

## Overview

To protect the health, safety, and welfare of children in child care settings, state law requires that any individual, corporation, or organization providing child care services must be licensed or specifically excluded from licensure. Operating a child care program without a license and without having license-exempt status is a misdemeanor. The Department of Human Services (DHS) issues licenses to child care programs and partners with county agencies to carry out licensing duties. This publication provides an overview of child care licensing in Minnesota.

The publication also describes the status of the child care regulation modernization project. The 2021 Legislature directed DHS to undertake the project, which is ongoing. The goals of the project are to update child care licensing requirements and modify how the requirements are monitored and enforced.

## Licensing authority

DHS is the state agency responsible for licensing child care programs, but child care licensing responsibilities and authorities will transfer to the Department of Children, Youth, and Families (DCYF) by July 1, 2025. As part of the transfer, the statutes governing child care licensing will be recodified. Future updates to this issue brief will reflect the new administrative and statutory structures.

## License types

Licensure of all child care programs is primarily governed by [Minnesota Statutes, chapter 245A](#), and [Minnesota Rules, chapters 9502 and 9503](#). Family and group family child care and special family child care homes—collectively referred to as family child care providers in this brief—are governed under [Minnesota Rules, chapter 9502](#), which is often referred to as “Rule 2.”

- **Family and group family child care** programs are located in residential settings. A family child care may care for ten or fewer children, and a group family child care may care for 14 or fewer children (including the children of the caregiver).<sup>1</sup> In a family or group family child care program, the license holder and the primary provider of care are typically the same person.

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<sup>1</sup> The primary differences between family and group family child care are total licensed capacity, the age distribution of children in care, and the number of adults providing care. Group family child care providers have higher licensed capacity and may have two adults providing care. In general, an adult in a group family child care setting can care for more children under school age and fewer infants and toddlers than a family child care provider.

- **Special family child care homes** serve 14 or fewer children in nonresidential settings. Specified organizations, such as churches and employers, may hold up to four special family child care home licenses to operate separate and distinct programs in nonresidential settings, which is often referred to as the “pod model.” Under such an arrangement, the license holder and the primary provider of care are typically different people.

[Minnesota Rules, chapter 9503](#), (or “Rule 3”) governs **child care centers**. Centers are located in nonresidential settings. Centers are not subject to a licensing capacity cap; rather, they may be licensed for as many children for which they can meet physical space requirements and can comply with the applicable staff-to-child ratios and group size requirements.

## Licensing requirements

To obtain and maintain a license, child care programs must show licensors that the license holder, caregivers, and the child care site comply with all applicable requirements. The nature of the requirements are similar for family child care providers and child care centers:<sup>2</sup>

- Caregivers must have specified education and experience qualifications, complete health and safety trainings, and undergo background studies.
- The program must comply with capacity, group size, and child-to-adult ratio requirements.
- The program must comply with child maltreatment reporting requirements and requirements for maintaining specified written policies and administrative records.
- The program must offer age- and development-appropriate activities that provide for the physical, intellectual, emotional, and social development of each child in care.
- The child care site must meet space and equipment requirements and comply with applicable building codes, fire and safety codes, health rules, and zoning ordinances.

## Roles of state and local governments in the licensing process

DHS and county agencies each have licensing duties. DHS is responsible for issuing licenses and conducting background studies of staff for all child care programs. DHS is also responsible for imposing sanctions on any programs that are not in compliance with licensing requirements. Additionally, DHS performs licensing functions for child care centers, which include conducting initial and annual licensing inspections, investigating alleged licensing violations or child

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<sup>2</sup> For detailed information about licensing requirements, see [Minnesota Rules, chapters 9502](#) and [9503](#).

maltreatment, and issuing fix-it tickets,<sup>3</sup> correction orders, and conditional licenses for noncompliance with licensing requirements.

County agencies perform specified licensing functions for family child care providers, including processing licensing applications, conducting initial and annual licensing inspections, and investigating alleged licensing violations or child maltreatment. County agencies may issue fix-it tickets, correction orders, and conditional licenses, and make sanction recommendations to DHS for family child care providers that are not in compliance with licensing requirements.

## Monitoring and enforcement

Through regular inspections, maltreatment reports, and other reporting avenues, DHS and county agencies monitor and enforce the statutes and rules governing licensed child care programs. If DHS or a county agency finds that a child care program is not in compliance with licensing requirements, then DHS or the county may take a variety of actions, depending on the nature, chronicity, and severity of the violation.

For licensing violations that do not imminently endanger the health, safety, or rights of children, a fix-it ticket, correction order, or conditional license may be issued. A fix-it ticket identifies a violation and gives the child care program about 48 hours to correct the violation. A correction order or conditional license is issued for violations that are not eligible for a fix-it ticket or fix-it ticket violations that are not corrected in the specified timeframe. A child care program may ask DHS to reconsider correction orders and conditional licenses under a nonjudicial process conducted by the Office of the Inspector General for DHS.

A child care program may be sanctioned for more serious or chronic licensing violations. Sanctions include imposing fines on the license holder, suspending a license (either temporarily or indefinitely), and revoking a license. A child care program may appeal sanctions through legal processes identified in statutes that include a hearing before an administrative law judge.

## Exclusions from licensure

In Minnesota, some child care settings are excluded from licensure and are allowed to operate without a license.<sup>4</sup> The license-exempt child care settings are listed below.<sup>5</sup>

- 1) Care provided to children who are related to the child care provider
- 2) Care provided by an unrelated individual to children from a single family
- 3) Programs operated by a public school for children 33 months or older

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<sup>3</sup> The 2024 Legislature established a weighted risk system for child care programs that will make the fix-it ticket system obsolete. The fix-it ticket system is set to expire when the weighted risk system is implemented. For more information about the weighted risk system, see the “Regulation modernization” section of this brief.

<sup>4</sup> Additionally, a Tribal government may establish a licensing program for child care, and Tribally licensed child care programs do not need to be licensed under state law.

<sup>5</sup> [Minn. Stat. § 245A.03](#), subd. 2.

- 4) Services provided for children for less than three hours a day while the child’s parent or legal guardian is in the same or contiguous building
- 5) Recreation programs operated or approved by a park and recreation board
- 6) Programs operated by a school, YMCA, YWCA, or JCC whose primary purpose is providing child care or services to school-age children
- 7) Head Start programs that operate for less than 45 days a year
- 8) Head Start programs that serve only children who are at least three years old but are less than six years old
- 9) Programs for children such as scouting, boys and girls clubs, arts, and sports, provided for a total of less than 30 days in any 12-month period
- 10) Religious instruction of school-age children; Sabbath or Sunday schools; or care by a church, congregation, or religious society during regular worship
- 11) Programs operated by an accredited nonpublic school serving only children who are age 33 months or older, for no more than four hours per day per child, with no more than 20 children at any one time
- 12) Programs operated by a nonprofit organization that provide structured, supervised youth development and K-12 educational opportunities

## Regulation modernization

The 2021 Legislature directed DHS to contract with an organization to develop new licensing models for child care programs (both centers and family child care providers). DHS contracted with the National Association for Regulatory Administration for the regulation modernization work, and the work is ongoing. The table below describes the expected outputs of the work, as directed by state law,<sup>6</sup> and the current status of each output.

### Child Care Regulation Modernization Project: Expected Outputs and Implementation Status

Expected Output	Implementation Status as of July 8, 2024
Develop and implement a <b>weighted risk system</b> . The system will provide a tiered enforcement framework for both child care centers and family child care providers. Under the system, violations of statute and rules will be assigned enforcement actions based on the risk the violation poses.	The 2024 Legislature established the system in statute. <sup>7</sup> DHS expects the system to be effective after the provider hub is fully implemented for child care centers and family child care providers.

<sup>6</sup> [Laws 2021, 1st spec. sess. ch. 7](#), art. 2, §§ 75 and 81.

<sup>7</sup> [Laws 2024, ch. 115](#), art. 15, § 1.

Expected Output	Implementation Status as of July 8, 2024
<p>Develop and propose <b>revised licensing standards</b> for both child care centers and family child care providers to replace the state’s current standards in statute and rules.</p>	<p>DHS issued draft licensing standards for centers and family child care providers in April 2024 and is currently collecting feedback on the drafts.<sup>8</sup> DHS expects to revise the drafts based on the feedback and issue the revisions as proposals for the 2025 Legislature to consider.</p>
<p>Develop and implement a <b>key indicator system for abbreviated inspections</b> for both child care centers and family child care providers. Under the system, a child care program may qualify for a shorter annual inspection that is focused on a subset of standards, or key indicators, that statistically predict compliance with the entire list of standards.</p>	<p>DHS expects abbreviated inspections to begin after the provider hub is fully implemented for child care centers and family child care providers.</p>

**Sources:** [Laws 2021, First Special Session chapter 7](#), article 2, sections 75 and 81; DHS, [Child Care Regulation Modernization Project – 2023 year in review](#); DHS website, [Child Care Regulation Modernization Projects](#).



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<sup>8</sup> The draft licensing standards can be viewed at <https://mn.gov/dhs/partners-and-providers/licensing/child-care-and-early-education/child-care-regulation-modernization.jsp>.