

MINUTES OF THE SENATE COMMITTEE ON ECUCATION

The meeting was called to order by SENATOR JOSEPH C. HARDER at
Chairperson

1:00 ~~xxx~~ a.m./p.m. on MONDAY, FEBRUARY 27, 1984 in room 254-E of the Capitol.

All members were present except:

Committee staff present:

Mr. Ben Barrett, Legislative Research Department
Ms. Avis Swartzman, Legislative Revisor's Office
Mrs. Millie Randell, Secretary

Conferees appearing before the committee:

SB 683 - Preschools, regulated as other private schools and exempted from
licensure as boarding homes for children (Angell, Hess)

Proponents:

Senator Charlie Angell, co-sponsor of the SB 683
Dr. Rex Fuller, Regional Director for the Christian Law Association
Dr. James Mastin, pastor, representing Derby Christian School, Derby,
Kansas
Dr. Richard Meier, President, Kansas Association of Christian Schools,
Kansas City
Mr. Jack L. Snavely, President, Alliance of Christian Children's Homes

Opponents:

Sister Anna Totta, St. Mary's College, Leavenworth; Secretary, Kansas
Association for the Education of Young People
Ms. Elizabeth Taylor, Legislative counsel, Kansas Association for the
Education of Young Children, Topeka

Ms. Barbara Sabol, Secretary of the State Department of Health and Environment

Following a call to order by Chairman Joseph C. Harder, Senator Rehorn
moved, and Senator Montgomery seconded the motion to approve minutes of the
Committee meeting of February 8. The motion carried.

The Chairman then called the Committee's attention to SB 583, relating to
school administrators also participating in class instruction, and asked
for discussion and/or action on the bill. Following discussion, Senator Re-
horn, sponsor of the bill, recommended that the bill be held in Committee,
and the Committee members agreed.

SB 473 and SB 512 - The Chairman then asked the Committee's pleasure regarding
SB 473, relating to minimum competency assesment, and SB 512, relating to
achievement testing programs. Senator Rehorn made a motion to recommend
SB 512 favorably for passage, and the motion was seconded by Senator Angell.

Senator Montgomery made a substitute motion to recommend SB 473 favorably
for passage, and this was seconded by Senator Kerr.

Senator Angell then made a conceptual motion to amend SB 473 by striking all
the language in Sections 1, 2, 3, 4, 5, and 6 and inserting therein the lan-
guage contained in SB 512. This was seconded by Senator Rehorn, but the
motion for the amendment did not carry. Senator Rehorn requested that his
aye vote be recorded.

The Chair then called for a vote on the substitute motion mady^e by Sena-
tor Montgomery and seconded by Senator Kerr to recommend SB 473 favorably
for passage. When the Chair announced that the motion had carried, a divi-
sion was requested. After a count of four ayes and three nays, the Chairman
confirmed that the motion to recommend SB 473 favorably for passage did
carry. Senators Angell and Rehorn requested that their nay votes be
recorded.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON EDUCATION

room 254-E, Statehouse, at 1:00 a.m./p.m. on MONDAY, FEBRUARY 27, 1984

SB 683 - When the Chairman called upon Senator Angell, co-sponsor of SB 683, to explain the bill, Senator Angell said that SB 683 affects about six or seven preschool centers in the state and subjects them to the laws applicable to private, denominational, or parochial schools and exempts them from the licensure by the Secretary of Health and Environment. He further explained how these centers would qualify for this exemption.

The Chairman then called upon Dr. Rex Fuller, Regional Director for the Christian Law Association, to present his testimony in support of SB 683, and this testimony is found in Attachment 1. Dr. Fuller requested that the official minutes of this hearing include a statement to the effect "that SB 683, if enacted into law, would restrict a preschool only to serving children at least thirty months of age and to operating for educational purposes in a school facility".

Dr. James Mastin, representing Derby Christian School in Derby, Kansas, in support of SB 683, stated his reasons for being unable to accept a license for any ministry of his church. His testimony is found in Attachment 2.

Dr. Richard Meier, President of the Kansas Association of Christian Schools, testified in favor of SB 683, and his testimony is found in Attachment 3.

Mr. Jack L. Snavely, President of the Alliance of Christian Children's Homes, also a proponent of SB 683, was in attendance to answer questions, but he submitted written testimony only as found in Attachment 4.

Sister Anna Totta of St Mary's College in Leavenworth testified against SB 683, because, she stated, if the preschools were under the reigns of the State Department of Education, they would no longer be subject to the standards that have been established by the Department of Health and Environment. She said that the present standards for preschools are low enough now and that to remove them entirely would not be in the best interests of the children involved. She said the exemption would also be unfair to other preschools which are not exempted. Sister Totta said she felt that if the preschools are to be registered with the State Department of Education, then the Department should first set standards for them.

Ms. Elizabeth Taylor, a legislative counsel for the Kansas Association for the Education of Young Children, testified against SB 683; because, she said, the preschools would not have any guidelines to follow, and this would not be in the best interests of the children involved. She stated that under the present system the preschools do have licensing guidelines to which they must adhere. Ms. Taylor distributed for the Committee members' perusal booklets entitled "Kansas Regulations for Licensing Preschools and Child Care Centers" as published by the Kansas Department of Health and Environment. (Attachment 5)

When Ms. Barbara Sabol, Secretary of the State Department of Health and Environment, was called upon by the Chairman, she presented informational material relating to preschools and distributed to Committee members copies of the Department's "Policy for Exempting Preschools from Child Care Licensure", Attachment 6. Ms. Sabol also responded to questions by the Committee.

Due to lack of time, the Chairman announced that SB 740, which had been scheduled to be heard by the Committee today, will be placed on the agenda for tomorrow's meeting.

SENATE EDUCATION COMMITTEE

TIME: 1:00 p.m.

PLACE: 254-E

DATE: Monday, February 27, 1984

GUEST LIST

NAME	ADDRESS	ORGANIZATION
J. M. Dohy	Topeka	AG
Chris Grava	Topeka	ASK
Ed Walshaw	Topeka	Walshaw
Jerry Schreiner	Topeka	USA
Harold C. Pitts	Topeka	
Bill Kirby	Wichita	U.S.A. 259
Merle Hice	Topeka	KACC
Jacqueline Daker	Yates Center	KAASB
John Koepke	Topeka	KASB
Dennis Higgins	Lawrence	Sen. Karr's Office
Ray Carter	Great Bend	H.B.T.
Bob Johnson	Great Bend, Ks.	H.B.T.
Jerry Hays	Great Bend, Ks.	H.B.T.
Lester A. Zite	Lawrence	KAEGC LAEGC KCC Y St. Mary College
B. Jabal	Topeka	KASB
J. Waide	Topeka	Y.S. / SRS.
Craig Grant	Lawrence	H-NEA
Richard Meier	KCC	KAACS
Ray Miller	Cleveland	Ch. Law. Assoc.
Ralph Fink	Larnes, Ks.	HBT
Conny Kern	Great Bend Ks	H.B.T.

SENATE EDUCATION COMMITTEE

TIME: 1:00 p.m. - PLACE: 254-E DATE: Monday, Feb. 27, 1984

GUEST LIST

<u>NAME</u>	<u>ADDRESS</u>	<u>ORGANIZATION</u>
Daniel [unclear]	1469 D. Woodlawn	Derby Christian School
Shawn [unclear]	1409 N. Woodlawn	Derby Christian School
Robert Perry	1409 N. Woodlawn	Derby Christian School
Jack [unclear]	Rt 1 Perry Ks	A C C H
Gary Bohman	1452 N. Kokom Derby Ks	Derby Christian School
Harry Watters	517 Circle Dr. Derby, Mo.	Derby Christian School
John R. Wagon	1257 W. Baltimore Derby Ks	Derby Christian School
David [unclear]	1338 N. Woodlawn Derby	Derby Christian School
Randy Weimhold	3600 Haven Ct. Wichita	Derby Christian School
Ellen [unclear]	Topeka	Ks. Action for Children
Michelle Schwendler	1115 N. Woodlawn	Derby Christian School
Trent Peninger	407 Circle Dr. Derby	Derby Christian School
Marion Green	Topeka	Sen. Daniels sec.

Testimony in Support
of Senate Bill 683
M. Rex Fuller, Ed. D
February 27, 1984

Thank you for this opportunity to speak in support of Senate Bill 683. This bill represents a reasonable effort by Senators Angell and Hess to delineate departmental responsibilities so confusion and confrontation can be prevented. I have personally been involved in situations where such problems developed in the past.

Approximately six years ago I worked with a Christian school principal who wished to plan a full day preschool program as an extension of the school. We had never experienced any problem with the Department of Education. After studying the forms from the Department of Health and Environment, we decided not to start the program. The licensing provisions appeared inconsistent with school laws.

After completing my doctoral program in educational administration at the University of Kansas, I served as the director of a federally funded program headquartered in Conway Springs from 1971 to 1973. We offered a preschool child care program for two, three, and four year olds. Since we were sponsored by U.S.D. #356, the program was not subjected to licensing by the Department of Health and Environment.

I believe it is appropriate for public schools to be exempted from program licensing by the Department of Health and Environment. Private schools have established a history of cooperation with the Department of Education but have encountered difficulties with the Department of Health and Environment when extending their programs for younger children.

In 1981 the West Side Baptist Church in Emporia was threatened with litigation. I met with the Pastor and a representative of the Department of Health and Environment, but we were unable to resolve the problem.

The North Woodlawn Baptist Church in Derby also has a successful school program with a preschool program. Early in 1983 attorneys for the church met with attorneys for the Department of Health and Environment. The conflict was not

resolved at that meeting.

Last summer the department moved against the Heritage Baptist Temple in Great Bend. Several meetings, including one in which Senator Angell served as an arbitrator, failed to resolve the problem. The case went before the District Court in December. The court ruled for the state. In the comment by the court it was stated that the church is doing nothing innately wrong. The problem was identified as statutory, because of the requirement to have a program licensed by the Department of Health and Environment.

The churches in question have no difficulty with objective standards pertaining to sanitation, fire codes, safety, etc. Their problem relates to having the program licensed. Their philosophy is different from that reflected in Health and Environment forms and publications. They believe parents should be involved in choosing the best training for their children. They believe discipline should reflect love and methods of Scripture and cannot, by conviction, make the Scriptures subservient to the state. They are compelled by their faith to continue a ministry of this type.

The conflict focused on the Heritage Baptist Temple after the Department of Health and Environment issued a narrow definition of a preschool, apparently exempting the other churches in conflict. The department recognized that preschools connected with elementary and secondary schools would better operate under statutes relating to schools. However, that definition included not only the age and purpose requirements found in Senate Bill 683 but also requirements that children could not remain more than three hours or eat meals there.

This bill is necessary to extend a broader definition of a preschool to include full day programs such as that found at the Heritage Baptist Temple in Great Bend. I would request that the official minutes of this hearing include a statement that Senate Bill 683, if enacted into law, would restrict a preschool only to serving children at least thirty months of age and to operating for educational purposes in a school facility.

On the basis of that definition and, in support of a resolution of problems between the state of Kansas and private, denominational, and parochial schools in the state, I urge you to advance Senate Bill 683. Thank you.

Comments submitted
Concerning SB 683
February 27, 1984

Dr. James Mastin
1409 N. Woodlawn
Derby, KS 67037

Senator Harder and the Senate Education Committee

As the pastor of a church that operates as one of its ministries a Christian school and Christian pre-school, I'm very interested in Senate Bill 683 being passed.

Over the years we have seen across our nation a gradual trend toward government control of our school, both public, private, parochial, and church related. We feel this is a very dangerous direction for our country to be moving because government control of our church school violates the convictions of the church's membership. We are unable to accept a license for any ministry of our church for the following reasons:

- (1) Ephesians 1:22 states, referring to Jesus, "And hath put all things under His feet, and gave Him to be the head over all things to the church."

We acknowledge Jesus Christ as Lord over our church ministries. To be licensed is to put a greater power over Him and His church. We simply cannot do that.

- (2) The responsibility of care and education of children belongs to the parents. God has repeatedly given His people instructions as to how they should raise, train, and teach their children. To not do so, free from government control, would be a sin to our people.
- (3) Licensing a church ministry violates the Bill of Rights respecting the establishment of religion. The Sunday services and Sunday School are guaranteed freedom and hence not licensed. Therefore, the Monday school should enjoy the same freedom from state control since the Monday through Friday segment of our church ministry is simply an extension of our Sunday ministry.

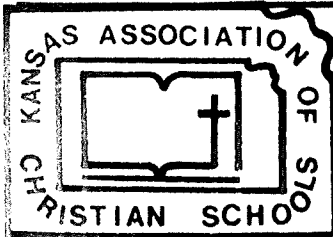
Therefore, we are pleased to see Kansas step out, as several other states have, and lead in this matter of putting church schools back under the authority of the parents and their church rather than a government licensing agency.

We strongly support the passage of Senate Bill 683 for the following reasons:

- (1) It rejoins the pre-school ministry of the church with the school ministry of the church in the eyes of the state. All of our ministries are inseparable from one another and from the church.
- (2) It removes the state from a conflicting position with the church which we have seen so graphically demonstrated in the state of Nebraska. As church leaders we have a strong desire to support our state government and its leaders. It places a limit on that support when the state places themselves in a conflicting position with the church.
- (3) The passage of this bill is a step toward returning the responsibility of child raising and training to the parent.
- (4) It would pull us back under the Bill of Rights protection of our freedom to operate a religious ministry according to the dictates of our God-given convictions.

We urge you to consider the magnitude of your decision in the lives of a large segment of your constituency, and to vote to see Senate Bill 683 passed.

Thank you.



Kansas Association of Christian Schools, Inc.

Dick Meier,
President

Gene Swim,
Vice President

T. Reynolds Hall,
Secretary

Glenn Adams,
Treasurer

Rex Fuller,
Legislative
Representative

Senator Joseph C. Harder
Chairperson
Senate Education Committee

Senator Harder and other members of this Committee:

I am Richard Meier, President of the Kansas Association of Christian Schools. Thank you for the opportunity to speak as a proponent to SB 683.

Our schools have had a good working relationship with the State Board of Education. Each of our churches sees its various educational ministries as a unified functioning of that one church. We believe a relationship to the State Board alone is much more practical and workable than dividing up part of an educational ministry and placing it under the Department of Health and Environment. We have pastors with very strong feelings about the importance of a preschool ministry and at the same time are very strongly against licensure by the Department of Health and Environment.

Precedent has been set by a number of other states which have already passed exemption laws exempting preschools and day care centers operated by churches or religious institutions, which receive no government aid, are operated as a component of a religious, nonprofit elementary school, operate primarily to provide religious education, and meet appropriate state or local health and fire safety standards.

We urge the passage of this bill.

Thank you.

Sincerely,

Richard Meier

Dr. Richard Meier

Attachment 3

SB683

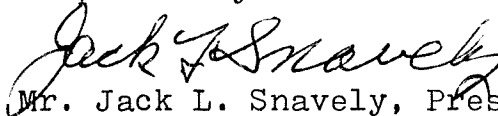
I am in favor of SB683 for the following reasons:

SB683 exempts private preschools from certain licensure requirements under article 5 of chapter 65 of the Kansas Statutes and places them under item (2) of K.S.A. 72-1111 with our other private schools K-12. Private schools should not be required to be licensed by the Department of Health and Environment. This is a direct violation of the First Amendment of our Constitution. The preschools, the students and the teachers would all benefit from the action of this bill.

Our private christian schools are daily turning out students which test out on the average much higher on the ACT tests than students that have attended our government schools. This is done by hiring capable and dedicated teachers, not certified teachers. Our private christian schools do not have a problem with discipline, drugs, teenage drinking. They do not have a problem with special ed. (slow learners), average and gifted children functioning together in the same class rooms, they are not broken up into seperate classes to be labled for life "retared" if in the special ed. classes by fellow students. Under the present laws, private schools K-12 can still teach religion along with the three Rs. Under the accredited and licensure system this would not be possible, religion cannot be taught during school hours, the free exercise of religion as set forth in the First Amendment is lost. Certification has not proven itself to be valuable. Our government schools all have certified teachers and look at the results. Our entire nation is in an uproar because of the deplorable conditions in our government schools. Under the accredited school system, teachers are all certified and it has not helped bring better education to our school children. Our private preschools and private schools K-12 should not be burdened with these state controls which have only brought turmoil to our government schools.

In conclusion, we ask you to carefully consider this bill and that SB683 be reported favorably.

Respectfully



Mr. Jack L. Snavelly, President
Alliance of Christian Children's Homes

**KANSAS
REGULATIONS FOR LICENSING**

**PRESCHOOLS
AND
CHILD CARE CENTERS**



**KANSAS DEPARTMENT OF HEALTH
AND ENVIRONMENT**

MAY 1, 1983

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28-4-420. (a) "Administrator" means the staff member of a child care center or preschool who is responsible for the general and fiscal management of the facility.

(b) "Attendance" means the number of children present at any one time.

(c) "Basement" means an area in which all four outside walls are more than two-thirds below ground level.

(d) "Child care center" means a facility in which care and educational activities are provided for 13 or more children six weeks to 16 years of age for more than three hours and less than 24 hours per day including day time, evening, and nighttime care. A facility may have fewer than 13 children and be licensed as a center if the program and building meet child care center regulations.

(e) "Child with handicaps" means a child in care who does not function according to age-appropriate expectations to such an extent that the child requires special help, program adjustment, and support services on a regular basis.

(f) "Corporal punishment" means activity directed toward modifying a child's behavior by means of physical contact such as spanking with the hand or any implement, slapping, swatting, pulling hair, yanking the arm, or any similar activity.

(g) "Discipline" means the on-going process of helping children develop inner control so that they can manage their own behavior in a socially-approved manner.

(h) "Enrollment" means the total number of children for whom services are available.

(i) "Evening care" means care provided between 6 o'clock p.m. and midnight of the same day.

(j) "Fire inspector" means a person approved by the state fire marshal to conduct fire safety inspections.

(k) "Infant" means a child who is under 12 months of age, or a child over 12 months who has not learned to walk.

(l) "In-service training" means job-related training provided for employed staff and volunteers.

(m) "Integrated unit" means a center or preschool program serving both handicapped and non-handicapped children, in which not less than 1/3 and not more than 2/3 of the children are handicapped.

(n) "License" means a document issued by the Kansas department of health and environment which authorizes a licensee to operate and maintain a child care center or preschool.

(o) "License capacity" means the maximum number of children that shall be allowed to attend at any one time.

- (p) "Licensee" means a person, corporation, firm, association, educational group or other organization which operates or maintains a child care center or preschool.
- (q) "Mother's day out" means a program operating more than five consecutive hours or more than one day per week and in which any one child is enrolled for not more than one session per week.
- (r) "Nighttime care" means care provided after six o'clock p.m. and continuing until after midnight.
- (s) "Preschool" means a facility:
 - (1) which provides learning experiences for children who have not attained the age of eligibility to enter kindergarten prescribed in K.S.A. 1981 Supp. 72-1107(c) and any amendments thereto, and who are 30 months of age or older;
 - (2) which conducts sessions not exceeding three hours per session;
 - (3) which does not enroll any child more than one session per day; and
 - (4) which does not serve a meal. The term "preschool" shall include educational preschools, Montessori schools, nursery schools, church-sponsored preschools, and cooperatives. A preschool may have fewer than 13 children and be licensed as a preschool if the program and facility meet preschool regulations.
- (t) "Preschool age" means a child who is between 30 months of age and the age of eligibility to enter kindergarten as prescribed in K.S.A. 1981 Supp. 72-1107(c) and any amendments thereto.
- (u) "Program" means a comprehensive and coordinated plan of activities providing for the education, care, protection, and development of children who attend a preschool or a child care center.
- (v) "Program director" means the staff member of a child care center or preschool who meets the requirements specified in K.A.R. 28-4-429(b), (c) and (d) and who is responsible for implementing and supervising the program.
- (w) "School-age child" means a child who has attained the age of five years on or before September 1 of a given year, but who is not 16 years of age or older.
- (x) "Self-contained unit" means an area separated by permanent or movable partitions which contains indoor learning materials for the maximum number of children permitted in one group as specified in K.A.R. 28-4-428(a).
- (y) "Sick child" means a child who has a contagious disease or shows other signs or symptoms of an acute illness.
- (z) "Special purpose unit" means a program in which more than two-thirds of the children enrolled have severe or mild handicaps.

- (aa) "Summer program for school-age children" means a program in which any one school-age child is enrolled for more than three hours daily for more than two consecutive weeks, and shall include summer camps.
- (bb) "Swimming pool" means an enclosed body of water more than 12 inches deep.
- (cc) "Toddler" means a child who has learned to walk and who is between 12 and 30 months of age.
- (dd) "Unit" means the number of children that may be present in one group, as specified in K.A.R. 28-4-428(a). (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983.)

28-4-421. Terms of license.

- (a) License capacity shall be specified on the license. Permission for an overlap of periods of attendance to accommodate lunchtime and shift changes shall be requested from the Kansas department of health and environment, and if granted, shall be posted.
 - (1) License capacity shall be determined by age of children, available space, and program director qualifications. License capacity of a child care center or preschool shall not exceed 100 children per session.
 - (2) Children enrolled on an irregular basis shall not cause the center or preschool to exceed its license capacity.
 - (3) A license shall be valid only for the licensee and the address appearing on the license.
- (b) A copy of "regulations for licensing child care centers and preschools," provided by the Kansas department of health and environment shall be kept on the premises at all times. (Authorized by K.S.A. 65-505 as amended by L. 1982, ch. 259, Sec. 1; and K.S.A. 65-508; implementing K.S.A. 65-504, as amended by L. 1982, ch. 258, Sec. 3; effective May 1, 1983.)

28-4-422. Procedures.

(a) General.

- (1) Any person, corporation, firm, association, or other organization desiring to conduct a child care center or preschool which operates for more than five consecutive hours or more than one day per week shall apply for a license on forms supplied by the Kansas department of health and environment.
- (2) An application for a license or an application for renewal of license shall be accompanied by a license fee which is not refundable.
- (3) Children shall not be in attendance at the center or preschool until a license has been issued by the Kansas department of health and environment.

- (4) Applicants shall be 18 years of age or older at time of application.
 - (5) A license shall be issued if the secretary finds that the applicant is in compliance with the requirements of K.S.A. 65-501 et seq. and amendments thereof, and the rules and regulations promulgated pursuant to those statutes, and that the applicant has made full payment of the license fee required by the provisions of K.S.A. 65-505 and amendments thereof.
 - (6) A license for an additional facility operated by a current applicant shall not be issued until all existing facilities operated by the applicant are in compliance with licensing regulations.
 - (7) It shall be the responsibility of the licensee to provide the financial resources necessary to maintain compliance with licensing regulations.
- (b) Statement of services offered. When making application to the Kansas department of health and environment for a license to conduct a child care center or preschool, the applicant shall state what services will be provided. Advertisements shall conform to the written statement of services. No claims as to specialized services shall be made unless the facility is staffed and equipped to offer those services. No general claim as to "state approval" shall be made unless the facility has obtained a license issued by the Kansas department of health and environment. The licensing agency shall be notified of a change in the position of program director or a change in program which effects licensure.
- (c) Initial application.
- (1) Site approval.
 - (A) The proposed site shall be approved by the Kansas department of health and environment, the local building inspector when required, and a fire safety inspector. Inspection reports shall accompany the application for license.
 - (B) When a building is to be constructed or an existing building is to be remodeled, construction or remodeling plans shall be submitted to the Kansas department of health and environment for approval.
 - (C) When additional space in an existing building is to be used, prior approval shall be obtained from the Kansas department of health and environment.
 - (2) A working telephone shall be on the premises and available at all times for use by staff.
- (d) Renewals.
- (1) Before an existing license expires, the licensee shall apply for renewal of the license on forms supplied by the Kansas department of health and environment.

- (2) An application may be withdrawn at any time upon request by the applicant. The applicant shall submit a new application to the Kansas department of health and environment prior to reopening a facility.
 - (3) A new application and fee shall be submitted for each change of ownership, sponsorship or location.
- (e) Grievance procedures.
- (1) An applicant or licensee receiving notice of denial or revocation of license shall be notified of the right to an administrative hearing by the Kansas department of health and environment and subsequently of the right of appeal to the district court.
 - (2) An applicant or licensee aggrieved by a licensing evaluation or by licensing procedures may appeal in writing to the Kansas department of health and environment.
- (f) Exceptions.
- (1) The applicant or licensee may submit a written request for an exception to a regulation to the Kansas department of health and environment. An exception shall be granted if the secretary determines the exception to be in the best interest of a child or children and their families, and if statutory requirements are not violated.
 - (2) Written notice from the Kansas department of health and environment stating the nature of the exception and its duration shall be posted with the license. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-501, 65-504 as amended by L. 1982, ch. 258, Sec. 3, and 65-505 as amended by L. 1982 ch. 259, Sec. 1, and 65-508; effective May 1, 1983.)

28-4-423. Physical plant.

(a) Premises.

- (1) The building shall meet the legal requirements of the community as to fire protection, water supply, and sewage disposal.
- (2) The designated area for children's activities shall contain a minimum of thirty-five square feet of floor space per child, exclusive of kitchen, passageways, storage areas, and bathrooms.
- (3) The building shall have two exits approved by a fire inspector. One exit shall lead directly to the outside.
- (4) Second floors approved by a fire inspector may be used for children 2½ years or over. Second-floor windows shall be guarded.

- (5) Finished basements approved by a fire inspector may be used for children 2½ years or older. Basements shall be dry and well-ventilated, heated and cooled as specified in K.A.R. 28-4-423(a)(20), and lighted as specified in K.A.R. 28-4-423 (a)(18).
- (6) Homes in which a family is living shall not be used for a child care center or preschool for 13 or more children, with the following exceptions:
 - (A) Basements meeting K.A.R. 28-4-423(a)(5) may be used for up to one unit of children as specified in K.A.R. 28-4-428(a).
 - (B) Ground level recreation rooms may be used for up to one unit of children.
- (7) When mobile classroom units are used, they shall be securely anchored to the ground and shall meet all requirements for permanent structures.
- (8) All stairs which have more than two steps shall be provided with sturdy handrails. When balusters are more than four inches apart, provisions shall be made to prevent a child's head or body from falling through.
- (9) Landings or gates shall be provided beyond each exterior door, and any door opening onto a full-length stairway.
- (10) Ceiling height shall be not less than seven feet six inches.
- (11) Windows and doors.
 - (A) Low windows and glass doors shall be screened or guarded.
 - (B) Windows and doors opened for ventilation shall be screened.
- (12) Floors shall be smooth and not slippery, free from cracks, clean and in good condition. Floor covering shall be required over concrete.
- (13) Carpeting shall be clean and in good repair. Newly-installed carpeting shall meet fire safety requirements of the state fire marshal.
- (14) Walls shall be clean and free of cracks.
- (15) All surfaces shall be free of toxic materials.
- (16) Electrical outlets within the reach of children under five years of age shall be provided with receptacle covers when not in use.
- (17) Extension cords shall not be used.
- (18) Rooms occupied by children shall have a minimum of twenty foot candles of light in all parts of the room. Sleeping rooms shall be lighted to allow freedom of movement.

- (19) The premises shall be maintained in good condition and shall be clean at all times, free from accumulated dirt and trash, and any evidence of vermin or rodent infestation. Outdoor trash and garbage containers shall be covered, and contents shall be removed at least weekly.
- (20) Rooms occupied by the children shall be heated, ventilated and cooled. Room temperatures shall not be less than 65° F. nor more than 90° F. Areas occupied by children shall be free of drafts.
- (21) Electric fans, if used, shall be mounted high on the wall or shall be guarded.
- (22) When gas heaters are used, they shall be approved by a fire inspector before use. Open-faced heaters shall be prohibited.
- (23) All heating elements, including hot water pipes, shall be insulated or installed in such a way that children cannot come in contact with them. Asbestos insulation shall not be used. Fireplaces shall not be used when children are present.
- (24) Medicines, household poisons, and other dangerous substances and instruments shall be in locked storage.
- (25) Storage of firearms in any area used for children's activities shall be prohibited. Firearms stored in any other area of the premises shall be in locked storage, or shall be equipped with trigger locks.

(b) Water supply.

- (1) The water supply shall be from a source approved by a health department, or by the Kansas department of health and environment.
- (2) Sanitary drinking facilities shall be available to children while indoors or outdoors. One of the following methods shall be used:
 - (A) Individual disposable cups and a water dispenser;
 - (B) individually-marked glasses or cups which shall be washed daily.
 - (C) a fountain designed so that a child can get a drink of water without assistance.
- (3) Drinking fountains shall not be plumbed to sinks.
- (4) Water from drinking fountains shall be under pressure so that the stream is not less than three inches high.
- (5) Cold water and hot water not exceeding 110° F. shall be supplied to lavatory fixtures accessible to children.

(c) Toilet and lavatory facilities.

- (1) All plumbing fixtures and building sewers shall be connected to public sewers where available.

- (2) When a public sewer is not available, a private sewage disposal system meeting requirements of the county health department or the Kansas department of health and environment shall be installed and connected to all plumbing fixtures.
- (3) Plumbing shall be installed and maintained according to local and state plumbing codes.
- (4) Bathroom facilities shall be readily accessible to the children, and shall be placed low or be provided with safety steps.
- (5) There shall be one toilet and one washbasin for each fifteen children.
- (6) Bathroom facilities shall be planned to assure privacy for staff.
- (7) Soap, individual cloth towels or paper towels, and toilet paper shall be provided. The use of common towels and wash cloths shall be prohibited. When cloth towels and wash cloths are used, they shall be labeled with the child's name, and laundered at least weekly. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983.)

28-4-424. Swimming and wading pools.

- (a) When swimming pools or wading pools are used as part of the program, they shall be constructed, maintained and used in such a manner as to safeguard the lives and health of the children.
- (b) Below-ground swimming pools shall be fenced to prevent chance access by children.
- (c) Above-ground pools shall be four feet high, or be enclosed with a fence not less than four feet high.
- (d) The number and ages of children using either swimming or wading pools shall be limited to allow appropriate supervision by adult staff members. Licensing regulations for staff/child ratios shall be maintained at the pool at all times. There shall be a minimum of two adults in attendance with the children. A qualified life guard shall be on duty when children are using a swimming pool in which the water is more than two feet deep.
- (e) The water in the swimming pool shall be maintained at pH 7.2 to 7.6, and the chlorine content at 0.4 to 0.6 parts per million. The pool shall be cleaned daily.
- (f) Water in wading pools shall be emptied daily.
- (g) Legible safety rules for the use of swimming and wading pools shall be posted in a conspicuous location, and shall be read and reviewed at regular intervals by all staff members responsible for the supervision of children.

- (h) Natural bodies of water 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. A qualified life guard shall be on duty. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983.)

28-4-425. Transportation.

(a) Facility-owned or leased vehicles.

- (1) When a vehicle used for transportation is owned or leased by the facility, the driver shall be 18 years of age or older, and shall hold a valid Kansas operator's license, as follows:
 - (A) The driver of a vehicle with a passenger limit of more than 10 shall hold a class B driver's license.
 - (B) The driver of a car transporting five or fewer children, a station wagon transporting eight or fewer children, or a van transporting 10 or fewer children, shall have a current class C driver's license.
- (2)(A) The driver, whether paid or volunteer, shall have a health assessment performed by a physician or a nurse approved to perform health assessments.
 - (B) The assessment shall have been conducted within the past 12 months.
 - (C) Results of the assessment shall be recorded on forms supplied by the Kansas department of health and environment and kept on file at the facility.
- (3)(A) The transporting vehicle shall be 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, and tail-lights. A record of the date of the safety check and corrections made shall be kept on file at the facility or in the vehicle.
- (4) When children are transported in buses, the vehicle shall meet the administrative regulations of the department of transportation governing school buses as specified in K.A.R. 36-13-32 et. seq.
- (5) A vehicle shall not transport more children than its capacity as stated by the manufacturer.
- (6) Children shall not be transported in campers, recreation vehicles or in the back of a truck.
- (7) The vehicle shall be covered by accident and liability insurance as required by K.S.A. 40-3104 and 40-3118, and any amendments thereof.

- (8) Emergency release forms, and health assessment records as specified in K.A.R. 28-4-430 and 28-4-432(e), shall be carried in the vehicle when children are transported. A first aid kit shall be available.
- (b) Safety of the children riding in the vehicle shall be protected as follows:
- (1) Each child shall be provided with an individual restraint as recommended by the department of transportation.
 - (2) All doors shall be locked while vehicle is in motion.
 - (3) Discipline shall be maintained at all times.
 - (4) Children's arms, legs and heads shall remain inside the vehicle at all times.
 - (5) Children shall not enter nor exit the vehicle into a lane of traffic.
 - (6) Children shall not be left in a vehicle unattended by an adult.
 - (7) Smoking in the vehicle shall be prohibited while children are being transported.
 - (8) A second adult shall ride in the vehicle when more than five children under five years of age or more than three infants are being transported, or when the route exceeds 30 minutes.
 - (9) K.A.R. 28-4-425(b)(1) through (8) shall be posted in the vehicle.
- (c) The driver shall deliver the child to a responsible person designated by the child's parent or legal guardian, or by the person legally responsible for the care and custody of the child.
- (d) Privately-owned, non-facility vehicles, volunteered without remuneration, shall meet all of the foregoing requirements except those of K.A.R. 28-4-425(a)(2) and (a)(3)(B).
- (e) Facilities providing transportation shall develop written policies detailing safety precautions which shall be implemented for the protection of children.
- (f) Volunteer drivers shall be informed of the facility's transportation policies. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983.)

28-4-426. Administration.

- (a) Line of authority. There shall be a written delegation of administrative authority designating the person in charge for all hours of operation of the facility.

(b) Admission policies.

- (1) Arrangements for the admission of children shall be made prior to the date they are admitted to the center or preschool.
- (2) Admission policies shall be non-discriminatory in regard to race, color, religion, national origin, ancestry, physical handicap, or sex, in accordance with Kansas civil rights statute K.S.A. 44-1009.
- (3) Parents shall be informed when religious training is included in the program.

(c) Insurance. Liability and accident insurance shall be carried on children and staff. Documentation of insurance coverage shall be on file, including the name of the insurance company or companies, policy number or numbers and dates of coverage.

(d) Staff records. The following records shall be maintained on each staff person:

- (1) Education and experience;
- (2) date of employment;
- (3) scheduled hours;
- (4) record of in-service training;
- (5) health certificate; and
- (6) work references.

(e) Children's records.

- (1) A daily attendance record shall be maintained and kept on file at the facility.
- (2) The following emergency information shall be readily accessible to the telephone:
 - (A) Name, date of birth, and sex of child;
 - (B) name, home and business address and phone numbers of parents or legal guardian;
 - (C) name, address, and telephone number of physician, hospital, and person to notify in case of emergency; and
 - (D) persons authorized to call for child.
- (3) A file shall be maintained for each child which includes:
 - (A) Application for enrollment including beginning date;

- (B) scheduled hours and days of attendance;
 - (C) health assessment and immunization record;
 - (D) accident reports; and
 - (E) signed parental permission for field trips, transfer of records, and, when applicable, walking to and from activities away from the facility.
- (4) Children's records shall be confidential. Staff shall not disclose nor discuss personal information regarding children and their relatives with any unauthorized person.
 - (5) A child's records and reports shall be made available to that child's parents on request. Children's health records shall be returned to the parents when the children are no longer enrolled. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983.)

28-4-427. Program.

- (a) Programs shall be conducted in self-contained units with staff and children designated for each unit. Centers or preschools which cannot develop self-contained units shall present a plan for space use to the Kansas department of health and environment for approval.

- (b) Equipment.

- (1) Low, open shelves shall be provided for play equipment and materials so that they are readily accessible to the children.
- (2) Equipment shall be scaled to the size of the children.
- (3) Equipment shall be of sound construction with no sharp, rough, loose, nor pointed edges, and in good operating condition.
- (4) Equipment shall be placed to avoid danger of accident or collision, and to permit freedom of movement.
- (5) Equipment shall be provided in a sufficient quantity so that each child has a choice of at least three activities when all children are using equipment at the same time.
- (6) Storage space located conveniently for the staff shall be provided for supplies and equipment not in use.
- (7) Each child shall have individual space for the child's garments, clothing, and possessions during the session attended.

- (c) Learning experiences.

- (1) There shall be a written program plan which includes daily learning experiences appropriate to the developmental level of the children. Experiences shall be designed to develop:

- (A) Self-esteem and positive self-image;
 - (B) social interaction skills;
 - (C) self-expression and communication skills;
 - (D) creative expression;
 - (E) large and small muscle skills; and
 - (F) intellectual growth.
- (2) The program schedule shall be planned to provide a balance of active, quiet, individual and group activities.
 - (3) A written program plan shall be posted in each unit.
- (d) Discipline.
- (1) There shall be a written discipline policy outlining methods of guidance appropriate to the ages of the children enrolled. This policy shall be made available to staff and parents.
 - (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;
 - (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; and
 - (D) withholding or forcing foods. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983.)

28-4-428. Staff requirements.

- (a) Minimum staff/child ratio. The ratio between staff and children shall be determined by the age of children and type of service provided. The required staff/child ratios shall not fall below this minimum level at any time and no child shall be left unsupervised. Only staff who are in attendance with the children shall be counted in the minimum staff/child ratio as follows:

<u>Age of Children</u>	<u>Minimum Staff/Child ratio</u>	<u>Maximum children per unit</u>
Infants (2 weeks to 12 months)	1 to 3	9
Infants to 6 years	1 to 4 (max. 2 infants)	8 (max. 4 infants)

(13)

<u>Age of Children</u>	<u>Minimum Staff/Child ratio</u>	<u>Maximum children per unit</u>
Toddlers (12 months to 2½ years if walking alone)	1 to 5	10
2½ years to kindergarten age	1 to 10	20
3 years to kindergarten age	1 to 12	24
Kindergarten enrollees	1 to 14	28
School age	1 to 16	32

(b) Substitute staff. Facilities shall have two additional adults who can work in case of illness or emergency. Their names and phone numbers shall be posted, and their health certificates shall be on file.

(c) Volunteers. Volunteers shall be at least 14 years of age. Volunteers may be counted in the staff/child ratio if they are 16 years of age or older, participate in in-service training programs, and are supervised at all times by employed staff.

(d)(1) Each child care center shall have a program director who is employed full time.

(2) A facility enrolling more than 60 children shall employ a program director who has no assigned teaching responsibilities.

(3) A facility enrolling more than 60 children shall have an administrator, who may also be the program director.

(e) Staff training.

(1) The program director shall receive at least five clock-hours of approved in-service training annually that is conducted away from the facility.

(2) Teaching staff shall receive at least 10 clock-hours of approved in-service training annually.

(f) References. All staff members shall provide work references at the time of application for employment.

(g) The program director shall submit an annual program report to the Kansas department of health and environment on forms supplied by the department. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983.)

28-4-429. Staff qualifications.

(a) Program directors shall be 18 years of age or older and shall meet the training requirements for the license capacity of the facility.

(b) Facilities with fewer than 13 children shall have a program director who meets the training requirements by one of the following options:

- (1) Option 1: (A) Six months' teaching experience in licensed facilities with children of the same age as enrolled in present facility.
- (2) Option 2: (A) Five sessions of observation for not less than 2½ consecutive hours per observation in licensed facilities with children of the same age as enrolled in present facility; and
(B) 10 clock hours of workshops approved by the state licensing staff;
- (3) Option 3: A minimum of three semester hours of academic credit or equivalent training in child development, early childhood education, and curriculum resources; and
(B) supervised observation in high school or college or three months work experience with children of the same age as enrolled in present facility; or
- (4) Option 4: A child development associate credential.

(c) Facilities licensed for not less than 13 and not more than 24 children shall have a program director who meets the training requirements by one of the following options:

- (1) Option 1: (A) Five sessions of observation for not less than 2½ consecutive hours per observation in licensed preschools or child care centers. Child care center staff shall plan their observations so that daily activities during morning, lunch, nap time and late afternoon can be observed; and
(B) one year of teaching experience in licensed centers or preschools, or one year of supervised practicum in licensed centers or preschools; or
- (2) Option 2: (A) Seven to nine semester hours of academic credit or equivalent training in child development or early childhood education; and
(B) three months' teaching experience in licensed centers or preschools, or one year of supervised practicum in licensed centers or preschools; or
- (3) Option 3: A child development associate credential.

(d) Facilities licensed for more than 24 children shall have a program director who meets the training requirements by one of the following options:

- (1) Option 1: (A) Twelve semester hours of academic study or equivalent training in child development, early childhood education, curriculum resources, nutrition, child guidance, parent education, supervised practicum, and administration of early childhood programs; and
- (B) six months' teaching experience in licensed centers or preschools;
- (2) Option 2: A child development associate credential and one year of teaching experience in licensed centers or preschools, or supervised practicum in licensed centers or preschools;
- (3) Option 3: (A) An associate of arts degree or a two-year certificate in child development; and
- (B) one year of teaching experience in licensed centers or preschools, or a supervised practicum in licensed centers or preschools;
- (4) Option 4: (A) An A.B. or B.S. degree in child development or early childhood education, including a supervised practicum; and
- (B) three months' teaching experience in licensed centers or preschools; or
- (5) Option 5: (A) An A.B. or B.S. degree in a related academic discipline, and 12 hours of academic study or equivalent training in child development, early childhood education, curriculum resources, nutrition, child guidance, parent education, supervised practicum, and administration of early childhood programs; and
- (B) six months teaching experience in licensed centers or preschools.

(e) Each unit shall have one staff person who is at least 18 years of age and who has a high school diploma or its equivalent. Units enrolling fewer than 13 children shall have a staff person who meets the training requirements specified in subsection (b) of this rule and regulation. Units enrolling 13 to 24 children shall have a staff person who meets the training requirements specified in subsection (c) of this rule and regulation. Units enrolling more than 24 school-age children shall have a staff person who meets the requirements specified in subsection (d) of this rule and regulation.

(f) Assistant teachers shall be at least 16 years of age and shall participate in staff orientation at time of employment. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983.)

(a) Children's health assessments.

- (1) A pre-entrance health assessment conducted within six months prior to enrollment shall be required for each child. The assessment shall be conducted by a licensed physician, or nurse approved to perform health assessments.
- (2) Results of the assessment shall be recorded on forms supplied by the Kansas department of health and environment, and kept in the child's file at the facility.
- (3) Children transferring from one facility to another shall not be required to obtain a new health assessment if the old assessment record is available.
- (4) Tuberculin testing shall be required only if the child comes in contact with a new active or reactivated case of tuberculosis. The results of this examination shall become a part of the child's health record.
- (5) Immunizations shall be current in accordance with the child's age at time of enrollment, and shall be maintained current for protection against diphtheria, pertussis, tetanus, measles, mumps, rubella, and poliomyelitis. A record of each child's immunizations shall be maintained on that child's health assessment form.
- (6) Exceptions to health assessments and immunizations shall be permitted if one of the following is obtained:
 - (A) Certification from a licensed physician stating that the physical condition of the child is such that immunization would endanger the child's life or health; or
 - (B) A written statement signed by a parent or guardian that the parent or guardian is an adherent of a religious denomination whose teachings are opposed to health assessments or immunizations.
- (7) The licensee shall educate the parents of children in care about the value of periodic health assessments and to the importance of seeking medical advice when a child exhibits health problems.

(b) Health practices.

- (1) Each child's hands shall be washed with soap and water before eating and after toileting. Each child's hands and face shall be washed after eating.
- (2) Children shall be allowed to go to the bathroom individually as needed.

(c) Illness and abuse.

- (1) When a child is absent due to a communicable disease, staff shall inform other parents of the nature of the illness.
- (2) Communicable diseases shall be reported to the county health department.
- (3) All staff members shall be trained to observe symptoms of illness, neglect, and child abuse, and shall observe each child's physical condition daily.
- (4) Symptoms of illness shall be reported immediately to parents.
- (5) Any evidence of neglect or unusual injuries including bruises, contusions, lacerations, and burns shall be noted on the child's record, and shall be reported immediately to the person in charge of the facility.
- (6) The person in charge shall report immediately to the Kansas department of social and rehabilitation services any evidence of suspected child abuse or neglect. When the local offices of the department of social and rehabilitation services are not open, reports shall be made to local law enforcement agencies.
- (7) If care of sick children is to be provided, written plans regarding the needs of a sick child, and the care of the sick child, shall be prepared in consultation with the public health nurse, and shall be presented to the parents at time of enrollment.
- (8) A quiet area shall be provided for sick children. Sick children shall be supervised by an adult.
- (9)(A) Non-prescription medications shall not be administered to any child except on written order of the parent or guardian.
- (B) Orders shall be renewed yearly.
- (C) Such medication shall be administered by a designated staff member.
- (10) Prescription medication shall be administered by one designated staff member per session from a pharmacy container labeled with the child's name, name of medication, dosage, dosage intervals, name of physician, and date prescription was filled. The label shall be considered the order from the physician.
- (11) A record shall be kept in the child's file as to who gave the medication and of the date and time it was given.

(d) Staff.

- (1) General health policies.

- (A) All staff shall be free of communicable diseases and shall be in such a state of health and freedom from physical or emotional handicaps as is necessary for them to work with children.
- (B) Smoking shall be prohibited in the presence of children.
- (C) Alcohol or non-prescribed controlled substances as defined in K.S.A. 65-4101 and any amendments thereof shall not be consumed on the premises during hours of operation, nor while children are present.

(2) Physical health.

- (A) All staff who will have contact with the children shall have a health assessment conducted within one year prior to employment. Health assessments shall be conducted by a licensed physician or a nurse approved to perform health assessments.
 - (B) Results of the assessment shall be recorded on forms supplied by the Kansas department of health and environment and kept in the staff person's personnel file.
 - (C) The health assessment for persons 16 years of age or older shall include a record of tuberculin test or X-ray obtained within the past two years. Test or X-ray results shall be recorded on the person's health record. The county health department and Kansas department of health and environment shall be notified when tests are positive.
 - (D) Additional tuberculin testing shall not be required unless 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 that follow-up shall be recorded on the person's health record. The Kansas department of health and environment shall be kept informed.
- (e) Persons residing in the same location as a child care center or preschool shall obtain health assessments as described in K.A.R. 28-4-430(d). Persons under 16 years of age shall have current immunizations.
- (f) Volunteers shall present written proof of freedom from active tuberculosis obtained within the past two years. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983.)

28-4-431. Safety.

- (a) Each facility shall develop a disaster plan to provide for the safety of children and staff in emergencies such as fire, tornadoes, storms, floods, civil disorders, and serious injury.
- (1) Fire drills shall be conducted monthly and scheduled to allow participation by each child enrolled. The dates and time shall be recorded.

- (2) Tornado drills shall be conducted monthly, April through September, and scheduled to allow participation by each child enrolled. The dates and time shall be recorded.
 - (3) The parents of the children in the facility shall be informed of the disaster plans, and the plans shall be posted in the child care center or preschool.
- (b) All staff members shall be trained in elementary principles of first aid by a registered nurse, emergency medical technician, red cross trainer, or a staff member who has completed the red cross training or its equivalent. First aid training shall be offered yearly as a part of inservice training. A first aid kit shall be accessible to the staff.
 - (c) Education about accident prevention shall be included in staff training. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983.)

28-4-432. Emergencies.

- (a) Emergency telephone numbers shall be posted next to the facility's telephone. The following telephone numbers shall be posted: police, fire department, ambulance, hospital or hospitals, and poison control center.
- (b) The facility shall have in writing the name, address, and telephone number of a physician to be called in case of emergency.
- (c) Provisions shall be made at a hospital or clinic for emergency treatment of children.
- (d) Health assessment forms and emergency release forms shall be taken to the emergency room with the child.
- (e) Written permission of the parent or guardian for emergency treatment shall be according to the requirements of the hospital or clinic where emergency care will be given.
- (f) When a staff member accompanies a child to the source of emergency care, that person shall remain with the child until the parent or the parent's designee assumes responsibility for the child's care. Such an arrangement shall not compromise the supervision of the other children in the program.
- (g) A death or an accident requiring hospitalization shall be reported immediately to the county health department or Kansas department of health and environment. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983.)

28-4-433. Pets and animals.

- (a) Whenever animals are on the premises, policies shall be written and posted for their care and maintenance. Dogs and cats shall have current immunizations as recommended by a veterinarian. A record of immunizations shall be kept on file.

- (b) Water turtles, poisonous snakes, insects, and other animals that represent a hazard to children shall not be kept on the premises. Wild animals shall not be kept on the premises except as a part of an animal exhibit.
- (c) Large dogs, horses, other animals and birds shall be confined in areas which are removed from children's activities, and which are maintained in a sanitary manner. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983.)

28-4-434. Preschools.

- (a) Inside area. A building used as a residence shall be licensed as a pre-school only if there is a room or rooms designated exclusively for pre-school use.
- (b) Nutrition.
 - (1) A nutritious snack shall be provided daily and shall include at least one of the following foods:
 - (A) Milk, milk product, or food made with milk;
 - (B) fruit, vegetable, or full-strength fruit or vegetable juice;
 - (C) meat;
 - (D) peanut butter; or
 - (E) bread or cereal product.
 - (2) Dairy products shall be pasteurized.
 - (3) Refrigeration shall be provided for perishable foods.
 - (4) If reusable table service is used for snacks, appropriate dishwashing methods shall be followed as specified in K.A.R. 28-4-439(k).
 - (5) Appropriate table service shall be used for serving snacks.
- (c) Outdoor play. Outdoor play space shall not be required. If outdoor play is included in the preschool program, the requirements of K.A.R. 28-4-437 shall be met. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983.)

28-4-435. Programs serving children with handicapping conditions.

- (a) Records. Written parental permission shall be on file for evaluation and placement of children.
- (b) Physical plant.
 - (1) Programs which include non-ambulatory children shall be conducted on the ground floor. All exits and steps shall have ramps approved by a fire inspector.
 - (2) Facilities enrolling children who use walkers or wheelchairs shall have 50 square feet of space for each physically handicapped child.
 - (3) When physically handicapped children are enrolled, toilets and wash-basins shall be designed to accommodate them.
- (c) Transportation. A second adult shall ride in the rear seat of the vehicle when three or more handicapped children are being transported.
- (d) Staff requirements. Facilities shall have staff who meet the qualifications listed in K.A.R. 28-4-429. The following additional requirements shall be met:
 - (1) The parent of a child enrolled in the unit shall not be a teacher in that unit.
 - (2) Each unit shall have a staff person who has a minimum of six hours of academic credits or equivalent clock hours in understanding the needs of handicapped children, and in developing individual program plans.
 - (3) Consultants shall meet the educational requirements of their profession.
- (e) Minimum staff/child ratios. If fewer than one-third of the children enrolled have handicapping conditions, the minimum staff/child ratios shall be those as specified in K.A.R. 28-4-428. If one-third or more of the children enrolled have handicapping conditions, the following minimum staff/child ratios shall be maintained:

Age of children	Integrated unit or center		Special purpose unit or center	
	Adult/child	Max. unit	Adult/child	Max. unit
Under 2½ years	1 to 3	9	1 to 2	6
2 years to 3 years	1 to 4	12	1 to 3	9
2½ years and above	1 to 6	18	1 to 4	12

- (f) In-service training. All staff shall have 10 clock-hours of annual in-service training specific to handicapping conditions.

- (g) Program. A written individual program plan shall be on file for each handicapped child enrolled, and in consultation with the parents, shall be reviewed and revised annually. The plan shall assign responsibility for the delivery of services, and shall indicate the anticipated change in the child's behavior, and how these changes will be measured. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983.)

28-4-436. Child care centers: physical plant.

(a) Inside area. A building used as a residence shall be licensed as a child care center only if there is a room or rooms designated exclusively for child care use.

(b) Napping and sleeping.

(1) Children remaining at the center more than four hours shall be encouraged to nap or rest according to their individual needs. Children who do not sleep shall be permitted to have a quiet time through the use of equipment or activities which will not disturb other children.

(2) Centers shall have a crib, cot or pad for each child. Pads shall be enclosed in washable covers and shall be used only over carpet. When pads are used, they shall be long enough so that the child's head does not rest on the carpet. Bunk beds shall be prohibited.

(3) Each crib or cot shall be equipped with individually-labeled bottom sheet. Every child shall have a cover. Children shall not share bedding.

(4) There shall be a complete change of bedding after each five uses, immediately when wet or soiled, and always upon a change in occupancy. Blankets shall be laundered monthly.

(5) Cribs, cots, or pads, when in use, shall be separated from each other by at least two feet in all directions except when bordering on the wall. When not in use, they shall be stored in a clean and sanitary manner.

(6) Nighttime care.

(A) Movable screens shall be available to insure privacy as needed.

(B) Separate sleeping areas shall be provided for boys and girls over six years of age.

(C) A center in which children sleep for more than three consecutive hours shall be provided with a smoke detector installed in consultation with a fire inspector.

(c) Laundry facilities.

(1) If laundry is done at the center, laundry fixtures shall be located in an area separate from food preparation areas and shall be installed and used in such a manner as to safeguard the health and safety of the children.

(2) Separate areas shall be provided for soiled and clean items. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983.)

28-4-437. Child care centers: outside area.

- (a) There shall be at least 75 square feet of outdoor play space on the premises for each child using the space at a given time. The total outdoor space shall accommodate not less than one-half of the licensed capacity, or shall include a minimum of 750 square feet, whichever is greater.
- (b) The boundaries of outdoor play space shall be enclosed with a fence not less than four feet high.
- (c) The outdoor play space shall be located to provide both sunshine and shade. Hard-surfaced area or gravel shall not be used under anchored play equipment.
- (d) Outdoor play space shall be well drained and free of hazards.
- (e) Outdoor play equipment shall be safely constructed and in good repair. Climbing equipment and swings shall be anchored in the ground with metal straps or pins, or set in cement. Swings shall be safely located and shall have canvas or soft rubber seats. Teeter-totters and merry-go-rounds designed for school-age children shall not be used for children under six years.
- (f) Sandboxes shall be maintained in a safe and sanitary condition.
- (g) A rooftop used as a play area shall be enclosed with a flat board fence or a chainlink fence angled toward the play area, which shall not be less than six feet high. An approved fire escape shall lead from the roof to the ground.
- (h) The play area shall be arranged so that staff can provide close supervision at all times.
- (i) Outdoor equipment shall be provided in sufficient quantity so that each child has access to at least one activity.
- (j) There shall be bathroom facilities accessible to the play area. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983.)

28-4-438. Child care centers: program.

- (a) The program shall provide regularity in routines such as eating and napping, and protection from excess fatigue and overstimulation.
- (b) Unless extreme weather conditions prevail, children shall have a daily period of outdoor play under the supervision of an adult. Children spending more than four consecutive hours at the center shall play outdoors for at least one hour daily.
- (c) Routines such as toileting and eating, and intervals between activities shall be planned so that children do not have to wait in lines, or assemble in large groups.

- (d) If television is on the premises, its use shall be limited to children's programs.
- (e) Activities shall be available for children during the entire time they are in attendance, including early morning and late afternoon. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983.)

28-4-439. Child care centers: food service.

- (a) Single or multi-unit centers serving a meal prepared at the center to 13 or more children shall employ a staff person who:

- (1) Has knowledge of nutritional needs of children;
- (2) understands quantity food preparation and service;
- (3) practices sanitary methods of food handling and storage;
- (4) is sensitive to individual and cultural food tastes of children; and
- (5) is willing to work with the program director in planning learning experiences for children relative to nutrition.

- (b) Centers shall serve meals and snacks as follows:

Length of Time at Center	Food Served
2½ to 4 hours	1 snack
4 to 8 hours	1 snack & 1 meal
8 to 10 hours	2 snacks & 1 meal or 1 snack & 2 meals
10 hours or more	2 meals & 2 or 3 snacks

- (c) Meals and snacks.

- (1) Breakfasts shall include:

- (A) A fruit, vegetable, or full strength juice;
- (B) cereal or egg;
- (C) a bread product;
- (D) butter or margarine; and
- (E) milk.

- (2) Noon or evening meals shall include one item from each of the following:

- (A) Meat, poultry, fish, egg, cheese, cooked dried peas or beans, or peanut butter;

- (B) two vegetables, 2 fruits, or one vegetable and one fruit;
 - (C) a cereal or bread product;
 - (D) butter or margarine; and
 - (E) milk.
- (3) Mid-morning and mid-afternoon snacks shall include at least two of the following:
- (A) Milk, milk product or food made with milk;
 - (B) fruit, vegetable, or full-strength fruit or vegetable juice;
 - (C) meat or a meat alternate; or
 - (D) bread or cereal product.
- (d) A sufficient quantity of food shall be prepared for each meal to allow the children second portions of vegetables or fruit, bread, butter or margarine, and milk.
- (e) Food allergies of specific children shall be known to cooks, staff members, child care workers, and substitutes.
- (f) Menus shall be posted where parents can see them. Copies of menus served the previous month shall be kept on file.
- (g) Staff shall sit at the table with the children, and socialization shall be encouraged. Children shall be encouraged to serve themselves. Appropriate service shall be used for meals and snacks.
- (h) Toothbrushes shall be provided for each child's use. They shall be used daily after meals, and shall be stored in a sanitary manner out of children's reach.
- (i) When meals are prepared on the premises, the kitchen shall be separate from the eating, play, and bathroom areas, and shall not be used as a passageway while food is being prepared.
- (j) Food shall be stored as follows:
- (1) Poisonous or toxic materials shall not be stored with food. Medications requiring refrigeration shall be labeled and kept in locked storage in the refrigerator.
 - (2) All perishables and potentially hazardous foods shall be continuously maintained at 45°F or lower in the refrigerator, or 10°F or lower in the freezer, with 0°F recommended. Each cold storage facility shall be provided with a clearly visible, accurate thermometer.
 - (3) All foods stored in the refrigerator shall be covered.

- (4) Foods not requiring refrigeration shall be stored at least six inches above the floor in clean, dry, well-ventilated storerooms or other areas.
- (5) Dry bulk foods which are not in their original unopened containers shall be stored in metal, glass or food-grade plastic containers with tight-fitting covers, and shall be labeled.
- (k) Table service shall be maintained in sanitary condition using one of the following methods:
 - (1) Disposable plates and cups, and plastic utensils of food grade, medium weight; or
 - (2) a three-compartment sink supplied with hot and cold running water and a drainboard for washing, rinsing, sanitizing, and air-drying; or
 - (3) a mechanical dishwasher.
 - (1) Dishes shall have smooth, hard-glazed surfaces, and shall be entirely free from cracks or chips.
- (m) Tables shall be washed before and after meals, and floors shall be swept after meals.
- (n) If meals are catered:
 - (1) Food shall be obtained from sources licensed by the Kansas department of health and environment; and
 - (2) food shall be transported in covered and temperature-controlled containers, and not allowed to stand. Hot foods shall be maintained at not less than 140°F, and cold foods shall be maintained at 45°F or less.
- (o) All dairy products shall be pasteurized. Dry milk shall be used only for cooking.
- (p) Meat shall be from government-inspected sources.
- (q) Home-canned food, food from dented, rusted, bulging, or leaking cans, or food from cans without labels shall not be used.
- (r) Garbage shall be placed in covered containers inaccessible to children, and removed from the kitchen daily. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983.)

28-4-440. Infant and toddler programs.

- (a) Infant and toddler programs shall be conducted on the ground floor only.
- (b) Infant and toddler units shall be separate from units for older children.
- (c) Floor furnaces shall be prohibited.
- (d) A sleeping area separate from the play area shall be provided for infants.
- (e) A crib or play-pen shall be provided for each infant in care at any one time.
- (f) Cribs and playpens shall have slats not more than 2 3/8 inches apart, or shall be equipped with bumpers. The side of the crib or playpen shall be up while the crib or playpen is in use.
- (g) When children are awake, they shall not be left unattended in cribs or other confinement for more than 30 minutes.
- (h) An adult-size rocking chair shall be provided in each infant or toddler unit.
- (i) Children not held for feeding shall have low chairs and tables, infant seats with trays, or high chairs with a wide base and a safety strap.
- (j) Individually-labeled towels and washclothes or disposable products shall be provided.
- (k) Items that children may place in their mouths shall be washed daily with soap and water.
 - (1) Staff requirements. Single or multi-unit centers serving infants and toddlers shall employ one staff person per unit who meets the training requirements by one of the following options:
 - (A) Option 1: A person with six months' teaching experience or supervised practicum in licensed child care centers enrolling infants and toddlers; or
 - (B) Option 2: A licensed L.P.N. or R.N. with three months' experience in pediatrics, or in licensed child care centers enrolling infants and toddlers; or
 - (C) Option 3: A child development associate credential in infant/toddler care.
- (m) Program.
 - (1) Daily activities shall contribute to:
 - (A) Gross and fine motor development;

(B) visual-motor coordination;

(C) language stimulation; and

(D) social and personal growth.

(2) Infants and toddlers shall spend time outdoors daily unless extreme weather conditions prevail.

(n) Food service.

(1) Nitrate content of water for children under one year of age shall not exceed 45 milligrams per liter as nitrate (NO_3).

(2) Infants shall be held when bottle fed until they can hold their own bottles.

(3) Infants and toddlers shall not be allowed to sleep with bottles in their mouths.

(4) Prepared formula and juice shall be refrigerated until used. Left-over formula and juice shall be labeled and refrigerated with the nipple covered, and used within 24 hours.

(5) Solid foods shall be offered in consultation with the child's parents. Opened containers of solid foods shall be labeled with child's name, covered, and refrigerated, shall be reheated only once, and shall not be served to other children.

(o) Toileting.

(1) Children's clothing shall be changed whenever wet or soiled.

(2) Each child shall have at least two complete changes of clothing.

(3) Handwashing facilities shall be in or adjacent to the diaper-changing area.

(4) Children shall be diapered in their own cribs or play pens, or on a changing table with an impervious and undamaged surface. Each unit shall have a changing table.

(5) Changing tables shall have an impervious surface and shall be sanitized after each use by washing with a disinfectant solution of $\frac{1}{2}$ cup of chlorine bleach to one gallon of water, or a commercial solution approved by the Kansas department of health and environment.

(6) Washable diapers or training pants shall be rinsed immediately following changing, and stored in a labeled, covered container or plastic bag.

(7) Disposable diapers shall be placed in a covered container or plastic bag which shall be emptied daily.

- (8) There shall be one potty chair for each five toddlers. Potty chairs 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. Potty chairs shall not be counted as toilets.
- (9) Staff shall wash their hands after changing soiled clothing.
- (10) Changing and toileting procedures shall be posted.
- (p) There shall be daily communication between parents and the staff about the child's behavior and development. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983.)

28-4-441. Programs for school-age children.

(a) Physical plant.

- (1) When enrollment requires more than one adult, units for school-age children shall be separate from units for younger children.
- (2) Centers shall have a minimum of thirty-five foot candles of light in areas used for reading, study, and other close work.

(b) Staffing. Single or multi-unit centers shall employ teaching staff who meet the requirements by one of the following options:

Option 1: As specified in K.A.R. 28-4-429; or

Option 2: A.B. or B.S. degree in elementary education, physical education, child development or a related academic discipline, and three months' experience with school-age children.

(c) Full-year program.

- (1) Educational and recreational activities shall meet the individual needs of the children.
- (2) Children shall be provided the opportunity to plan activities appropriate to their age.
- (3) Activities shall include arts, crafts, music, reading, table games, and sports.
- (4) Written parental permission shall be obtained for children to participate in activities away from the center.

(d) Summer programs for school-age children.

- (1) License applications or application renewals for summer programs shall be submitted to the Kansas department of health and environment not later than April 15.
- (2) Summer programs shall be based in facilities which meet license requirements.
- (3) Sack lunches may be served. Sack lunches and beverages shall be refrigerated.
- (4) An exception may be granted for centers to exceed the maximum enrollment of one hundred children for summer school-age programs if space requirements and other regulations are met. Requests for this exception shall be submitted in writing to the Kansas department of health and environment. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983.)

6-17-83

POLICY FOR EXEMPTING PRESCHOOLS FROM CHILD CARE LICENSURE

A preschool, as defined by K.A.R. 28-4-400(s), is a facility:

(1) which provides learning experiences for children who have not attained the age of eligibility to enter kindergarten prescribed in K.S.A. 1981 Supp. 72-1107(c) and any amendments thereto, and who are 30 months of age or older;

(2) which conducts sessions not exceeding three hours per session;

(3) which does not enroll any child more than one session per day; and

(4) which does not serve a meal. The term "preschool" shall include educational preschools, Montessori schools, nursery schools, church-sponsored preschools, and cooperatives.

Any preschool which is operated as part of a private elementary school providing kindergarten through grade six and which is accredited by or registered with the Kansas Department of Education shall be exempt from licensing by the Kansas Department of Health and Environment.