a child-care center's temporary or permanent closure.

Section 13. Annual Renewal[~~Reapproval~~]. (1)(a) A regular license shall expire one (1) year from the effective date or last renewal date unless the licensee renews the regular license in accordance with this section and KRS 199.896(3).

(b) A preliminary license shall expire six (6) months from the date of issuance.

(c) A regular license that expires shall lapse and shall not be subject to appeal.

(2) A licensee seeking renewal[~~reapproval~~] of a regular license shall:

(a) Submit one (1) month prior to the anniversary of the regular license's effective date[~~, one (1) month prior to license expiration~~], an OIG-DRCC-06, Child-Care Center License Renewal Form[~~OIG-DRCC-01~~]; [~~and~~]

(b) Meet the requirements specified in Sections 4 through 12[~~7~~] of this administrative regulation; and

(c) Pay the nonrefundable renewal fee in accordance with **Section 7 of this administrative regulation[~~KRS 199.896(3)~~]**.

(3)[~~(2)~~] If requirements of subsection (1) of this section are met, the cabinet shall renew the license in the form of a validation letter.

(4)[~~(3)~~] An application for renewal shall be denied in accordance with Section 16[~~11~~] of this administrative regulation.

Section 14[~~9~~]. Statement of Deficiency and Corrective Action Plans. (1) If a center is found not to be in regulatory compliance, the cabinet or its designee shall complete a written statement of deficiency in accordance with KRS 199.896(5).

(2) Except for a violation posing an immediate threat as handled in accordance with KRS

199.896(5)(c), a child-care center shall submit a written corrective action plan to the cabinet or its designee within fifteen (15)[~~ten (10)~~] calendar days of the date[~~receipt~~] of the statement of deficiency to eliminate or correct the regulatory violation.

(3) A corrective action plan shall include:

(a) Specific action undertaken to correct a violation;

(b) The date action was or shall be completed;[~~and~~]

(c) Action utilized to assure ongoing compliance;

(d) Supplemental documentation requested as a part of the plan; and

(e) Signature of the licensee or designated representative of the licensee and the date of signature.

(4) The cabinet or its designee shall review the plan and notify the child-care center within thirty (30) calendar days of receipt of the plan, in writing, of the decision to:

(a) Accept the plan;

(b) Not accept the plan; or

(c) Deny, suspend, or revoke the child-care center's license, in accordance with Section 16[~~11~~] of this administrative regulation.

(5) A notice of unacceptability shall state the specific reasons the plan is unacceptable.

(6) A child-care center notified of the unacceptability of its plan shall:

(a) Within fifteen[~~ten (10)~~] calendar days of the notification's date[~~notification~~], submit an amended plan; or

(b) Have its license revoked or denied for failure to:

1. Submit an acceptable amended plan in accordance with KRS 199.896(4); or

2. Implement the corrective measures identified in the plan of correction.

(7) The cabinet shall not review or accept more than three (3) corrective action plans from a licensed child-care center in response to the same written statement of deficiency[~~Following two (2) unacceptable plans of correction, in a forty-five (45) calendar day period, the cabinet may deny or revoke an application for licensure or license~~].

(8) If a licensed child-care center fails to submit an acceptable corrective action plan or does not implement corrective measures in accordance with the corrective action plan, the cabinet shall deny or revoke the center's license.

(9) The administrative regulatory violation reported on a statement of deficiency that poses an immediate threat to the health, safety, or welfare of a child shall be corrected within five (5) working days from the date of the statement of deficiency in accordance with KRS 199.896(5)(c).

Section 15[~~10~~]. Directed Plan of Correction (DPOC) [~~Intermediate Sanctions~~].[~~(1)~~] If the cabinet determines that a child-care center is in violation of this administrative regulation, [~~922 KAR 2:110, or~~] 922 KAR 2:120, or 922 KAR 2:280,[~~the cabinet may,~~] based on the severity of the violation, the cabinet:

(1) Shall[~~(a) Require the provider to participate in additional training;~~
~~(b) Increase the frequency of monitoring by cabinet staff;~~
~~(c)~~] enter into an agreement with the provider detailing the requirements for remedying a violation and achieving compliance;

(2) Shall[~~or (d)~~] notify or require the provider to notify a parent of a child who may be affected by the situation for which a DPOC[~~an intermediate sanction~~] has been imposed;

(3) Shall increase the frequency of monitoring by cabinet staff;

(4) May require the provider to participate in additional training; and

(5) May amend the agreement with the provider if the cabinet identifies an additional violation during the DPOC.[~~(2) An intermediate sanction shall result in a suspension or revocation~~

~~of the license if a child-care center:~~

~~(a) Fails to meet a condition of the intermediate sanction; or~~

~~(b) Violates a requirement of an intermediate sanction.~~]

Section 16[~~11~~]. Basis for Denial, Suspension or Revocation. (1)(a) The cabinet shall deny, suspend, or revoke a preliminary or regular license in accordance with KRS 199.896[~~(4) and (19)~~] if the applicant for licensure, director, employee, or a person who has supervisory authority over, or unsupervised contact with, a child fails to meet the requirements of this administrative regulation,[~~or those of 922 KAR 2:110 or~~] 922 KAR 2:120, 922 KAR 2:280, or 922 KAR 2:190.

(b) A licensee whose regular license is suspended or revoked shall:

1. Receive a new license certificate indicating that the license is under adverse action; and

2. Post the new license certificate in accordance with Section 8(6) of this administrative regulation.

(2)[~~For the purposes of KRS 199.896(19), an applicant who has been found by the cabinet to have abused or neglected a child shall mean an individual who is listed on the central registry described in 922 KAR 1:470.~~

~~(3) An individual described in Section 6(4) of this administrative regulation shall report to the licensee if:~~

~~(a) Convicted of, or entered an Alford or guilty plea to:~~

~~1. A violent crime or sex crime in accordance with KRS 17.165; or~~

~~2. A crime specified in Section 6(6) of this administrative regulation;~~

~~(b) The subject of a cabinet child abuse or neglect investigation;~~

~~(c) Found by the cabinet or a court to have abused or neglected a child;~~

~~(d) Convicted of, or entered an Alford or guilty plea to, a drug-related felony, and five (5) years have not elapsed since the person was fully discharged from imprisonment, probation, or parole;~~

~~(e) Placed on the Sex Offender Registry; or~~

~~(f) determined by a physician to have a health condition that renders the person unable to care for children.~~

~~(4) Each licensee shall report to the cabinet or its designee if the:~~

~~(a) licensee or an individual described in Section 6(4) of this administrative regulation meets a criterion of subsection (3) of this section; or~~

~~(b) Licensee meets a criterion of subsection (7)(j) of this section.~~

~~(5)~~] Emergency Action.

(a) The cabinet shall take emergency action in accordance with KRS 199.896(4) by issuing an emergency order that suspends a child-care center's license.

(b) An emergency order shall:

1. Be served to a licensed child-care center in accordance with KRS 13B.050(2); and

2. Specify the regulatory violation that caused the emergency condition to exist.

(c) Upon receipt of an emergency order, a child-care center shall surrender its license to the cabinet.

(d) The cabinet or its designee and the child-care center shall make reasonable efforts to:

1. Notify a parent of each child in care of the center's suspension; and

2. Refer a parent for assistance in locating alternate child care arrangements.

(e) A child-care center required to comply with an emergency order issued in accordance with this subsection may submit a written request for an emergency hearing within twenty (20)[~~five (5)~~] calendar days of receipt of the order to determine the propriety of the licensure's suspension in accordance with KRS 199.896(7).

(f) The cabinet shall conduct an emergency hearing within ten (10) working days of the request for hearing in accordance with KRS 13B.125(3).

(g)1. Within five (5) working days of completion of the hearing, the cabinet's hearing officer shall render a written decision affirming, modifying, or revoking the emergency order to suspend licensure.

2. The emergency order shall be affirmed if there is substantial evidence of an immediate threat to public health, safety, or welfare.

(h) A provider's license shall be revoked if the:

1. Provider does not request a hearing within the timeframes established in paragraph (e) of this subsection; or

2. Condition that resulted in the emergency order is not corrected within thirty (30) calendar days of service of the emergency order[~~The emergency order is upheld by the administrative hearing conducted in accordance with KRS Chapter 13B~~].

(3)[~~(6)~~] Public information shall be provided in accordance with KRS 199.896(10) and (11), and 199.898(2)(d) and (e).

(4)[~~(7)~~] Unless an applicant for a license meets requirements of Section 6(5)[~~6(8)~~] of this administrative regulation, the cabinet shall deny an applicant for a preliminary or regular license if:

(a) The applicant has had previous ownership interest in a child-care provider that[~~which~~] had its certification, license, or registration**[~~, or permit to operate~~]** denied**[~~, suspended,~~]** or revoked;

(b) Denial, investigation, or revocation proceedings were initiated, and the licensee voluntarily relinquished the license;

(c) An appeal of a denial**[~~, suspension,~~]** or revocation is pending;

(d) The applicant previously failed to comply with the requirements of KRS 199.896,[~~922 KAR 2:110,~~] 922 KAR 2:120, 922 KAR 2:280, 922 KAR 2:190,[~~or~~] this administrative regulation, or another administrative regulation effective at the time;

(e) An individual with ownership interest in the child-care center has been discontinued or disqualified from participation in:

1. The Child Care Assistance Program established by 922 KAR 2:160, including an intentional program violation in accordance with 922 KAR 2:020; or

2. Another governmental assistance program due to fraud,[~~or~~] abuse, or criminal conviction related to[~~of~~] that program;

(f) The applicant**[~~or the applicant's representative~~]** is the parent, spouse, sibling, or child of a previous licensee whose license was denied,**[~~suspended,~~]** revoked, or voluntarily relinquished as described in paragraphs (a) through (d) of this subsection, and the previous licensee will be involved in the child-care center in any capacity;

(g) The applicant listed as an officer, director, incorporator, or organizer of a corporation or limited liability company whose child-care center license was denied,**[~~suspended,~~]** revoked, or voluntarily relinquished as described in paragraph (a) through (d) of this subsection within the past seven (7) years;

(h) The applicant knowingly misrepresents or submits false information on a form required by the cabinet;

(i) The applicant interferes with a cabinet or other agency representative's ability to perform an official duty pursuant to Section 6(8)(f)[~~6(11)(f)~~] or 6(9)[~~6(12)~~] of this administrative regulation;

(j) The applicant's background check reveals that the applicant is disqualified in accordance with 922 KAR 2:280[~~: 1. Is listed on the:~~

~~a. Central registry in accordance with 922 KAR 1:470; or~~

~~b. Sex Offender Registry; or~~

~~2. Has been convicted of, or entered an Alford or guilty plea to, a crime specified in Section 6(6) of this administrative regulation, including a felony offense involving fraud, embezzlement, theft, or forgery~~]; [~~or~~]

(k) The applicant has been[~~licensee is~~] the subject of more than two (2) directed plans of correction[~~intermediate sanctions~~] during a three (3) year period; or

(l) The applicant has failed to comply with payment provisions in accordance with 922 KAR 2:190.

(5)[~~(8)~~] A child-care center's license shall be revoked if:

(a) A representative of the center interferes with a cabinet or other agency representative's ability to perform an official duty pursuant to Section 6(8)(f)[~~6(11)(f)~~] or 6(9)[~~6(12)~~] of this administrative regulation;

(b) A cabinet representative, a representative from another agency with regulatory authority, or parent is denied access during operating hours to:

1. A child;[~~or~~]

2. The child-care center; or

3. Child-care center staff;

(c) The licensee is discontinued or disqualified from participation in:

1. The Child Care Assistance Program as a result of an intentional program violation in accordance with 922 KAR 2:020; or

2. A governmental assistance program as a result of fraud, [~~or~~] abuse, or criminal conviction related to[~~of~~] that program;

(d) The licensee fails to meet a condition of, or violates a requirement of a directed plan of correction[~~an intermediate sanction~~] pursuant to Section 15[~~10(2)~~] of this administrative regulation;

(e) The applicant or licensee knowingly misrepresents or submits false information on a form required by the cabinet; [~~or~~]

(f) The licensee is the subject of more than two (2) directed plans of correction[~~intermediate sanctions~~] during a three (3) year period; or

(g) The licensee has failed to comply with payment provisions in accordance with 922 KAR 2:190.

(6)[~~(9)~~] The cabinet or its designee shall suspend the license if:

(a) A regulatory violation is[~~violations are~~] found to[~~that~~] pose an immediate threat to the health, safety, and welfare of the children in care as described in KRS 199.896(4); or

(b) The child care-center fails to comply with the approved plan of correction[~~corrective active plan~~].

Section 17[~~12~~]. Civil Penalty. The cabinet shall assess and enforce a civil penalty in accordance with 922 KAR 2:190.

Section 18[~~13~~]. Right of Appeal. (1) If an application has been denied or a licensee receives notice of suspension**,[~~or~~]** revocation, **or civil penalty,** the cabinet shall inform the applicant for licensure or licensee by written notification of the right to appeal the notice of adverse action in accordance with KRS Chapter 13B and 199.896(7).

(2) An adverse action may be appealed by filing form OIG-DRCC-02, Licensed Request for Appeal or Informal Dispute Resolution. The request shall:

(a) Be submitted to the secretary of the cabinet or designee within twenty (20) calendar days of[~~receipt of~~] the notice of adverse action; and

(b) Specify if an applicant for licensure or licensee requests an opportunity to informally dis-

pute the notice of adverse action.

(3) If an applicant for licensure or a licensee files an OIG-DRCC-02 for a hearing, the cabinet shall:

(a) Appoint a hearing officer; and

(b) Proceed pursuant to KRS 13B.050.

(4) If an applicant for licensure or a licensee files a request for a hearing and a request for an informal dispute resolution, the cabinet shall:

(a) Abate the formal hearing pending completion of the informal dispute resolution process; and

(b) Proceed to informal dispute resolution.

Section 19[~~14~~]. Informal Dispute Resolution. (1) A request for informal dispute resolution shall:

(a) Accompany the request for a hearing;

(b) Identify the licensure deficiency in dispute;

(c) Specify the reason the applicant for licensure or licensee disagrees with the deficiency; and

(d) Include documentation that disputes the deficiency.

(2) Upon receipt of the written request for informal dispute resolution, the regional program manager or designee shall:

(a) Review documentation submitted by the applicant for licensure or licensee; and

(b) If requested, schedule an[~~a first-level~~] informal dispute resolution meeting with the applicant for licensure or licensee.

(3) The[~~first-level~~] informal dispute resolution meeting shall be held within ten (10) calendar days of receipt of the request by the cabinet, unless both parties agree in writing to an extension of time.

(4) The[~~first-level~~] informal dispute resolution meeting shall be conducted by:

(a) The regional program manager or designee; and

(b) A child care surveyor who did not participate in the survey resulting in the disputed deficiency.

(5) Within ten (10) calendar days of completion of the[~~first-level~~] informal dispute resolution meeting or request, the regional program manager or designee shall:

(a) Issue a decision by written notification to the return address specified in the request for informal dispute resolution;

(b) If a change is made to the statement of deficiencies, issue an amended statement of deficiencies; and

(c) Specify whether the adverse action has been rescinded.

(6) An applicant or a licensee may:

(a) Accept the determination; or

(b) Proceed to[~~appeal a decision issued by the regional program manager or designee by:~~

~~(a) Proceeding with~~] a hearing according to KRS 13B.050[~~; or~~

~~(b) Filing a written request for a second-level informal dispute resolution to the Director of the Division of Regulated Child Care or designee within ten (10) calendar days of receipt of the first level decision. The request shall specify whether the applicant for licensure or licensee requests a meeting with cabinet staff~~].

(7)[~~Upon receipt of the written request for second-level informal dispute resolution, the Director of the Division of Regulated Child Care or designee shall:~~

~~(a) Review the decision issued from the first-level informal dispute resolution;~~

~~(b) Review the documentation described in subsection (1)(d) of this section; and~~

~~(c) If requested, schedule a second-level informal dispute resolution meeting with the applicant for licensure or licensee.~~

~~(8) The second-level informal dispute resolution meeting shall be held within ten (10) calendar days of receipt of the request by the cabinet, unless both parties agree in writing to an extension of time.~~

~~(9) Within ten (10) calendar days of completion of the second-level informal dispute resolution meeting or request, the Director of the Division of Regulated Child Care or designee shall:~~

~~(a) Issue a decision by written notification to the return address specified in the request for second-level informal dispute resolution;~~

~~(b) If a change is made to the statement of deficiencies, issue an amended statement of deficiencies; and~~

~~(c) Specify whether the adverse action has been rescinded.~~

~~(10) If a second-level informal review is requested in lieu of a first-level informal dispute resolution meeting, the Director of the Division of Regulated Child Care or designee shall comply with the provisions of subsection (9)(a) through (c) of this section within ten (10) calendar days of receipt of the request for second-level informal dispute resolution.~~

~~(11) If an applicant for licensure or licensee is satisfied with the decision issued during informal dispute resolution, the request for a hearing shall be withdrawn.~~

~~(12) If an applicant for licensure or licensee is not satisfied with the decision issued from the second-level informal dispute resolution, the hearing previously held in abeyance shall be conducted in accordance with KRS Chapter 13B concerning the deficiencies that were reviewed in the informal review process.~~

~~(13)~~] A request for informal dispute resolution shall not:

(a) Limit, modify, or suspend enforcement action against the applicant for licensure or licensee; or

(b) Delay submission of a written plan of correction.

(8)[~~(14)~~] Emergency action taken in accordance with Section 16(2)[~~11(5)~~] of this administrative regulation shall conform to the requirements of KRS 199.896(4). The informal dispute resolution process shall not restrict the cabinet's ability to issue an emergency order to stop, prevent, or avoid an immediate threat to public health, safety, or welfare under KRS 13B.125(2) and 199.896(4).

Section 20[~~15~~]. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "OIG-DRCC-01, Initial Child-Care Center License Application", **8/2018[~~2018~~]**[~~edition 4/2013~~];[~~and~~]

(b) "OIG-DRCC-02, Licensed Request for Appeal or Informal Dispute Resolution",[~~edition~~] 8/3/12; and

(c) "OIG-DRCC-06, Child-Care Center License Renewal Form", **8/2018[~~2018~~]**.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Inspector General's Office, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

ADRIA JOHNSON, Commissioner
SCOTT W. BRINKMAN, Acting Secretary

APPROVED BY AGENCY: May 14, 2018

FILED WITH LRC: May 15, 2018 at 8 a.m.

CONTACT PERSON: Laura Begin, Legislative and Regulatory Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-B, Frankfort, Kentucky 40621, phone 502-

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REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Elizabeth Caywood, Phone (502) 564-3703, Email Elizabeth.Caywood@ky.gov, and Laura Begin

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes licensure standards for a child-care center, and describes an applicant's and a child-care center's appeal rights and informal dispute resolution processes.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish a child-care center's licensure standards, appeal rights, and informal dispute resolution process.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes through its establishment of licensure standards for a child-care center and related due process.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing the requirements for a child-care center license and related due process.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment to this administrative regulation consolidates content from 922 KAR 2:110, which is subject to concurrent repeal; adds exemptions in accordance with 2015 Ky. Acts ch. 16; aligns the administrative regulation with the Child Care and Development Fund's 2014 reauthorization, including more comprehensive background checks for child care providers per the federal law and 2017 Ky. Acts ch. 135; streamlines licensure renewal processes; clarifies due process for emergency suspensions and corrective action; replaces an intermediate sanction with a directed plan of correction; expands payment methods for licensure; and requires a child care provider to post a new license when the provider's license is subject to revocation or suspension to foster awareness by the public entering and using the center. The amendment also makes technical corrections in accordance with KRS Chapter 13A, including corresponding updates to material incorporated. The amended-after-comments version responds to multiple comments concerning changes to the definition of toddler, background checks, fees, and forms.

(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation is necessary to better support the health, safety, and welfare of children in care; respond to Red Tape Reduction comments and related agency reviews; incorporate statutory requirements and changes that have occurred since the administrative regulation's last amendment; and ensure congruency among the administrative regulations governing licensed child-care centers.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment to this administrative regulation conforms to the content of the authorizing statutes through its update and clarification of child-care center licensure standards.

(d) How the amendment will assist in the effective administration of the statutes: The amendment to this administrative regulation will assist in the effective administration of the statutes by preserving and enhancing the quality of child- care center licensure standards.

(3) List the type and number of individuals, businesses, organizations, or state and local

governments affected by this administrative regulation: An applicant for child-care center licensure or an existing licensed child-care center will be impacted by this administrative regulation. As of November 22, 2017, there were 1,980 Kentucky licensed child-care centers, both Type I and Type II.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Given the new federally mandated background check requirements applicable to licensed child-care centers, the cabinet has attempted to avoid any further impact on regulated entities, but rather, has attempted to clarify provisions of this administrative regulation and be responsive to the recently enacted legislation and the Red Tape Reduction comments and agency reviews.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The amendment to this administrative regulation should entail no new costs to licensed child-care centers.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Applicant and licensed child-care-centers and the children in their care will benefit from improved clarity, greater program integrity, and enhanced quality assurance in the child care community.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: The amendment to this administrative regulation will not result in any new initial costs to the administrative body.

(b) On a continuing basis: The amendment to this administrative regulation will not result in any new continuing costs for the administrative body.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Child Care and Development Fund Block Grant, state match and maintenance of effort for the block grant, and limited agency funds support the direct implementation of this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There is no increase in fees or funding required as a result of this amendment.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: The amended-after-comments version of this administrative regulation incorporates the fees currently prescribed in statute in anticipation of the enactment of 2018 Ky. Acts ch. 136. There is no increase or change in fees.

(9) TIERING: Is tiering applied? Tiering is not applied, because this administrative regulation will be applied in a like manner statewide.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 45 C.F.R. 98.2, 42 U.S.C. 601-619, 42 U.S.C. 9857-9858q

(2) State compliance standards. KRS 194A.050(1), 199.896(2), (6)

(3) Minimum or uniform standards contained in the federal mandate. 45 C.F.R. 98.2, 42 U.S.C. 601-619, 42 U.S.C. 9857-9858q

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This administra-

tive regulation does not impose stricter, additional or different responsibilities or requirements than those required by the federal mandate.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This administrative regulation does not impose stricter, additional or different responsibilities or requirements than those required by the federal mandate.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Cabinet for Health and Family Services is impacted by this administrative regulation. Government units and school districts operating a child care center are impacted.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050(1), 199.896(2), (6), 45 C.F.R. 98.2, 42 U.S.C. 601-619

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The amendment to this administrative regulation will generate no revenue in the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The amendment to this administrative regulation will generate no revenue in the subsequent years.

(c) How much will it cost to administer this program for the first year? There will be no additional costs to administer this program in the first year.

(d) How much will it cost to administer this program for subsequent years? There are no additional costs to administer this program in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: