

**441—109.1(237A) Definitions.**

“*Adult*” means a person 18 years of age or older.

“*Child*” means either of the following:

1. A person 12 years of age or younger.
2. A person 13 years of age or older but younger than 19 years of age who has a developmental disability, as defined under the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000, Public Law No. 106-402, codified in 42 U.S.C. 15002(8).

“*Child care*” means the care, supervision, or guidance of a child by a person other than the child’s parent, guardian, or custodian for periods of less than 24 hours per day per child on a regular basis in a place other than the child’s home, but does not include care, supervision, or guidance of a child by any of the following:

1. An instructional program for children who are attending prekindergarten as defined by the state board of education under Iowa Code section 256.11 or a higher grade level and are at least four years of age, or at least three years of age and eligible for special education under Iowa Code chapter 256B, and administered by a public or nonpublic school system accredited by the department of education or the state board of regents or a nonpublic school system which is not accredited by the department of education or the state board of regents.
2. Any of the following church-related programs:
  - An instructional program.
  - A youth program other than a preschool, before or after school child care program, or other child care program.
  - A program providing care to children on church premises while the children’s parents are attending church-related or church-sponsored activities on the church premises.
3. Short-term classes of less than two weeks’ duration held between school terms or during a break within a school term.
4. A child care center for sick children operated as part of a pediatrics unit in a hospital licensed by the department of inspections and appeals pursuant to Iowa Code chapter 135B.
5. A program operated not more than one day per week by volunteers that meets all the following conditions:
  - Not more than 11 children are served per volunteer.
  - The program operates for less than 4 hours during any 24-hour period.
  - The program is provided at no cost to the children’s parent, guardian, or custodian.
6. A program administered by a political subdivision of the state which is primarily for recreational or social purposes and is limited to children who are five years of age or older and attending school.
7. An after-school program continuously offered throughout the school year to children who are at least five years of age and enrolled in school and attend the program intermittently, or a summer-only program for such children. The program must be provided through a nominal membership fee or at no cost.
8. A special activity program which meets less than four hours per day for the sole purpose of the special activity. Special activity programs include but are not limited to music or dance classes, organized athletic or sports programs, recreational classes, scouting programs, and hobby or craft clubs or classes.
9. A nationally accredited camp.
10. A structured program for the purpose of providing therapeutic, rehabilitative, or supervisory services to children under any of the following:
  - A purchase of service or managed care contract with the department.
  - A contract approved by a local decategorization governance board.
  - An arrangement approved by a juvenile court order.
11. Care provided on site to children of parents residing in an emergency, homeless, or domestic violence shelter.
12. A child care facility providing respite care to a licensed foster family home for a period of 24 hours or more to a child who is placed with that licensed foster family home.
13. A program offered to a child whose parent, guardian, or custodian is engaged solely in a recreational or social activity, remains immediately available and accessible on the physical premises on

which the child's care is provided, and does not engage in employment while the care is provided. However, if the recreational or social activity is provided in a fitness center or on the premises of a nonprofit organization, the parent, guardian, or custodian of the child may be employed to teach or lead the activity.

*"Child care center"* or *"center"* means a facility providing child day care for seven or more children, except when the facility is registered as a child development home. For the purposes of this chapter, the word *"center"* shall apply to a child care center or preschool, unless otherwise specified.

*"Child care facility"* or *"facility"* means a child care center, a preschool, or a registered child development home.

*"Department"* means the department of human services.

*"Direct responsibility for child care"* means being charged with the care, supervision, or guidance of a child.

*"Extended evening care"* means child care provided by a child care center between the hours of 9 p.m. and 5 a.m.

*"Facility"* means a building or physical plant established for the purpose of providing child day care.

*"Get-well center"* means a facility that cares for a child with an acute illness of short duration for short enrollment periods.

*"Involvement with child care"* means licensed or registered as a child care facility, employed in a child care facility, residing in a child care facility, receiving public funding for providing child care, providing child care as a child care home provider, or residing in a child care home.

*"National Health and Safety Performance Standards"* means the National Health and Safety Performance Standards: Guidelines for Out-of-Home Child Care Programs produced by the American Public Health Association and the American Academy of Pediatrics with the support of the Maternal and Child Health Bureau, Department of Health and Human Services.

*"Parent"* means parent or legal guardian.

*"Person subject to an evaluation"* means a person who has committed a transgression and who is described by any of the following:

1. The person is being considered for licensure or is licensed.
2. The person is being considered by a child care facility for employment involving direct responsibility for a child or with access to a child when the child is alone, or the person is employed with such responsibilities.
3. The person will reside or resides in a child care facility.
4. The person has applied for or receives public funding for providing child care.

*"Preschool"* means a child day care facility which provides care to children aged three through five, for periods of time not exceeding three hours per day. The preschool's program is designed to help the children develop intellectual, social and motor skills, and to extend their interest in and understanding of the world about them.

*"Regulatory fee"* means the amount payable to the department for licensure of a child care center based on the capacity of the center.

*"Requesting entity"* means an entity covered by these rules that is requesting an evaluation to determine if the person being evaluated can have involvement with child care. The requesting entity must be a child care facility as defined in Iowa Code chapter 237A.

*"Transgression"* means the existence of any of the following in a person's record:

1. Conviction of a crime.
2. A record of having committed founded child or dependent adult abuse.
3. Listing in the sex offender registry established under Iowa Code chapter 692A.
4. A record of having committed a public or civil offense.
5. Department revocation or denial of a child care facility registration or license due to the person's continued or repeated failure to operate the child care facility in compliance with licensing and registration laws and rules.

*"Unrestricted access"* means that a person has contact with a child alone or is directly responsible for child care.

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