

SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 4496

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DATE
03/04/2024

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Introduction and first reading
Referred to Health and Human Services

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to child care; modifying child care center definitions; codifying child care
1.3 center staff qualifications and ratios; directing the commissioner to amend child
1.4 care center health and record-keeping rules; amending Minnesota Statutes 2022,
1.5 section 245A.40, subdivision 1a; proposing coding for new law in Minnesota
1.6 Statutes, chapter 245A; repealing Minnesota Rules, parts 9503.0031; 9503.0032;
1.7 9503.0033; 9503.0034; 9503.0040.

1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9 Section 1. Minnesota Statutes 2022, section 245A.40, subdivision 1a, is amended to read:

1.10 Subd. 1a. **Definitions.** (a) For the purposes of ~~this section~~ sections 245A.40 to 245A.45,
1.11 the following terms have the meanings given.

1.12 (b) "Substitute" means ~~an adult~~ a person who is at least 16 years of age who is temporarily
1.13 filling a position as a ~~director, teacher, assistant teacher, or aide~~ staff person in a licensed
1.14 child care center ~~for less than 240 hours total in a calendar year~~ and who does not work a
1.15 set or consistent schedule due to the absence of a regularly employed staff person.

1.16 (c) "Staff person" means an employee of a child care center who ~~provides direct contact~~
1.17 ~~services to children~~ carries out child care program activities under the supervision of a
1.18 director.

1.19 (d) "Unsupervised volunteer" means an individual who:

1.20 (1) assists in the care of a child in care;

1.21 (2) is not under the continuous direct supervision of a staff person; and

1.22 (3) is not employed by the child care center.

2.1 **Sec. 2. [245A.43] CHILD CARE CENTER DIRECTOR QUALIFICATIONS.**

2.2 **Subdivision 1. Director qualifications; general. A director must be at least 18 years**
 2.3 **of age and meet the qualifications in subdivision 2.**

2.4 **Subd. 2. Director education and experience requirements. A director with the**
 2.5 **credential listed in column A must have the education and experience listed in column B.**

2.6 **Column A**

2.7 **(1) A high school diploma or commissioner**
 2.8 **of education-selected high school**
 2.9 **equivalency certification.**

2.10 **(2) Diploma from Association Montessori**
 2.11 **Internationale; preprimary credential,**
 2.12 **primary diploma, or provisional certificate**
 2.13 **from the American Montessori Society,**
 2.14 **without a baccalaureate degree.**

2.15 **(3) Preprimary credential, primary diploma,**
 2.16 **or provisional certificate from the American**
 2.17 **Montessori Society or diploma from the**
 2.18 **Association Montessori Internationale with**
 2.19 **a baccalaureate degree.**

2.20 **(4) Minnesota technical institute certificate**
 2.21 **as a Child Development Assistant.**

2.22
 2.23 **(5) Child development associate credential**
 2.24 **(center based or family day care) for**
 2.25 **preschool or for infants and toddlers from**
 2.26 **the Council for Early Childhood Professional**
 2.27 **Recognition.**

2.28 **(6) License from the Minnesota Department**
 2.29 **of Education for Prekindergarten Associate;**
 2.30 **or a certificate or credential for a two-year**
 2.31 **program from an accredited community**
 2.32 **college or technical college in child**
 2.33 **development or early childhood education.**

2.34 **(7) Baccalaureate degree from an accredited**
 2.35 **college or university in any field.**

2.36
 2.37 **(8) License from the Minnesota Department**
 2.38 **of Education for elementary education**
 2.39 **without kindergarten endorsement.**

2.40
 2.41
 2.42 **Education: six quarter credits within one**
year of initial employment if teaching
children under school age.

2.43 **(9) License from the Minnesota Department**
 2.44 **of Education for prekindergarten or nursery,**
 2.45 **or a license from the Minnesota Department**
 2.46 **of Education for elementary education with**
 2.47 **a kindergarten endorsement.**

2.6 **Column B**

Experience: 4,160 hours as assistant
teacher.

Education: 24 quarter credits.

Experience: 2,080 hours as assistant
teacher, aide, or student intern.

Education: 12 quarter credits.

Experience: 1,040 hours as assistant
teacher, aide, or student intern.

Education: no additional required.

Experience: 2,080 hours as assistant
teacher.

Education: six quarter credits.

Experience: 1,560 hours as assistant
teacher, aide, or student intern.

Education: no additional required.

Experience: 1,040 hours as assistant
teacher, aide, or student intern.

Education: six quarter credits.

Experience: 1,040 hours as assistant
teacher, aide, or student intern.

Education: 18 quarter credits.

Experience: 520 hours as assistant teacher,
aide, or student intern if teaching children
under school age.

Education: six quarter credits within one
year of initial employment if teaching
children under school age.

Experience: no additional required.

Education: no additional required.

3.1 **Sec. 3. [245A.44] CHILD CARE CENTER STAFF QUALIFICATIONS.**

3.2 Subdivision 1. Staff person qualifications; general. A staff person must be at least 16
 3.3 years of age and complete the training requirements under section 245A.40.

3.4 Subd. 2. Orientation hours. All orientation and yearly training hours completed by a
 3.5 staff person will count toward that staff person's yearly in-service hours.

3.6 Subd. 3. Substitute and volunteer staff member qualifications. A staff person included
 3.7 in the ratio and who is designated as a substitute or volunteer must be at least 16 years of
 3.8 age and must not be left alone with children unless they have completed the training
 3.9 requirements under section 245A.40 and have had a background study completed.

3.10 **Sec. 4. [245A.45] CHILD CARE CENTER STAFF RATIOS AND GROUP SIZE.**

3.11 Subdivision 1. Staff-to-child ratios and maximum group size. The minimally acceptable
 3.12 staff-to-child ratios and the maximum group size within each age category are:

3.13	<u>Age Category</u>	<u>Minimum Staff-to-Child Ratio</u>	<u>Maximum Group Size</u>
3.14	<u>Infant</u>	<u>1:4</u>	<u>8</u>
3.15	<u>Toddler</u>	<u>1:7</u>	<u>14</u>
3.16	<u>Preschooler</u>	<u>1:10</u>	<u>20</u>
3.17	<u>School-age child</u>	<u>1:15</u>	<u>30</u>

3.18 Subd. 2. Age category grouping. (a) Children in different age categories may be grouped
 3.19 together during morning arrival and afternoon departure times if:

3.20 (1) the total arrival and departure time does not exceed 30 percent of the daily hours of
 3.21 operation;

3.22 (2) the staff-to-child ratio, group size, and staff distribution applied are for the age
 3.23 category of the youngest child present; and

3.24 (3) the group is divided when the number of children present reaches the maximum
 3.25 group size of the classroom where the children are present.

3.26 (b) During the center's regular hours of operation, children in different age categories
 3.27 may be mixed within a group if the staff-to-child ratios, group size, and staff distribution
 3.28 applied are for the youngest child present.

3.29 (c) For a period of time not to exceed 30 minutes, children in different age categories
 3.30 may be grouped together if children are unexpectedly dropped off early or if a staff member
 3.31 is unexpectedly running late.

4.1 Sec. 5. **DIRECTION TO COMMISSIONER OF HUMAN SERVICES; AMENDING**
4.2 **CHILD CARE CENTER REQUIREMENTS.**

4.3 Subdivision 1. Changes to child care center record requirements. (a) The
4.4 commissioner of human services must amend Minnesota Rules, part 9503.0125, to remove
4.5 the requirement that a child's record must contain the names, addresses, and telephone
4.6 numbers of the child's source of regular medical and dental care and the source of medical
4.7 and dental care to be used in case of an emergency.

4.8 (b) The commissioner of human services must amend Minnesota Rules, part 9503.0125,
4.9 to change the requirement that a child's record must contain the names, addresses, and
4.10 telephone numbers of two persons to be contacted if a parent cannot be reached in an
4.11 emergency or when there is an injury requiring medical attention to a requirement that a
4.12 child's record must only contain the name, address, and telephone number of one person to
4.13 be contacted.

4.14 (c) The commissioner of human services must amend Minnesota Rules, part 9503.0125,
4.15 to remove the requirement that a child's record must contain separate documentation of any
4.16 individual child care program needs for the child.

4.17 Subd. 2. Changes to child care center health requirements. The commissioner of
4.18 human services must amend Minnesota Rules, part 9503.0140, subpart 2, to remove the
4.19 requirement that programs serving infants must have a health consultation review completed
4.20 monthly.

4.21 Sec. 6. **REPEALER.**

4.22 Minnesota Rules, parts 9503.0031; 9503.0032; 9503.0033; 9503.0034; and 9503.0040,
4.23 are repealed.

9503.0031 DIRECTORS.

Subpart 1. **General requirements for a director.** A director must:

- A. be at least 18 years old;
- B. be a graduate of a high school or hold an equivalent diploma attained through successful completion of the commissioner of education-selected high school equivalency test;
- C. have at least 1,040 hours of paid or unpaid staff supervision experience; and
- D. have at least nine quarter credits or 90 hours earned in any combination of accredited courses in staff supervision, human relations, and child development.

Subp. 2. **Additional requirements.** If a director functions as a teacher or develops or revises the child care program plan, the director must meet the qualifications of a teacher specified in part 9503.0032.

9503.0032 TEACHERS.

Subpart 1. **Teacher qualifications, general.** A teacher must be at least 18 years old and meet the qualifications in subpart 2 with the following exceptions:

- A. A registered nurse or licensed practical nurse is qualified as a teacher for infants only.
- B. A registered nurse may be used to meet the staff-to-child ratios for a teacher for sick care in a center licensed to operate a sick care program.

Subp. 2. **Teacher education and experience requirements.** A teacher with the credential listed in column A must have the education and experience listed in column B.

Column A	Column B
(1) A high school diploma or commissioner of education-selected high school equivalency certification	Experience: 4,160 hours as assistant teacher Education: 24 quarter credits
(2) Diploma from Association Montessori Internationale; preprimary credential, primary diploma, or provisional certificate from the American Montessori Society, without a baccalaureate degree	Experience: 2,080 hours as assistant teacher, aide, or student intern Education: 12 quarter credits
(3) Preprimary credential, primary diploma, or provisional certificate from the American Montessori Society; or diploma from the Association Montessori Internationale with a baccalaureate degree	Experience: 1,040 hours as assistant teacher, aide, or student intern Education: no additional required
(4) Minnesota technical institute certificate as a Child Development Assistant	Experience: 2,080 hours as an assistant teacher Education: six quarter credits

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(5) Child Development Associate credential (center based or family day care) for preschool or for infants and toddlers from the Council for Early Childhood Professional Recognition	Experience: 1,560 hours as assistant teacher, aide, or student intern Education: no additional required
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(6) License from the Minnesota Department of Education for Prekindergarten Associate; or a certificate or credential for a two-year program from an accredited community college or technical college in child development or early childhood education	Experience: 1,040 hours as assistant teacher, aide, or student intern Education: six quarter credits
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(7) Baccalaureate degree from an accredited college or university in any field	Experience: 1,040 hours as assistant teacher, aide, or student intern Education: 18 quarter credits
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(8) License from the Minnesota Department of Education for elementary education without kindergarten endorsement	Experience: 520 hours as assistant teacher, aide, or student intern if teaching children under school age Education: six quarter credits within one year of initial employment if teaching children under school age
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(9) License from the Minnesota Department of Education for prekindergarten/nursery, or a license from the Minnesota Department of Education for elementary education with a kindergarten endorsement	Experience: no additional required Education: no additional required
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9503.0033 ASSISTANT TEACHERS.

Subpart 1. **Assistant teacher qualifications, general.** An assistant teacher must work under the supervision of a teacher. An assistant teacher must be at least 18 years old and meet the qualifications in subpart 2 with the following exceptions:

A. A registered nurse or licensed practical nurse is qualified as an assistant teacher for infants only.

B. A registered nurse may be used to meet the staff-to-child ratios for an assistant teacher for sick care in a center licensed to operate a sick care program.

Subp. 2. **Assistant teacher education and experience requirements.** An assistant teacher with the credential listed in column A must have the education and experience listed in column B.

Column A

Column B

(1) High school diploma or commissioner of education-selected high school equivalency certification	Experience: 2,080 hours as an aide or student intern Education: 12 quarter credits
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(2) Minnesota license as a family day care or group family day care provider	Experience: 2,080 hours as a licensed family day care or group family day care provider
	Education: 12 quarter credits

(3) Diploma from Association Montessori Internationale or preprimary credential, primary diploma, or provisional certificate from the American Montessori Society	Experience: 520 hours as an aide or student intern
	Education: three quarter credits

(4) Minnesota technical institute certificate as a Child Development Assistant	Experience: 520 hours as an aide or student intern
	Education: no additional required

(5) Two years full-time postsecondary education from a college or university	Experience: 1,040 hours as an aide or student intern
	Education: nine quarter credits

(6) Child Development Associate credential, center based or for family day care, from the Council for Early Childhood Professional Recognition	Experience: no additional required
	Education: no additional required

(7) Baccalaureate degree in any field from an accredited college or university	Experience: no additional required
	Education: nine quarter credits

(8) Certificate or credential for a two year program in child development or early childhood education at a Minnesota community college or technical college	Experience: no additional required
	Education: no additional required

(9) License from the Minnesota Department of Children, Families, and Learning for Prekindergarten Associate	Experience: no additional required
	Education: no additional required

9503.0034 AIDES, VOLUNTEERS, SUBSTITUTES.

Subpart 1. **Aide qualifications.** In this part, "aide" means a staff person who carries out child care program activities under the supervision of a teacher or assistant teacher. An aide who is under 18 years old must be directly supervised by a teacher or assistant teacher at all times except when the aide is assisting with the supervision of sleeping children or assisting children with washing, toileting, and diapering. An aide must be at least 16 years old.

Subp. 2. **Volunteers used as staff.** A volunteer who is included in the staff-to-child ratio must meet the requirements for the assigned staff position as specified in parts

9503.0030 to 9503.0034. Volunteers who have direct contact with or access to children must be supervised by a staff person who meets the qualifications for director, teacher, or assistant teacher.

Subp. 3. **Substitute staff.** A person designated as a substitute must meet the qualifications for the assigned staff position as specified in parts 9503.0030 to 9503.0034, except that the license holder may use substitutes who do not meet the qualifications for teacher in part 9503.0032, subpart 2, or assistant teacher in part 9503.0033, subpart 2, only if:

A. the amount of unqualified substitute hours per center per calendar year does not exceed 40 hours multiplied by the number of the center's full-time teacher and assistant teacher positions;

B. unqualified substitutes are not used as teachers or assistant teachers for more than ten consecutive working days for the same group of children per calendar year; and

C. there is always a person qualified as a teacher present within the center except as qualified in part 9503.0040, subpart 2, item B.

9503.0040 STAFF RATIOS AND GROUP SIZE.

Subpart 1. **Staff-to-child ratios and maximum group size.** Except as provided in subpart 2, the minimally acceptable staff-to-child ratios and the maximum group size within each age category are:

Age Category	Minimum Staff:Child Ratio	Maximum Group Size
Infant	1:4	8
Toddler	1:7	14
Preschooler	1:10	20
School-age child	1:15	30

Subp. 2. **Staff distribution.** The license holder must ensure that the following requirements for staff distribution are met and a written staff distribution record is kept in the administrative record.

A. Only a staff person who is qualified as a teacher, assistant teacher, or aide and who works directly with children can be counted in meeting the staff-to-child ratios.

B. An assistant teacher may be substituted for a teacher during morning arrival and afternoon departure times if the total arrival and departure time does not exceed 25 percent of the center's daily hours of operation.

C. The maximum group size applies at all times except during meals, outdoor activities, field trips, naps and rest, and special activities such as films, guest speakers, and holiday programs.

D. Except as provided in item B, staff distribution within each age category must follow the pattern in subitems (1) to (4).

(1) The first staff member needed to meet the required staff-to-child ratio must be a teacher.

(2) The second staff member must have at least the qualifications of a child care aide.

(3) The third staff member must have at least the qualifications of an assistant teacher.

(4) The fourth staff member must have at least the qualifications of a child care aide.

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The pattern in subitems (1) to (4) must be repeated until the number of staff needed to meet the staff-to-child ratio for each age category has been achieved.

Subp. 3. **Age category grouping.** Children in different age categories may be grouped as follows:

A. During morning arrival and afternoon departure times, children in different age categories may be grouped together if:

(1) the total arrival and departure time does not exceed 25 percent of the daily hours of operation;

(2) the staff-to-child ratio, group size, and staff distribution applied are for the age category of the youngest child present; and

(3) the group is divided when the number of children present reaches the maximum group size of the youngest child present.

B. During the center's regular hours of operation, children in different age categories may be mixed within a group if:

(1) infants are not grouped with children of other age categories;

(2) there is no more than a 36-month range in age among children in a group;

(3) the staff-to-child ratios, group size, and staff distribution applied are for the youngest child present; and

(4) program staff are qualified to teach the ages of all children present within the group.

The restriction in subitem (2) may be waived if all children in the group are school age.

Subp. 4. **Age designation.** A child must be designated as a member of the age category that is consistent with the child's date of birth with the following exceptions:

A. A child may be designated as an "infant" up to the age of 18 months for purposes of staff ratios, group size, and child care programming, if the parent, teacher, and center director determine that such a designation is in the best interests of the child. A child may be designated as a "toddler" up to the age of 35 months, or as a "preschooler" at the age of 31 months for purposes of staff ratios, group size, and child care programming, if the parent, teacher, and center director determine that the designation is in the best interests of the child.

B. A child attending kindergarten must be designated a school-age child.