



Family Child Care Implementation Plan for 2021 Legislative Changes

Office of Inspector General, Licensing Division

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Department of Human Services
Office of Inspector General, Licensing Division
444 Lafayette Road
St. Paul, MN 55155
(Phone) 651-431-6500
mn.gov/dhs/general-public/licensing/

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Introduction

The 2021 Legislature changed several laws that impact family child care programs, including changes to licensing and background studies.

Each section of this Implementation Plan contains:

- the actual text of the law, including the changes made during the 2021 legislative session,
- an overview of each new or changed requirement,
- what the change means for providers, and
- instructions for family child care licensors about how and when to monitor these changes.

Key

The actual text of the laws and how they were changed are shown in the shaded box at the beginning of each section of this plan. Here is how to read those sections:

Plain text is unchanged – it was the law before and continues to be the law.

Stricken text (~~like this~~) is used on words that are being removed from the law.

Underlined text (like this) is used for words that are being added to the law.

Changes for family child care trainers

Section 245A.50, subdivision 7. **Training requirements for family and group family child care.**

...

(b) A provider who is approved as a trainer through the Develop data system may count up to two hours of training instruction toward the annual 16-hour training requirement in paragraph (a). The provider may only count training instruction hours for the first instance in which they deliver a particular content-specific training during each licensing year. Hours counted as training instruction must be approved through the Develop data system with attendance verified on the trainer's individual learning record and must be in Knowledge and Competency Framework content area VII A (Establishing Healthy Practices) or B (Ensuring Safety).

Overview

Family child care license holders who are currently approved trainers in the Develop data system may count up to two hours of training instruction in Knowledge and Competency Framework (KCF) areas VII A or VII B toward their annual 16-hour training requirement.

What do providers need to do?

If you are currently approved as a trainer in Develop and have provided training in KCF areas VII A or VII B and would like to receive credit for providing training:

- You need to send an email to support@develophelp.zendesk.com. In your message, you should provide:
 - Subject line: "FCC Trainer Credit"
 - Your name,
 - Your Develop Individual I.D.,
 - The title of the course in VII A or VII B that you taught, and
 - The date and time that you provided that training.
- Please keep in mind you cannot receive credit for more than two hours of training and it must fall within the current licensing period.
- If your request meets the guidelines, it will show up in your individual learning record.
- Please allow three business days to process your request.

What do licensors need to do?

If a provider would like to receive credit for providing training in Knowledge and Competency Framework areas VII A or VII B, they will need to submit a request, as described above. If the provider is approved to receive credit for providing training, it will show up in their individual learning record in the Develop data system. As a licensor, you may count up to two hours of their time providing training in areas VII A or VII B towards their annual training requirement. If a provider's time as a trainer is not reflected in their individual learning record in the Develop data system, you may not count it towards their training requirement.

Active supervision training

Section 245A.50, subdivision 9. **Supervising for safety; training requirement.**

(a) Courses required by this subdivision must include the following health and safety topics:

- (1) preventing and controlling infectious diseases;
- (2) administering medication;
- (3) preventing and responding to allergies;
- (4) ensuring building and physical premises safety;
- (5) handling and storing biological contaminants;
- (6) preventing and reporting child abuse and maltreatment; and
- (7) emergency preparedness.

(b) Before initial licensure and before caring for a child, all family child care license holders and each second adult caregiver shall complete and document the completion of the six-hour Supervising for Safety for Family Child Care course developed by the commissioner.

(c) The license holder must ensure and document that, before caring for a child, all substitutes have completed the four-hour Basics of Licensed Family Child Care for Substitutes course developed by the commissioner, which must include health and safety topics as well as child development and learning.

(d) The family child care license holder and each second adult caregiver shall complete and document:

(1) the annual completion of either:

(i) a two-hour active supervision course developed by the commissioner; or

(ii) any courses in the ensuring safety competency area under the health, safety, and nutrition standard of the Knowledge and Competency Framework that the commissioner has identified as an active supervision training course; and

(2) the completion at least once every five years of the two-hour courses Health and Safety I and Health and Safety II. When the training is due for the first time or expires, it must be taken no later than the day before the anniversary of the license holder's license effective date. A license holder's or second adult caregiver's completion of either training in a given year meets the annual active supervision training requirement in clause (1).

(e) At least once every three years, license holders must ensure and document that substitutes have completed the four-hour Basics of Licensed Family Child Care for Substitutes course. When the training expires, it must be retaken no later than the day before the anniversary of the license holder's license effective date.

Overview

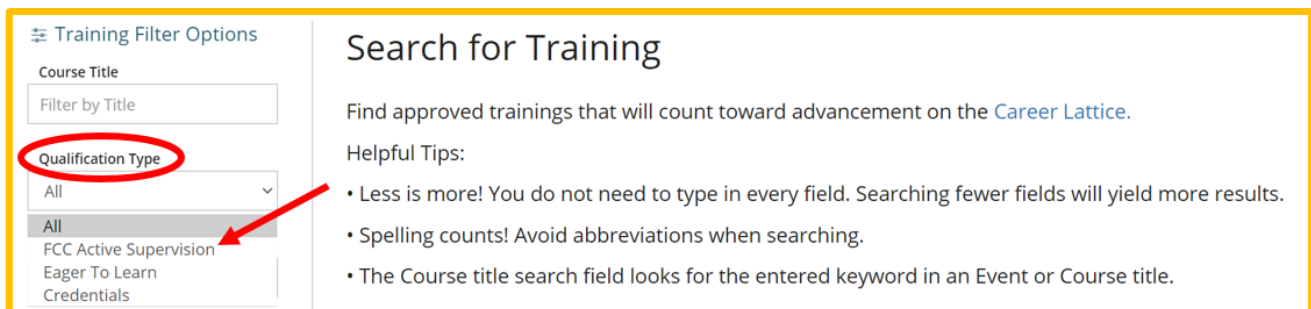
Providers and second adult caregivers will now have the option to complete: 1) a two-hour active supervision course developed by DHS or 2) a course in the ensuring safety competency area (KCF VIIB) that DHS has identified as a family child care active supervision course.

What do providers need to do?

Providers and second adult caregivers may choose to:

- Continue to take a two-hour active supervision course developed by DHS or
- Take one of the courses recently identified in the Develop data system as meeting the active supervision requirement.

To find **currently scheduled** training events from the recently identified courses, on the Develop Training Search page (<https://www.developoolmn.org/app/v7/trainings/search>), click the **Qualification Type** drop-down menu and select **FCC Active Supervision**. Enter other search criteria you want, and click **Search**.



Training Filter Options

Course Title
Filter by Title

Qualification Type

All

All

FCC Active Supervision

Eager To Learn

Credentials

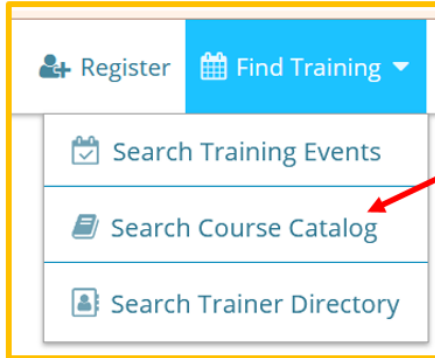
Search for Training

Find approved trainings that will count toward advancement on the [Career Lattice](#).

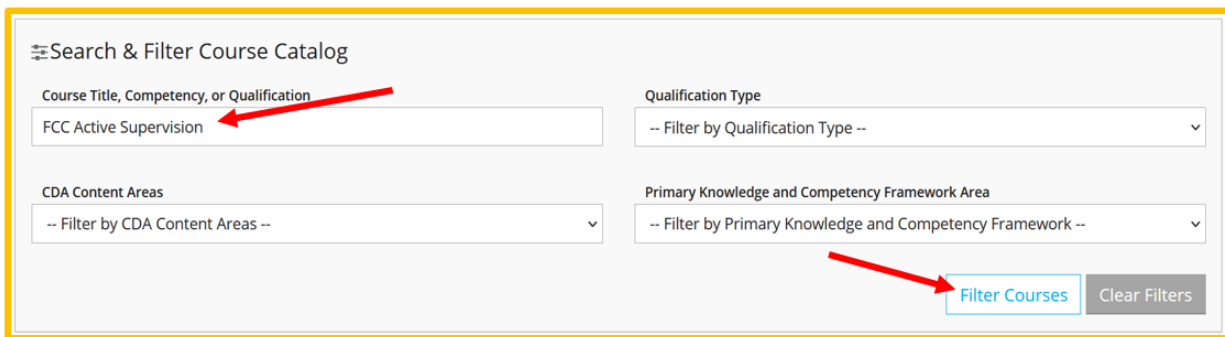
Helpful Tips:

- Less is more! You do not need to type in every field. Searching fewer fields will yield more results.
- Spelling counts! Avoid abbreviations when searching.
- The Course title search field looks for the entered keyword in an Event or Course title.

If you want to search for additional courses that meet the Active Supervision requirement, click the **Find Training** drop-down menu and select **Search Course Catalog**.



Type **FCC Active Supervision** in the Course Title, Competency, or Qualification field and click **Filter Courses**. A list of courses will load.



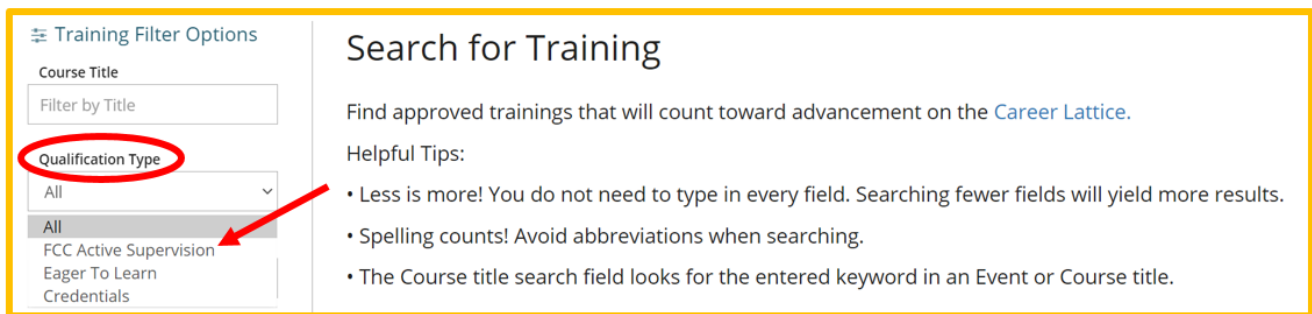
If you need assistance finding an in-person active supervision training event in your local area, please contact your Child Care Aware Professional Development Advisor (PDA) at: **888.291.9811** or go online to ChildCareAwareMN.org.

If you need assistance finding the most recent list of approved courses that meet the active supervision requirement on Develop, please contact the Develop Helpdesk at: support@develophelp.zendesk.com.

What do licensors need to do?

Providers and second adult caregivers now have the option of completing an active supervision course developed by DHS or a different course that is identified as meeting the active supervision requirement in the Develop data system. If the provider or any second adult caregiver did not complete a course that meets the active supervision requirement, you would mark the item as unmet in the ELICI checklist, and a correction order would be issued.

To find **currently scheduled** training events from the recently identified courses, on the Develop Training Search page (<https://www.developtoolmn.org/app/v7/trainings/search>), click the **Qualification Type** drop-down menu and select **FCC Active Supervision**. Enter other search criteria you want, and click **Search**.



The screenshot shows the 'Search for Training' interface. On the left, under 'Training Filter Options', the 'Qualification Type' dropdown menu is highlighted with a red circle. The dropdown list is open, showing options: 'All', 'FCC Active Supervision', 'Eager To Learn', and 'Credentials'. A red arrow points to 'FCC Active Supervision'. The main content area is titled 'Search for Training' and includes a search prompt, helpful tips, and a list of tips.

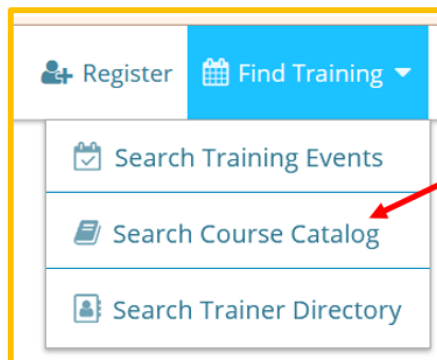
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Find approved trainings that will count toward advancement on the [Career Lattice](#).

Helpful Tips:

- Less is more! You do not need to type in every field. Searching fewer fields will yield more results.
- Spelling counts! Avoid abbreviations when searching.
- The Course title search field looks for the entered keyword in an Event or Course title.

If you want to search for additional courses that meet the Active Supervision requirement, click the **Find Training** drop-down menu and select **Search Course Catalog**.



The screenshot shows the 'Find Training' dropdown menu. The menu is open, showing three options: 'Search Training Events', 'Search Course Catalog', and 'Search Trainer Directory'. A red arrow points to 'Search Course Catalog'.

Find Training

- Search Training Events
- Search Course Catalog
- Search Trainer Directory

Type **FCC Active Supervision** in the Course Title, Competency, or Qualification field and click **Filter Courses**. A list of courses will load.

The screenshot shows a search interface titled "Search & Filter Course Catalog". It features four filter fields: "Course Title, Competency, or Qualification" (containing "FCC Active Supervision"), "Qualification Type" (dropdown menu), "CDA Content Areas" (dropdown menu), and "Primary Knowledge and Competency Framework Area" (dropdown menu). A "Filter Courses" button and a "Clear Filters" button are located at the bottom right. Red arrows point to the search field and the "Filter Courses" button.

If assistance is needed in finding an in-person active supervision training event in your local area, please contact your Child Care Aware Professional Development Advisor (PDA) at: **888.291.9811** or go online to ChildCareAwareMN.org.

If assistance is needed in finding the most recent list of approved courses that meet the active supervision requirement on Develop, please contact the Develop Helpdesk at: support@develophelp.zendesk.com.

Special family child care changes

Section 245A.14, subdivision 4. **Special family child care homes.**

Subd. 4. Special family ~~day~~ child care homes. Nonresidential child care programs serving 14 or fewer children that are conducted at a location other than the license holder's own residence shall be licensed under this section and the rules governing family ~~day~~ child care or group family ~~day~~ child care if:

(a) the license holder is the primary provider of care and the nonresidential child care program is conducted in a dwelling that is located on a residential lot;

(b) the license holder is an employer who may or may not be the primary provider of care, and the purpose for the child care program is to provide child care services to children of the license holder's employees;

(c) the license holder is a church or religious organization;

(d) the license holder is a community collaborative child care provider. For purposes of this subdivision, a community collaborative child care provider is a provider participating in a cooperative agreement with a community action agency as defined in section 256E.31;

(e) the license holder is a not-for-profit agency that provides child care in a dwelling located on a residential lot and the license holder maintains two or more contracts with community employers or other community organizations to provide child care services. The county licensing agency may grant a capacity variance to a license holder licensed under this paragraph to exceed the licensed capacity of 14 children by no more than five children during transition periods related to the work schedules of parents, if the license holder meets the following requirements:

(1) the program does not exceed a capacity of 14 children more than a cumulative total of four hours per day;

(2) the program meets a one to seven staff-to-child ratio during the variance period;

(3) all employees receive at least an extra four hours of training per year than required in the rules governing family child care each year;

(4) the facility has square footage required per child under Minnesota Rules, part [9502.0425](#);

(5) the program is in compliance with local zoning regulations;

(6) the program is in compliance with the applicable fire code as follows:

(i) if the program serves more than five children older than 2-1/2 years of age, but no more than five children 2-1/2 years of age or less, the applicable fire code is educational occupancy, as provided in Group E Occupancy under the Minnesota State Fire Code 2015, Section 202; or

(ii) if the program serves more than five children 2-1/2 years of age or less, the applicable fire code is Group I-4 Occupancies, as provided in the Minnesota State Fire Code 2015, Section

202, unless the rooms in which the children are cared for are located on a level of exit discharge and each of these child care rooms has an exit door directly to the exterior, then the applicable fire code is Group E occupancies, as provided in the Minnesota State Fire Code 2015, Section 202; and

(7) any age and capacity limitations required by the fire code inspection and square footage determinations shall be printed on the license; or

(f) the license holder is the primary provider of care and has located the licensed child care program in a commercial space, if the license holder meets the following requirements:

(1) the program is in compliance with local zoning regulations;

(2) the program is in compliance with the applicable fire code as follows:

(i) if the program serves more than five children older than 2-1/2 years of age, but no more than five children 2-1/2 years of age or less, the applicable fire code is educational occupancy, as provided in Group E Occupancy under the Minnesota State Fire Code 2015, Section 202; or

(ii) if the program serves more than five children 2-1/2 years of age or less, the applicable fire code is Group I-4 Occupancies, as provided under the Minnesota State Fire Code 2015, Section 202;

(3) any age and capacity limitations required by the fire code inspection and square footage determinations are printed on the license; and

(4) the license holder prominently displays the license issued by the commissioner which contains the statement "This special family child care provider is not licensed as a child care center."

~~(g) The commissioner may approve two or more licenses under paragraphs (a) to (f) to be issued at the same location or under one contiguous roof, if each license holder is able to demonstrate compliance with all applicable rules and laws. Each license holder must operate the license holder's respective licensed program as a distinct program and within the capacity, age, and ratio distributions of each license. Notwithstanding Minnesota Rules, part 9502.0335, subpart 12, the commissioner may issue up to four licenses to an organization licensed under paragraphs (b), (c), or (e). Each license must have its own primary provider of care as required under paragraph (i). Each license must operate as a distinct and separate program in compliance with all applicable laws and regulations.~~

~~(h) The commissioner may grant variances to this section to allow a primary provider of care, a not for profit organization, a church or religious organization, an employer, or a community collaborative to be licensed to provide child care under paragraphs (e) and (f) if the license holder meets the other requirements of the statute. For licenses issued under paragraphs (b), (c), (d), (e), or (f), the commissioner may approve up to four licenses at the same location or under one contiguous roof if each license holder is able to demonstrate compliance with all applicable rules and laws. Each licensed program must operate as a distinct program and within the capacity, age, and ratio distributions of each license.~~

~~(i) For a license issued under paragraphs (b), (c), or (e), the license holder must designate a person to be the primary provider of care at the licensed location on a form and in a manner prescribed by the commissioner. The license holder shall notify the commissioner in writing before there is a change of the person designated to be the primary provider of care. The primary provider of care:~~

~~(1) must be the person who will be the provider of care at the program and present during the hours of operation;~~

(2) must operate the program in compliance with applicable laws and regulations under chapter 245A and Minnesota Rules, chapter 9502;

(3) is considered a child care background study subject as defined in section 245C.02, subdivision 6a, and must comply with background study requirements in chapter 245C; and

(4) must complete the training that is required of license holders in section 245A.50.

(j) For any license issued under this subdivision, the license holder must ensure that any other caregiver, substitute, or helper who assists in the care of children meets the training requirements in section 245A.50 and background study requirements under chapter 245C.

EFFECTIVE DATE. This section is effective July 1, 2022.

Overview

Effective July 1, 2022, this section allows DHS to issue up to four special family child care licenses to an organization and clarifies that there may be up to four special family child care licenses under the same roof or at the same location. If the license holder is an organization, it must designate a primary provider of care.

What do providers need to do?

If your licensor contacts you to let you know that you are or will need to be licensed as a special family child care program, you will need to formally designate a primary provider of care before July 1, 2022. If this applies to you, your licensor will contact you before July 1, 2022 with additional information.

What do licensors need to do?

For special family child care programs in which the license holder is an organization and not the primary provider of care:

DHS will provide additional training and information about identifying and licensing special family child care programs. Special family child care programs will need to formally designate a primary provider of care before July 1, 2022. More information will be made available by DHS during or prior to the licensor training on this topic.

Additional information

Modernizing family child care regulations

DHS will contract with an independent organization or individual consultant to:

- Develop and implement a stakeholder engagement process that solicits input from parents, licensed family child care providers, county licensors, staff from DHS, and experts in child development;
- Develop a proposal for updated family child care licensing standards;
- Develop a proposal for a risk-based model for monitoring compliance with family child care licensing standards; and
- Determine which family child care providers should be eligible for abbreviated inspections.

The organization or consultant will use national regulatory best practices and statistical methodologies to inform their work. By February 1, 2024, the organization or consultant will put together a report and proposed legislation to implement the new licensing model and new licensing standards, which will be submitted to the legislature.

Ombudsperson for Family Child Care

The governor will appoint an ombudsperson to assist family child care providers with licensing, compliance, and other issues facing family child care providers. The ombudsperson's duties include the following:

1. Advocating on behalf of family child care providers to address all areas of concern related to the provision of child care services, including licensing monitoring activities, licensing actions, and other interactions with state and county licensing staff;
2. Providing recommendations for family child care improvement or family child care provider education;
3. Operating a telephone line to answer questions, receive complaints, and discuss agency actions when a family child care provider believes their rights or program may have been adversely affected; and
4. Assisting family child care license applicants with navigating the application process.

Contact information for the Office of the Ombudsperson for Family Child Care will be shared when that information is available.

Orientation for family child care license applicants

By July 1, 2022, DHS will develop a recommended orientation for family child care license applicants. DHS will work with family child care providers and county agencies to develop the orientation and will provide it to county agencies when it is complete. The orientation will cover basic information about Minnesota Statutes, chapters 245A, 245C, and 260E and Minnesota Rules, chapter 9502.

Family Child Care Training Advisory Committee

Beginning in 2022, the newly created Family Child Care Training Advisory Committee will convene to advise DHS on training requirements for licensed family and group family child care providers. The committee will include family child care providers, family child care licensors, and individuals with expertise in child development and either instructional design or training delivery. DHS will report to the legislature on any recommendations from the committee by December 15 each year through 2025.

The advisory committee will advise and make recommendations to DHS and contractors working on the family child care modernization project on:

- (1) Updates to the rules and statutes governing family child care training, including technical updates to facilitate providers' understanding of training requirements;
- (2) Modernization of family child care training requirements, including substantive changes to training subject areas;
- (3) Difficulties that family child care providers face in completing training requirements, including proposed solutions to provider difficulties; and
- (4) Other ideas for improving access to and quality of training for family child care providers.

Alternate child care licensing models

DHS, in consultation with counties, child care providers, and other relevant stakeholders, will review child care models that are not currently in state statutes, including standards related to age, group size, and capacity. This project will consider whether any models could address the state's child care needs while protecting children's safety, health, and well-being and make recommendations for implementing the models that meet these criteria. DHS will report recommendations to the legislature by January 1, 2023.

Child care one-stop assistance network

In September, DHS, began consulting with county agencies, child care providers, and other relevant stakeholders, to develop a plan to establish a one-stop regional assistance network to assist child care providers and individuals interested in becoming child care providers with establishing and sustaining a licensed family child care program, group family child care program, or a child care center. The group will issue a plan by January 1, 2022.

Family child care FAQ webpage

By July 1, 2022, DHS will develop a frequently asked questions (FAQ) webpage for family child care providers that includes a search function.

Background study fee changes for minors

Fees for minors who are subject to a background study will now be \$42 per study. This increase will align background study fees across licensed programs and will help cover the actual cost of completing a study. Additional information on background study fees is available on the [Background Studies website](#).