

## 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 under [Minnesota Statutes, section 245A.03](#), subdivision 2. 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 explains the types of licenses, licensing requirements, roles of government in the licensing process, monitoring and enforcement, exclusions from licensure, and licensing studies.

## 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](#).

- **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 often the same person.
- **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 (often referred to as the “pod model”).

[Minnesota Rules, chapter 9503](#), 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 comply with the staff-to-child ratios and group size requirements.

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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.

## 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 regulations. The nature of the regulations 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 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 maltreatment, and issuing fix-it tickets, 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

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

licensing requirements, then DHS or the county may take different 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.<sup>3</sup> 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
- 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) 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
- 9) Religious instruction of school-age children; Sabbath or Sunday schools; or care by a church, congregation, or religious society during regular worship
- 10) 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

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<sup>3</sup> DHS determines which infractions may be handled with a fix-it ticket. Eligible infractions in child care centers are listed here: [https://mn.gov/dhs/assets/Fix-itTicketChildCareCenters\\_tcm1053-322727.pdf](https://mn.gov/dhs/assets/Fix-itTicketChildCareCenters_tcm1053-322727.pdf), and eligible infractions for family child care providers are listed here: [https://mn.gov/dhs/assets/FIT\\_tcm1053-405700.pdf](https://mn.gov/dhs/assets/FIT_tcm1053-405700.pdf).

<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.

- 11) Programs operated by a nonprofit organization that provide structured, supervised youth development and K-12 educational opportunities

## Licensing studies

DHS is currently studying and considering changes to Minnesota’s licensing processes and requirements. The 2021 Legislature directed DHS to undertake the following child care licensing studies.<sup>6</sup>

- **Alternative child care licensing models.** DHS, in consultation with counties, child care providers, and other relevant stakeholders, must review child care models that are not currently allowed under Minnesota statutes, including licensing standards related to group size, capacity, and age groupings. DHS must consider whether any models would meet Minnesota’s child care needs without compromising children’s safety, health, and well-being. By January 1, 2023, DHS must report to the legislature with recommendations for implementing any models that meet the criteria.
- **Regulation modernization.** DHS contracted with the National Association for Regulatory Administration (NARA) to develop new licensing models for both child care centers and family child care providers that include the following components: key indicator systems for abbreviated inspections, risk-based tiered violation systems, and revised licensing standards. NARA’s work must include a stakeholder engagement process that solicits input from parents, child care providers, DHS staff, and experts in child development. By February 1, 2024, DHS must submit reports and proposed legislation required to implement each new licensing model to the legislature.



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<sup>6</sup> [Minn. Laws 2021, 1<sup>st</sup> Spec. Sess., ch. 7](#), art. 2, §§ 75, 81, and 83.