

**441—109.2(237A) Licensure procedures.****109.2(1) Application for license.**

a. Any adult or agency has the right to apply for a license. The application for a license shall be made to the department on a department-provided application for a license to operate a child care center.

b. Requested reports including the fire marshal's report and other information relevant to the licensing determination shall be furnished to the department upon application and renewal. A building owned or leased by a school district or accredited nonpublic school that complies with rules adopted by the state fire marshal for school buildings is considered appropriate for use by a child care facility.

c. When a center makes a sufficient application for an initial license, the center may operate for a period of up to 120 calendar days from the date of issuance of the form granting permission to open without a license, pending a final licensing decision. A center has made a sufficient application when it has had an on-site visit and has submitted the following to the department:

(1) An application for a license.

(2) An approved fire marshal's report.

(3) A floor plan indicating room descriptions and dimensions, including location of windows and doors.

(4) Information sufficient to determine that the center director meets minimum personnel qualifications.

d. Applicants shall submit the regulatory fee as specified in subrule 109.2(7) to the department's division of fiscal management.

e. Applicants shall be notified of approval or denial of initial applications within 120 days from the date the application is submitted.

(1) If the applicant has been issued a form granting permission to open without a license, the applicant shall be notified of approval or denial within 120 calendar days of the date of issuance of the form.

(2) No full or provisional license shall be issued before payment of the applicable regulatory fee as determined pursuant to subrule 109.2(7).

f. The department shall not act on a licensing application for 12 months after an applicant's child care center license has been denied or revoked.

g. When the department has denied or revoked a license, the applicant or person shall be prohibited from involvement with child care unless the department specifically permits involvement through a record check decision.

**109.2(2) License.**

a. An applicant showing compliance with center licensing laws and these rules, including department approval of center plans and procedures and submission of the regulatory fee as specified in subrule 109.2(7) to the department by the date due, shall be issued a license for 24 months. In determining whether or not a center is in compliance with the intent of a licensing standard outlined in this chapter, the department shall make the final decision.

b. A new license shall be applied for when the center moves, expands, or the facility is remodeled to change licensed capacity.

c. A new license shall be applied for when another adult or agency assumes ownership or legal responsibility for the center.

**109.2(3) Provisional license.**

a. A provisional license may be issued or a previously issued license may be reduced to a provisional license for a period up to one year when the center does not sufficiently meet standards imposed by law and these rules.

b. A provisional license shall be renewable when written plans giving specific dates for completion to bring the center up to standards are submitted to and approved by the department. A provisional license shall not be reissued for more than two consecutive years when the lack of compliance with the same standards has not been corrected within two years.

c. When the center submits documentation or it can otherwise be verified that the center complies with standards imposed by law or these rules, the license shall be upgraded to a full license.

**109.2(4) Denial.** Initial applications or renewals shall be denied when:

- a. The center does not comply with center licensing laws and these rules in order to qualify for a full or provisional license.
- b. The center is operating in a manner which the department determines impairs the safety, health, or well-being of children in care.
- c. A person subject to an evaluation has transgressions that merit prohibition of involvement with child care and of licensure, as determined by the department.
- d. Information provided either orally or in writing to the department or contained in the center's files is shown to have been falsified by the provider or with the provider's knowledge.
- e. The center is not able to obtain an approved fire marshal's certificate as prescribed by the state fire marshal or fails to comply in correcting or repairing any deficiencies in the time determined by the fire marshal or the fire marshal determines the facility is not safe for occupancy.
- f. The regulatory fee as specified in subrule 109.2(7) is not received by the department's division of fiscal management within 60 calendar days from the due date on the invoice.

**109.2(5) Revocation and suspension.** A license shall be revoked or suspended if corrective action has not been taken when:

- a. The center does not comply with center licensing laws or these rules.
- b. The center is operating in a manner which the department determines impairs the safety, health, or well-being of the children in care.
- c. A person subject to an evaluation has transgressions that merit prohibition of involvement with child care and of licensure, as determined by the department.
- d. Information provided to the department or contained in the center's files is shown to have been falsified by the provider or with the provider's knowledge.
- e. The facility is not able to obtain an approved fire marshal's certificate as prescribed by the state fire marshal or fails to comply in correcting or repairing any deficiencies in the time determined by the fire marshal or the fire marshal determines the facility is not safe for occupancy.
- f. The regulatory fee as specified in subrule 109.2(7) is not paid in full due to insufficient funds to cover a check submitted to the department for the fee.

**109.2(6) Adverse actions.**

- a. Notice of adverse actions for a denial, revocation, or suspension and the right to appeal the licensing decision shall be given to applicants and licensees in accordance with 441—Chapter 7 and rule 441—16.3(17A).
- b. An applicant or licensee affected by an adverse action may request a hearing by means of a written request directed to the Department of Human Services, Appeals Section, 1305 E. Walnut Street, Fifth Floor, Des Moines, Iowa 50319-0114. The request shall be submitted within 30 days after the date the department mailed the official notice containing the nature of the denial, revocation, or suspension.
- c. A letter received by an owner or director of a licensed center initiating action to deny, suspend, or revoke the facility's license shall be conspicuously posted at the main entrance to the facility where it can be read by parents or any member of the public. The letter shall remain posted until resolution of the action to deny, suspend or revoke the license. If the action to deny, suspend, or revoke is upheld, the center shall return the license to the department.
- d. If the center's license is denied, suspended or revoked, the administrator of the department shall notify the parent, guardian, or legal custodian of each child for whom the facility provides child care. The center shall cooperate with the department in providing the names and address of the parent, guardian, or legal custodian of each child for whom the facility provides child care.

**109.2(7) Regulatory fees.** A fee based upon center capacity is due to the department at the time of issuance of the license in accordance with this subrule.

- a. *Fee structure.* The amount of the fee is based on the capacity of the center as indicated below:

<u>Center Capacity</u>	<u>Fee Amount</u>
0 to 20 children	\$50
21 to 50 children	\$75
51 to 100 children	\$100

101 to 150 children	\$125
151 or more children	\$150

*b. Determination of capacity.* The licensing consultant shall determine center capacity by dividing the amount of usable space by the amount of space required per child, as specified in subrule 109.11(1) and subparagraphs 109.11(3)“a”(2) and (3). Upon approval by the department, the final determination of center capacity may include evaluation of other factors that influence capacity, as long as physical space requirements per child as defined in subrule 109.11(1) and subparagraphs 109.11(3)“a”(2) and (3) are maintained.

*c. Notification.* Upon final determination of center capacity by the licensing consultant, the licensing consultant or designee shall sign and provide the child care center licensing fee invoice to the center.

*d. Payment.* The center shall return the child care center licensing fee invoice to the department with the licensing fee payment within 60 calendar days from the date on the invoice. Payment may be in the form of cash, check, money order, or cashier’s check. Regulatory fees are nonrefundable and nontransferable.

[**ARC 8650B**, IAB 4/7/10, effective 6/1/10; **ARC 1209C**, IAB 12/11/13, effective 2/1/14; **ARC 2646C**, IAB 8/3/16, effective 10/1/16; **ARC 4752C**, IAB 11/6/19, effective 12/11/19; **ARC 4973C**, IAB 3/11/20, effective 4/15/20; **ARC 6023C**, IAB 11/3/21, effective 1/1/22]