ARC 6564C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency After Notice

Rule making related to child care center staff requirements

The Human Services Department hereby amends Chapter 109, "Child Care Centers," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 237A.12.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 237A.5.

Purpose and Summary

This rule making allows an increased number of children to be served per staff person in the two-year-old and three-year-old age categories in licensed child care centers. These amendments modify requirements when combining age groups and also allow a staff person under the age of 18 to provide care to school-aged children without being under the direct care of an adult. Clarification is added that a person under the age of 18 shall not be the sole provider on the premises of a child care facility or transport children. This rule making is based on 2022 Iowa Acts, House File 2198.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 13, 2022, as **ARC 6406C**.

One organization provided comments. In light of the changes enacted by 2022 Iowa Acts, House File 2198, the commenter stated concerns about the existing language in relettered paragraph 109.8(2)"d" that required adult supervision to be present in every room with children. The Department agreed and removed the requirement that an adult be present in every room.

One update was made to the preamble to reflect that this rule making is a result of House File 2198. After discussions with members of the Administrative Rules Review Committee, the jobs impact statement was also revised to state that the Department was unable to determine the jobs impact of this rule making at this time. The Department will work with child care providers to review the ongoing jobs impact.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)"b"(1)(b), the Department finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on October 1, 2022, because these amendments remove burdensome regulations on the public that impact the ability to serve children and families.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on September 14, 2022.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, the Department is unable to determine the impact on jobs at this time.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making became effective on October 1, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 109.8(1) as follows:

109.8(1) *Staff requirements.* Persons counted as part of the staff ratio shall meet the following requirements:

a. Be at least 16 years of age. ~~If less than 18 years of age, the staff shall be under the direct supervision of an adult.~~ However, a staff person under the age of 18 may not be the sole provider on the premises of a child care facility.

b. Be involved with children in programming activities.

c. At least one staff person on duty in the center ~~and outdoor play area~~ when children are present and present on field trips shall be over the age of 18 ~~and hold current certification in first aid and cardiopulmonary resuscitation (CPR) as required in rule 441—109.7(237A)~~.

d. Staff persons under the age of 18 shall not provide transportation to children in care.

e. If staff persons under the age of 18 are providing child care services without an adult, they shall only provide care to school-aged children.

ITEM 2. Amend subrule 109.8(2) as follows:

109.8(2) *Staff ratio.* The staff-to-child ratio shall be as follows:

Age of children	Minimum ratio of staff to children
Two weeks to two years	One to every four children
Two years	One to every ~~six~~ seven children
Three years	One to every ~~eight~~ ten children
Four years	One to every twelve children
Five years to ten years	One to every fifteen children
Ten years and over	One to every twenty children

a. Combinations of age groupings for children four years of age and older may be allowed and may have staff ratio determined on the age of the majority of the children in the group. ~~If children three years of age and under are included in the combined age group, the staff ratio for children aged three and under shall be maintained for these children. Preschools shall have staff ratios determined on the age of the majority of the children, including children who are three years of age.~~

b. Combinations of age groupings for children between three years of age and five years of age may be allowed with a ratio of one staff member to every 12 children.

~~*b.*~~ *c.* ~~If a child between the ages of 18 and 24 months is placed outside the infant area, as defined at subrule 109.11(2),~~ Children between 18 months and three years of age may be combined, if appropriate to the developmental needs of the child. If a child under two years is in a combined age group, the staff ratio of ~~1~~ one to 4 seven shall be maintained ~~as would otherwise be required for the group until the child reaches the age of two~~. Otherwise, staff ratio may be determined by the age of the majority of the children in the group.

~~*c.*~~ *d.* Every child-occupied program room shall have ~~adult~~ supervision present in the room. Brief absences of a staff member may be allowed for no more than five minutes when another staff person is present.

~~*d.*~~ *e.* During nap time, at least one staff shall be present in every room where children are resting. Staff ratio requirements may be reduced to one staff per room where children are resting ~~for a period of time not to exceed one hour provided~~ and staff ratio coverage can be maintained in the center. The staff ratio shall always be maintained ~~in the infant area~~ for children under two years of age.

~~*e.* The minimum staff ratio shall be maintained at mealtimes and for any outdoor activities at the center.~~

f. When ~~seven or~~ more than eight children ~~over the age of three~~ are present on the licensed premises or are being transported in one vehicle, at least two adult staff shall be present. Only one adult is required when a center is transporting children in a center-owned vehicle with parent authorization for the sole purpose of transporting children to and from school. When a center contracts with another entity to provide transportation other than for the purpose of transporting school-age children to or from school, at least one adult staff in addition to the driver shall be present if at least ~~seven~~ eight children provided care by the center are transported.

g. Any child care center-sponsored program activity involving five or more children conducted away from the licensed facility shall provide a minimum of one additional staff over the required staff ratio for the protection of the children.

h. For a period of two hours or less at the beginning ~~or~~ and end of the center's hours of operation, one staff may care for ~~six~~ seven or fewer children, provided no more than ~~two~~ four of the children are under the age of two years and there are no more than ~~six~~ seven children in the center.

i. For centers or preschools serving school-age children, the ratio for school-age children may be exceeded for a period of no more than four hours during a day when school classes start late or are dismissed early or canceled due to inclement weather or structural damage provided the children are already enrolled at the center and the center does not exceed the licensed capacity.

ITEM 3. Amend subrule 109.11(2) as follows:

109.11(2) *Infants' area.* An area shall be provided properly and safely equipped for the use of infants and free from the intrusion of children two years of age and older. ~~Children over 18 months of age may be grouped outside this area if appropriate to the developmental needs of the child.~~ Upon the recommendation of a child's physician or the area education agency serving the child, a child who is two years of age or older with a disability that results in significant developmental delays in physical and cognitive functioning who does not pose a threat to the safety of the infants may, if appropriate and for a limited time approved by the department, remain in the infant area.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/5/22.