

K.A.R. 28-4-122

28-4-122 General regulations for family day care homes and child care facilities.

K.A.R. 28-4-123 through 28-4-132 shall apply to the following:

- (a) Family day care home as defined in K.S.A. 65-517, and amendments thereto;
- (b) day care home and group day care home as defined in K.A.R. 28-4-113;
- (c) preschool and child care center as defined in K.A.R. 28-4-420; and
- (d) residential center and group boarding home as defined in K.A.R. 28-4-268.

K.A.R. 28-4-123

28-4-123 Parental access to child care facilities.

Each parent or guardian of a child enrolled in a day care facility or preschool as defined in K.S.A. 65-517, K.A.R. 28-4-113 or K.A.R. 28-4-420 shall have access to the premises during all hours of operation. Each residential facility as defined in K.A.R. 28-4-311 and K.A.R. 28-4-268 shall develop a plan for parental visitation in cooperation with the legal custodian if different from the parent.

K.A.R. 28-4-124

28-4-124 Parental permission for children to go off-premises.

Each day care facility as defined in K.A.R. 28-4-113, K.A.R. 28-4-420 and K.S.A. 65-517, and any amendments to it shall obtain a signed parental permission for each location to which children go off of the premises on a form supplied by the department of health and environment. The destination, the time children leave the child care facility, the adults responsible for the children while off premises, and the estimated time of return shall be posted in a place accessible to parents.

K.A.R. 28-4-125

28-4-125 Criminal history and child abuse registry information for the purpose of obtaining criminal and child abuse histories.

- (a) Each child care facility subject to licensing or registration by the secretary of health and environment shall at the time of initial application and reapplication report the name, address, and birth-date of each person over 10 years of age who resides, works or regularly volunteers in the facility, excluding children placed in care. The report shall be

forwarded to the Kansas department of health and environment on departmental forms.

(b) Within one week of the time a new person over 10 years of age resides, works or regularly volunteers in the facility, excluding children placed in care, a report of the name, address and birthdate shall be filed with the Kansas department of health and environment.

(c) A copy of each report required by K.A.R. 28-4-125(a) and (b) shall be kept on file at the facility.

K.A.R. 28-4-126

28-4-126 Health of persons 16 years or older in child care facilities.

(a)(1) Each person caring for children shall be free from physical, mental or emotional handicaps as necessary to protect the health, safety and welfare of the children, and shall be qualified by temperament, emotional maturity, sound judgment, and an understanding of children.

(2) Persons in contact with children shall not be in a state of impaired ability due to the use of alcohol or drugs.

(b)(1) Each person regularly caring for children shall have a health assessment conducted by a licensed physician or by a nurse trained to perform health assessments. The health assessment shall be conducted no earlier than one year before the date of employment or initial application for a license or certificate of registration, or not later than 30 days after the date of employment or initial application.

(2) Each substitute in a day care facility as defined in K.A.R. 28-4-113 or K.S.A. 65-517 shall be exempt from K.A.R. 28-4-126(b)(1).

(c) Tuberculin testing.

(1) Each person living, working or regularly volunteering in the facility shall have a record of a negative tuberculin test or x-ray obtained not more than two years before the employment or initial application for a license or certificate of registration or not later than 30 days after the date of employment or initial application.

(2) Additional tuberculin testing shall be required if significant exposure to an active case of tuberculosis occurs, or symptoms compatible with tuberculosis develop. Proper treatment or prophylaxis shall be instituted, and results of the follow-up shall be recorded on the person's health record. The Kansas department of health and environment shall be informed of each case described within this paragraph.

(d) Results of the health assessment and tuberculin test shall be recorded on forms supplied by the Kansas department of health and environment and kept on file at the facility. Health assessment records may be transferred to a new place of employment if the transfer occurs within one year of previous employment.

(e) Each resident 16 years or older in a residential facility as defined in K.A.R. 28-4-268 shall meet the requirements in K.A.R. 28-4-126(b), (c) and (d).

K.A.R. 28-4-127

28-4-127 Emergencies.

(a) A working telephone shall be on the premises. Emergency telephone numbers shall be posted next to the telephone for the police, fire department, ambulance, hospital or hospitals, and poison control center.

(b) Emergency medical treatment.

(1) Each facility shall have on file at the facility for each child:

(A) written permission of the parent, guardian, or legal custodian for emergency medical treatment on a form that meets the requirements of the hospital or clinic where emergency medical care will be given; and

(B) the name, address and telephone number of a physician to be called in case of emergency.

(2) Residential facilities providing emergency care shall be exempt from K.A.R. 28-4-127 (b)(1)(A).

(3) Provisions shall be made at a hospital or clinic for emergency treatment for children.

(c) Health assessment forms and emergency release forms shall be taken to the emergency room with the child.

(d) When a staff member accompanies a child to the source of emergency care, that person shall remain with the child unless or until a parent or parent's designee assumes responsibility for the child. Such an arrangement shall not compromise the supervision of the other children in the facility.

(e) Reporting illnesses and injuries:

(1)(A) Residential facilities shall have on file at the facility written policies on reporting of illnesses and injuries of adults and children.

(B) The policies shall be approved by the licensing agency.

(2) Day care facilities shall report immediately to the parent or guardian each illness or injury of a child which requires medical attention.

(3) Communicable diseases shall be reported to the county health department by the next working day.

(f) Any injury or illness which results in the death of a child in care shall be reported by the next working day to the county health department or the Kansas department of health and environment.

K.A.R. 28-4-128

28-4-128 Safety procedures.

- (a) Each facility shall develop an emergency plan to provide for the safety of children and staff in emergencies such as fire, tornadoes, storms, floods, and serious injury.
- (b) Each emergency plan shall be posted in a conspicuous place in the facility. Staff in day care facilities shall review the plan with parents of children enrolled.
- (c) Each person responsible for the children, including each substitute, shall be informed of and shall follow the emergency plans.
- (d) A fire drill shall be conducted monthly and scheduled to allow participation by each child. Each date and time shall be recorded.
- (e) A tornado drill shall be conducted monthly, April through September, and scheduled to allow participation by each child. Each date and time shall be recorded.
- (f) Each person regularly caring for children shall have first-aid training. Documentation of the training shall be on file at the facility.

K.A.R. 28-4-129

28-4-129 Swimming and wading activities.

(a) Swimming and wading pools on the premises.

- (1) If swimming pools with water over 24 inches deep, wading pools, or hot tubs are on the premises, they shall be constructed, maintained, and used in such a manner as to safeguard the lives and health of the children.
- (2) The number and ages of children using either swimming or wading pools shall be limited to allow appropriate supervision by adult staff members.
- (3) Required staff/child ratios shall be maintained at all times that children are involved in swimming or wading activities.
- (4) Legible safety rules for the use of swimming pools shall be posted in a conspicuous location, and shall be read and reviewed weekly by each staff member responsible for the supervision of children.

(b) Swimming pools on the premises.

(1) Below-ground swimming pools shall be enclosed by a fence not less than five feet high to prevent chance access by children.

(2) Above-ground swimming pools shall be four feet high, or shall be enclosed with a fence not less than five feet high. Steps shall be removed from the pool when the pool is not in use.

(3) Sensors shall not be used in lieu of a fence.

(4) Water in the swimming pool shall be maintained between pH 7.2 and pH 8.2. Available free chlorine content shall be between 0.4 and 3.0 parts per million. The pool shall be cleaned daily, and the chlorine level and pH level shall be tested daily. The results of these tests shall be recorded and available.

(5) A person with a life saving certificate or a person with training in CPR who can swim shall be in attendance when children are using a swimming pool.

(6) Each swimming pool more than six feet in width, length, or diameter shall be provided with a ring buoy and rope or shepherd's hook. Such equipment shall be of sufficient length to reach the center of the pool from its edge.

(c) Wading pools on the premises.

(1) Children shall never be permitted to play without supervision in areas where there is a wading pool containing water.

(2) Water in wading pools shall be emptied daily.

(d) Hot tubs or spas on the premises.

(1) Each hot tub or spa shall be covered with an insulated cover secured by straps or locks.

(2) Children in day care facilities shall not be permitted to use hot tubs. Children in residential facilities shall be permitted to use hot tubs when medically indicated.

(e) Ponds and lakes may be used only for children over six years of age, and shall be approved for swimming by the county health department or Kansas department of health and environment or like departments in other states. Required staff/child ratios shall be maintained at all times, and a certified life guard shall be on duty.

K.A.R. 28-4-130

28-4-130 Transportation.

(a) Facility-owned or leased vehicles.

(1) When a vehicle used for transportation of children is owned or leased by the facility, the driver shall be 18 years of age or older, and shall hold an operator's license of a type appropriate for the vehicle being used. Trailers pulled by another vehicle, camper shells or truck beds shall not be used for transportation of children.

(2)(A) Each transporting vehicle shall be maintained in safe operating condition.

(B) The transporting vehicle shall have a yearly mechanical safety check of tires, lights, windshield, wipers, horn, signal lights, steering, suspension, glass, brakes, tail lights, exhaust system, and outside mirror. A record of the date of the annual safety check and corrections made shall be kept on file at the facility.

(3) The vehicle shall be covered by accident and liability insurance in amount of not less than \$100,000 for personal injury or death in any one accident, \$300,000 for injury or death to two or more persons in any one accident; and \$50,000 for loss to property of others.

(4)(A) Emergency release forms and health assessment records shall be in the vehicle when children are transported. Residential facilities shall be exempt from K.A.R. 28-4-130(a)(4)(A) unless children are being transported more than 60 miles from the facility, or if children are in emergency care.

(B) A first-aid kit shall be in the transporting vehicle and shall include band-aids of all sizes; adhesive tape; a roll of gauze; scissors; one package of 4 x 4 inch gauze squares; a cleansing agent; and one elastic bandage.

(5) Each vehicle shall be equipped with an individual restraint for each child as follows:

(A) An infant unable to sit up without support shall be provided with an infant car carrier which faces the rear.

(B) A child able to sit up without support shall be provided with one of the following restraints:

(i) A shield-type device;

(ii) a car seat facing the front that is designed to hold a child weighing up to 40 pounds; or

(iii) a safety harness.

(C) A child four years of age or older, or weighing 40 pounds or more, shall have a lap belt. Shoulder straps shall be used if they do not cross the child's neck or face.

(D) Not more than one child shall be restrained in each lap belt.

(E) Buses of the type used by schools shall not be required to be equipped with individual restraints if the buses are used to transport only school-age children.

(6) The safety of the children riding in the vehicle shall be protected as follows:

- (A) All doors except the front door on the driver's side shall be locked while the vehicle is in motion.
- (B) Discipline shall be maintained at all times.
- (C) All parts of the child's body shall remain inside the vehicle at all times.
- (D) Children shall neither enter nor exit the vehicle into a lane of traffic.
- (E) Children under 10 years of age shall not be left in a vehicle unattended by an adult. When the vehicle is vacated, the driver shall make certain no child is left in the vehicle.

(F) Smoking in the vehicle shall be prohibited while children are being transported.

(G)(i) Day care facilities defined by K.S.A. 65-517, K.A.R. 28-4-113 and K.A.R. 28-4-420 shall maintain applicable staff/child ratios.

(ii) Residential facilities as defined by K.A.R. 28-4-268 and K.A.R. 28-4-311 shall maintain applicable staff/child ratios when children under six are being transported.

(H) The driver shall transport the child to the intended location, person, agency or institution as designated by the child's parent or legal guardian, or by the agency person in charge.

(b) Vehicles owned by staff or volunteers.

(1) When a vehicle used for transportation of children is owned by staff or volunteers the vehicle shall be covered by accident and liability insurance required by K.S.A. 40-3104 and 40-3118 and any amendments to it.

(2) Each such vehicle shall meet the requirements of K.A.R. 28-4-130(a)(1); (a)(2)(A); (a)(4)(A); (a)(5); and (a)(6)(A) through (H).

(c)(1) Each driver shall be informed of the provisions of K.A.R. 28-4-130.

(2) Paragraphs (A) through (H) of subsection (a)(6) of K.A.R. 28-4-130 shall be posted in the vehicle or given to the driver.

K.A.R. 28-4-131

28-4-131 Animals, birds, or fish.

(a) When animals, birds, or fish are kept on the premises, the pet area shall be maintained in a sanitary manner. No animal or bird shall be in the kitchen while food is being prepared. Parents shall be informed whenever children have access to pets in the child care facility.

(b) Dogs and cats shall have current immunizations as recommended by a veterinarian. A record of immunizations shall be kept on file in the facility.

(c) When animals that represent a hazard to children are on the premises, children shall be protected from them. Pit bulldogs shall be prohibited. If animals are displayed as part of an animal exhibit, they shall be supervised by appropriate animal care personnel.

K.A.R. 28-4-132

28-4-132 Child care practices.

(a) Supervision. Each child in day care shall be under the supervision of a person 16 years of age or older who is responsible for the child's health, safety and well-being.

(b) Discipline.

(1) There shall be a written discipline policy indicating methods of guidance appropriate to the age of the children enrolled. Parents shall be informed of the policy.

(2) Prohibited punishment. Punishment which is humiliating, frightening or physically harmful to the child shall be prohibited. Prohibited methods of punishment include:

(A) corporal punishment such as spanking with the hand or any implement, slapping, swatting, pulling hair, yanking the arm, or any similar activity;

(B) verbal abuse, threats, or derogatory remarks about the child or the child's family;

(C) binding or tying to restrict movement, or enclosing in a confined space such as a closet, locked room, box, or similar cubicle;

(D) withholding or forcing foods; and

(E) placing substances which sting or burn on the child's mouth or tongue or other parts of the body.

(3) If isolation is used in residential facilities as defined in K.A.R. 28-4-268, the isolation policies shall be approved by the department of social and rehabilitation services before implementation.

(4) Each staff member and care provider's discipline practices shall comply with K.A.R. 28-4-132.

(c) Diapering and toileting.

- (1) Each child's clothing or bedding shall be changed whenever wet or soiled.
- (2) Each child under three years of age shall have at least one complete change of clothing at the facility.
- (3)(A) Handwashing facilities shall be in or readily accessible to the diaper-changing area.

(B) Each person caring for children shall wash hands with soap and water after changing diapers or soiled clothing.
- (4) Children shall be diapered in their own cribs or playpens, on a clean pad on the floor, or on a changing table. Each unit in a child care center as defined by K.A.R. 28-4-420 shall have a changing table.
- (5) Changing tables and pads shall have a waterproof, undamaged surface. Tables shall be sturdy, and shall be equipped with railing or safety straps. Children shall not be left unattended on the changing table.
- (6) Changing tables and pads shall be sanitized after each use by washing with a disinfectant solution of ¼ cup of chlorine bleach to one gallon of water, or an appropriate commercial disinfectant.
- (7) The following procedures shall be followed when washable diapers or training pants are used:
 - (A) Day care facilities. Washable diapers or training pants shall not be rinsed out. They shall be stored in a labeled covered container or plastic bag and returned home with the parents.
 - (B) Residential facilities. Sanitary laundering procedures which promote infection control shall be followed.
- (8) Disposable diapers shall be placed in a covered container or plastic bag which shall be emptied daily, or more frequently as necessary for odor control.
- (9)(A) Potty chairs when used shall be left in the toilet room. The wastes shall be disposed of immediately in a flush toilet. The container shall be sanitized after each use and shall be washed with soap and water daily.

(B) There shall be one potty chair or child-sized toilet for every five toddlers in a child care center as defined by K.A.R. 28-4-420. Potty chairs shall not be counted as toilets.
- (10) Diapering procedures recommended by the U.S. Department of Health and Human Services, Public Health Service, December, 1984, shall be followed in all child care facilities caring for infants and toddlers. Diapering and toileting procedures shall be posted in child care centers, group boarding homes, residential centers and group day care homes serving children under 2½ years of age.

K.A.R. 28-4-133 and 28-4-134

28-4-133 and 28-4-134 Reserved.