

**Kansas**  
**Department of Health & Environment**  
**Bureau of Family Health**  
**Child Care Licensing Program**

**Licensing Indicator System for Child  
Care Facilities**  
(effective 10/13)

Developed in consultation with



[naralicensing.org](http://naralicensing.org)

**Kansas  
Department of Health & Environment  
Bureau of Family Health  
Child Care Licensing Program**

**Licensing Indicator System for Child Care Facilities (effective 10/08/2013)**

**I. Legal Authority**

Chapter 65. Public Health ; Article 5. Maternity Centers and Child Care Facilities K.S.A. 65-501 et.sec.

**II. Policy**

Pursuant to K.S.A. 65-512 child care facilities are inspected at least once every 12 months. Child care facilities that meet criteria for eligibility will receive an annual inspection using a licensing indicator system survey instrument that measures compliance based on a statistically significant subset of regulations.

**III. Purpose**

The purpose of the licensing indicator system is to increase the efficiency and effectiveness of the licensing program by refocusing the emphasis of the licensing process.

The licensing indicator system complements, but does not replace, the current licensing program.

Through the use of the licensing indicator system, less time is spent conducting annual survey visits in child care facilities with a history of high regulatory compliance and more time is spent: (a) conducting more in-depth surveys in child care facilities with a history of low regulatory compliance and (b) providing technical assistance to child care facilities with a history of low regulatory compliance.

**IV. Background**

The licensing indicator system is a shortened version of the annual survey process. The licensing indicator system uses a tool designed to measure compliance with a small number of regulations that predicts compliance with all the regulations. The indicator regulations are selected based upon a statistical methodology, calculating Phi coefficients, designed for this specific purpose. If a child care facility is in complete compliance with all the regulations measured in the licensing indicator tool, high compliance with all the regulations is statistically predicted.

The regulations selected by the statistical methodology are not the most common violations; rather, they are those regulatory violations found most often in low compliance child care

**Kansas**  
**Department of Health & Environment**  
**Bureau of Family Health**  
**Child Care Licensing Program**

**Licensing Indicator System for Child Care Facilities (effective 10/08/2013)**

facilities, but not in high compliance facilities. In other words, the regulations that are found most often out of compliance in low compliance child care facilities and in compliance in high compliance child care facilities are the indicator or predictor regulations.

The basis for the design and development of the Licensing Indicator System is a methodology published by the National Association for Regulatory Administration (NARA) and developed in conjunction with the U.S. Department of Health and Human Services and Pennsylvania State University.

**V. Development and Implementation**

A. Licensing data for 2012 was taken from Kansas Child Care Licensing Program monitoring visits in 482 child care centers/preschools and 500 licensed and day care homes selected by the Bureau to determine the indicator regulations. The centers were further broken down into 52 (11%) Head Start Programs and 430 (89%) child care centers. The homes were further broken down into 115 (23%) group day care homes and 385 (77%) licensed homes.

B. Based on the regulatory violations found in the sample, and using a well-tested statistical methodology, a list of 8 key indicator regulations were identified for the child care centers and 6 key indicators were identified for the licensed and group day care homes. These indicator regulations are the regulations that are found most often out of compliance in low compliance child care homes/centers and in compliance in high compliance child care homes/centers.

C. Three additional, high-risk regulations that must be measured in each indicator survey for centers and preschools: K.A.R. 28-4-428(a), K.A.R. 28-4-437 (h), and K.A.R. 28-4-440 (h)(2)(A) and six additional, high-risk regulations that must be measured in each indicator survey for homes: K.A.R. 28-4-114(h); K.A.R. 28-4-115 (h) ; K.A.R. 28-4-115 (a)(c)(1); K.A.R. 28-4-115 (a)(3)(A); K.A.R. 28-4-115 a(d)(1) and K.A.R. 28-4-116(c)(2)(C) were selected by the Bureau to be added to the indicator system. This is necessary to assure that basic life-safety regulations are always measured.

D. The following ten additional quality/other regulations were selected by the Bureau to be measured in each indicator survey for centers and preschools: (K.A.R. 28-14-125 (b), K.A.R. 28-4-129(b)(1), K.A.R. 28-4-129(b)(2), K.A.R. 28-4-129(c)(1), K.A.R. 28-4-129(c)(2), K.A.R.28-4-132(c)(10), K.A.R.28-4-429(a), K.A.R.28-4-429(h), K.A.R.28-4-430(b)(1), and K.A.R.28-4-440(n) and thirteen additional quality/other regulations to be measured for licensed and group day care homes:

**Kansas  
Department of Health & Environment  
Bureau of Family Health  
Child Care Licensing Program**

**Licensing Indicator System for Child Care Facilities (effective 10/08/2013)**

K.A.R. 28-14-125 (b), K.A.R.28-4-128(c), K.A.R. 28-4-129(b)(1), K.A.R. 28-4-129(b)(2), K.A.R. 28-4-129(c)(1), K.A.R. 28-4-129(c)(2), K.A.R.28-4-132(c)(10), K.A.R.28-4-114(a)(2), K.A.R.28-4-115(i)(1), K.A.R.28-4-115 a(e)(2), K.A.R.28-4-116(d), K.A.R.28-4-116a(b)(5)(A),and K.A.R.28-4-116a(b)(5)(D)

E. In order to assure that full compliance with all regulations is maintained, five additional regulations will be selected by CLARIS at random, and measured during each indicator survey.

F. If at any time during a licensing indicator survey, one regulatory violation with an indicator or any other regulation is found on the survey tool, all paragraphs and subsections within the regulation will be reviewed for compliance.

G. If, during a licensing indicator survey, two or more regulatory violations with an indicator regulation or any other regulation on the survey tool are determined to be out of compliance, then the indicator survey is ended and a full survey is conducted.

H. If it is determined that there has been a change in program director, primary care provider, major modification to the facility or occupancy violations previously unknown to the Department, then the indicator survey is ended and a full survey is conducted. (The survey will occur on the same day, or on the next contiguous business day, that the indicator survey commenced).

I. If it is determined that there has been a change in ownership previously unknown to the Department, the indicator survey is ended. A change in ownership invalidates the current license requiring submission of an initial application.

## **VI. Survey Procedures**

### **A. Selection of Eligible Providers and Scheduling**

1. CLARIS will evaluate providers for eligibility using the Criteria for Use of a Licensing Indicator System. The appropriate survey tool (annual or licensing indicator) will be applied when the child care surveyor selects the “apply template” option in CLARIS.
2. In addition to the indicator regulations and the other regulations set forth in the appendices, the indicator survey tool will include five randomly selected regulations. CLARIS will randomly select and apply the regulations when the surveyor requests the template.

**Kansas  
Department of Health & Environment  
Bureau of Family Health  
Child Care Licensing Program**

**Licensing Indicator System for Child Care Facilities (effective 10/08/2013)**

3. Each month notification is sent to the surveyor of annual surveys due. This notification is generated approximately 90 days in advance of the due date.
  4. Surveys will be scheduled in accordance with normal scheduling procedures for annual surveys. When scheduling, surveyors should allow sufficient time to complete a full survey.
- B. Surveyor Preparation for the Licensing Indicator Survey
1. Review the facility history file for any concerns to consider during the survey.
  2. Review applicable laws, the indicator regulations and procedures for the type of facility to be surveyed.
  3. Review the licensing activities in the CLARIS system for any change in status. Verify that there are no pending complaints either in CLARIS or received at the local health department. Contact KDHE for guidance if there is a pending complaint.
- C. Conducting the Licensing Indicator Survey
1. Upon arriving at the facility, a complete walk through of the entire facility, both inside and outside, is to be conducted to get a general sense of the compliance level. For a licensed or group day care home the entire premises is licensed. K.S.A. 65-512 grants authority to inspect all areas even if they are made inaccessible.
  2. Rooms that the licensee designates as “not used by children” should be evaluated for presence of children or hazards that present a health or safety risk.
  3. Based on the walk through a determination is made on whether or not to use the indicator survey tool. If surveyor observes major or substantial non-compliance, contact KDHE for guidance and to request that a full survey template be applied.
  4. The surveyor is to focus on reviewing and assessing compliance with the licensing indicator regulations. It is critical to stay within the scope of the indicator survey and assess compliance with the licensing indicator regulations and not drift into completing a full survey.

**Kansas**  
**Department of Health & Environment**  
**Bureau of Family Health**  
**Child Care Licensing Program**

**Licensing Indicator System for Child Care Facilities (effective 10/08/2013)**

5. Observe child care practices and ask questions in order to determine compliance. As necessary refer to current guidelines to assist with measuring compliance with each regulation on the indicator survey tool.
6. During and after the survey, provide technical assistance as needed on regulations and whatever issues are relevant to the provider.
7. If at any time during a licensing indicator survey, one licensing violation is found for an indicator or any other regulation on the survey tool, all paragraphs and subsections within the regulation are to be reviewed for compliance.
8. During the indicator survey, as soon as two or more regulatory violations with an indicator regulation or any other regulation on the survey tool are determined, then the indicator survey is ended and a full survey is conducted.
9. If during the assessment of the indicator regulations, additional noncompliance is observed on the indicator survey tool, it should be cited. For example, the surveyor may need to look at the license to assess compliance with the number of children observed in the center or home. If the surveyor observes that the license is not posted as required, this should be cited; however the surveyor should not then begin to assess compliance with all paperwork posting regulations as that would be outside the scope of the licensing indicator survey.
10. Document findings of noncompliance according to licensing procedures.
11. Document consultation and technical assistance provided. .
12. Conduct the exit interview and if a licensing indicator survey was completed explain to the provider that indicator tool was used. Be prepared to explain what a licensing indicator survey is and answer any of the provider's questions.

**VII. Criteria for Use of the Licensing Indicator System**

A. If all of the following criteria are met, a child care center or home is eligible for the annual survey to begin as an indicator survey.

1. The facility has had a full license at the current address for the past two years. A facility with a temporary permit is not eligible.

**Kansas**  
**Department of Health & Environment**  
**Bureau of Family Health**  
**Child Care Licensing Program**

**Licensing Indicator System for Child Care Facilities (effective 10/08/2013)**

2. The facility has had an initial and one annual survey or at least two annual surveys completed within the past two years.
  3. There has been no change in ownership, licensed premises, or program type within the past two years.
  4. In the past year, administration of the facility has remained the same:
    - a. the program director in the center or preschool has not changed;
    - b. the primary care provider (when the owner is not the primary care provider) in a licensed day care home has not changed;
    - c. at least one primary care provider in a group day care home has not changed.
  5. The most recent survey (annual, complaint or compliance) was in compliance or a corrective action plan was accepted. The CLARIS status indicates “complete”.
  6. The facility is in compliance with the terms of the license (the number and ages of children and the use of approved space) and any occupancy, building code, zoning, or fire safety violations have been resolved.
  7. The facility has not had any of the following Administrative Orders or combination of administrative orders issued within the past two years:
    - a. Intent to Deny [K.S.A. 65-504];
    - b. Intent to Assess a Civil Penalty [K.S.A. 65-526];
    - c. Intent to Suspend [K.S.A. 65-523 (limit, modify or suspend)];
    - d. Intent to Revoke [K.S.A. 65-504] for noncompliance; does not include a Notice of Intent to Revoke for a prohibited person that has been resolved;
    - e. Emergency Order of Suspension [K.S.A. 65-524 (limit, modify or suspend)].
  8. The facility does not have a consent agreement resolving an Administrative Order in effect.
  9. There are no pending complaints or incidents currently under investigation by the Department.
  10. There have been no substantiated complaints within the past year.
- B. A full annual survey must be conducted every third year (an indicator survey will not replace the full annual survey at a facility for more than two years).

**Kansas  
Department of Health & Environment  
Bureau of Family Health  
Child Care Licensing Program**

**Licensing Indicator System for Child Care Facilities (effective 10/08/2013)**

- C. Use of the indicator system will not be announced to the provider in advance of the survey.
- D. Indicators will be re-calculated every three years.
- E. This policy shall not be construed to reduce, limit or restrict the Department’s authority to enforce applicable statues and regulations, including but not limited to Kansas Statutes Annotated (K.S.A.) Chapter 65. Public Health: Article 5, and does not establish a precedent or otherwise bind the Department in any other action and shall not be construed as evidence of Department practice, policy or interpretation with respect to any dispute or issue not addressed herein.

**LICENSING INDICATOR SYSTEM  
INDICATORS OF REGULATORY COMPLIANCE**

**Child Care Centers and Preschools**

<b>Regulation</b>	<b>Description</b>
K.A.R. 28-4-126 (b)(1)	Each person regularly caring for children shall have a health assessment conducted by a licensed physician or by a nurse trained to perform health assessments. The health assessment shall be conducted no earlier than one year before the date of employment or initial application for a license or certificate of registration, or not later than 30 days after the date of employment or initial application
K.A.R. 28-4-126 (c)(1)	Each person living or working or regularly volunteering in the facility shall have a record of a negative tuberculin test or x-ray obtained not more than two years before employment or initial application, for a license or certificate of registration, or not later than 30 days after the date of employment or initial application.
K.A.R. 28-4-129(c)(1)	Children shall never be permitted to play without supervision in areas where there is a wading pool containing water.
K.A.R. 28-4-423 (a)(18)	The premises shall be maintained in good condition and shall be clean at all times, free from accumulated dirt and trash, and any evidence of vermin or rodent infestation. Each outdoor trash and garbage container shall be converted, and the contents removed at least weekly,
K.A.R. 28-4-423 (a)(23)	Medicines, household poisons, and other dangerous substances and instrument s shall be in locked storage.
K.A.R.28-4-125(b)	Within one week of the time a new person over 10 years of age resides, works or regularly volunteers in the facility, excluding children placed in care, a report of the name, address and birthdate shall be filed with the Kansas department of health and environment.



**Kansas**  
**Department of Health & Environment**  
**Bureau of Family Health**  
**Child Care Licensing Program**

**Licensing Indicator System for Child Care Facilities (effective 10/08/2013)**

K.A.R.28-4-128(c)	Each person responsible for the children, including each substitute, shall be informed of and shall follow the emergency plans.																											
K.A.R.28-4-129(b)(1)	Below-ground swimming pools shall be enclosed by a fence not less than five feet high to prevent chance access by children.																											
K.A.R.28-4-129(b)(2)	Above-ground swimming pools shall be four feet high, or shall be enclosed with a fence not less than five feet high. Steps shall be removed from the pool when the pool is not in use.																											
K.A.R.28-4-129(c)(2)	Water in wading pools shall be emptied daily.																											
K.A.R.28-4-132(c)(10)	Diapering procedures recommended by the U.S. Department of Health and Human Services, Public Health Service, December, 1984, shall be followed in all child care facilities caring for infants and toddlers. Diapering and toileting procedures shall be posted in child care centers, group boarding homes, residential centers and group day care homes serving children under 2 1/2 years of age.																											
K.A.R.28-4-428(a)	<p>Minimum staff/child ratio. The ratio between staff and children shall be determined by the age of children and type of service provided. The required staff/child ratio shall not fall below the minimum level at any time and no child shall be left unsupervised. Only staff who are in attendance with the children shall be counted in the minimum staff/child ratio as follows:</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Minimum Age of Children</th> <th style="text-align: left;">Staff/Child Ratio</th> <th style="text-align: left;">Maximum Number of children per unit</th> </tr> </thead> <tbody> <tr> <td>Infants (2 weeks to 12 months)</td> <td>1 to 3</td> <td>9</td> </tr> <tr> <td>Infants to 6 years</td> <td>1 to 4 (max. 2 infants)</td> <td>8 (max. 4 infants)</td> </tr> <tr> <td>Toddlers (12 mos. to 2 ½ years if walking alone)</td> <td>1 to 5</td> <td>10</td> </tr> <tr> <td>2 years to 3 years</td> <td>1 to 7</td> <td>14</td> </tr> <tr> <td>2 ½ years to school age</td> <td>1 to 10</td> <td>20</td> </tr> <tr> <td>3 years to school age</td> <td>1 to 12</td> <td>24</td> </tr> <tr> <td>Kindergarten enrollees</td> <td>1 to 14</td> <td>28</td> </tr> <tr> <td>School age</td> <td>1 to 16</td> <td>32</td> </tr> </tbody> </table>	Minimum Age of Children	Staff/Child Ratio	Maximum Number of children per unit	Infants (2 weeks to 12 months)	1 to 3	9	Infants to 6 years	1 to 4 (max. 2 infants)	8 (max. 4 infants)	Toddlers (12 mos. to 2 ½ years if walking alone)	1 to 5	10	2 years to 3 years	1 to 7	14	2 ½ years to school age	1 to 10	20	3 years to school age	1 to 12	24	Kindergarten enrollees	1 to 14	28	School age	1 to 16	32
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K.A.R.28-4-428a(a)(3)	Each licensee shall ensure that orientation is completed by each staff member who will be counted in the staff-child ratio and by each volunteer who will be counted in the staff-child ratio. Each staff member and volunteer shall complete the orientation within seven calendar days after the date of employment or volunteering and before the staff member or volunteer is given sole responsibility for the care and supervision of children.																											
K.A.R.28-4-428a(c)(1)	Each staff member counted in the staff-child ratio, each volunteer counted in the staff-child ratio, and each program director shall obtain certification in pediatric first aid and in pediatric CPR as specified in this subsection either before the date of employment or volunteering or not later than 30 calendar days after the date of employment or volunteering.																											
K.A.R.28-4-429(a)	Program directors shall be 18 years of age or older and shall meet the training requirements for the license capacity of the facility.																											

**Kansas**  
**Department of Health & Environment**  
**Bureau of Family Health**  
**Child Care Licensing Program**

**Licensing Indicator System for Child Care Facilities (effective 10/08/2013)**

K.A.R.28-4-429(h)	Each unit shall have one staff person who is at least 18 years of age and who has a high school diploma or its equivalent. Units enrolling fewer than 13 children shall have a staff person who meets the training requirements specified in subsection (b) of this rule and regulation. Units enrolling 13 to 24 children shall have a staff person who meets the training requirements specified in subsection (c) of this rule and regulation. Units enrolling more than 24 school-age children shall have a staff person who meets the requirements specified in subsection (d) of this rule and regulation.
K.A.R.28-4-430(b)(1)	Each child's hands shall be washed with soap and water before and after eating and after toileting.
K.A.R.28-4-430(c)(3)	Each staff member shall be trained to observe symptoms of illness, neglect, and child abuse, and shall observe each child's physical condition daily.
K.A.R.28-4-437(d)	The outdoor play space shall be well drained and free of hazards.
K.A.R.28-4-437(h)	The [outdoor] play area shall be arranged so that staff can provide close supervision at all times.
K.A.R.28-4-440(h)(2)(A)	Each infant shall nap or sleep in a crib or a playpen.
K.A.R.28-4-440(n)	Each license shall ensure that at least one staff member who meets one of the following staff requirements is present for each unit of infants and each unit of toddlers:

**Licensed and Group Day Care Homes**

<b>Regulation</b>	<b>Description</b>
K.A.R.28-4-114(h)	License capacity not exceeded. Each applicant with a temporary permit and each licensee shall ensure that the total number of children on the premises, including children under 11 years of age related to the applicant with a temporary permit, the licensee, or any other provider, does not exceed the license capacity, except for additional children permitted in subsection (j).
K.A.R.28-4-114a(a)(2)	Each applicant, each applicant with a temporary permit, and each licensee shall provide orientation to each individual who will be caring for children about the policies and practices of the facility, including duties and responsibilities for the care and supervision of children. Each provider shall complete the orientation before the provider is given sole responsibility for the care and supervision of children. The orientation shall include the following:
K.A.R.28-4-115(g)(1)	All household cleaning supplies and all bodily care products bearing warning labels to keep out of reach of children or containing alcohol shall be in locked storage or stored out of reach of children under six years of age. Soap used for hand washing may be kept unlocked and placed on the back of the counter by a bathroom or kitchen sink.
K.A.R.28-4-115(h)	Storage of weapons. No child in care shall have access to weapons. All weapons shall be stored in a locked room, closet, container, or cabinet. Ammunition shall be kept in locked storage separate from other weapons.
K.A.R.28-4-115(i)(1)	The outdoor play area shall be fenced if the play area adjoins that of another child care facility, as defined in K.S.A. 65-503 and amendments thereto, or if the area

**Kansas**  
**Department of Health & Environment**  
**Bureau of Family Health**  
**Child Care Licensing Program**

**Licensing Indicator System for Child Care Facilities (effective 10/08/2013)**

	surrounding, or the conditions existing outside, the play area present hazards that could be dangerous to the safety of the children, which may include any of the following: [a fish pond or a decorative pool containing water; railroad tracks; or a water hazard, including a ditch, a pond, a lake, and any standing water.]
K.A.R.28-4-115a(a)(1)(A)	Each applicant, each applicant with a temporary permit, and each licensee shall develop a supervision plan for children in care that includes all age ranges of children for whom care will be provided. A copy of the plan shall be available for review by the parents or legal guardians of children in care and by the department. The plan shall include the following:[ <i>A description of the rooms, levels, or areas of the facility including indoor and outdoor areas in which the child will participate in activities, have snacks or meals, nap, or sleep;</i> ]
K.A.R.28-4-115a(a)(1)(B)	the manner in which supervision will be provided; and
K.A.R.28-4-115a(c)(1)	For each child who is under 2 1/2 years of age and who is awake, the provider shall be within sight of and in proximity to the child, watching and overseeing the activities of the child. When the provider is attending to personal hygiene needs or engaging in other child care duties and is temporarily unable to remain within sight of the child, the provider shall meet all of the following conditions: [ <i>the provider has first ensured the safety of each child; the provider is able to respond immediately to any child in distress; the provider remains within hearing distance of each child.</i> ]
K.A.R.28-4-115a(c)(3)(A)	Each child who is napping or sleeping shall be within sight or hearing distance of the provider and shall be visually checked on by the provider at least once every 15 minutes.
K.A.R.28-4-115a(d)(1)	For each child under five years of age, the provider shall be outdoors at all times and remain within sight of and in proximity to each child, watching and directing the activities of the child.
K.A.R.28-4-115a(e)(2)	When overnight care is provided in a day care home, at least one provider shall remain awake at all times.
K.A.R.28-4-116(c)(2)(C)	Each child shall wash that child's hands or be assisted in washing that child's hands as needed when hands are soiled and when each of the following occurs: <i>after toileting</i>
K.A.R.28-4-116(d)	Smoking prohibited. No provider shall smoke while providing direct physical care to children. Smoking in any room, enclosed area, or other enclosed space on the premises shall be prohibited when children are in care pursuant to K.S.A. 65-530, and amendments thereto.
K.A.R.28-4-116a(b)(5)(A)	The child shall nap or sleep in a crib or a playpen. Stacking cribs or bassinets shall not be used. Cribs with water-bed mattresses shall not be used.
K.A.R.28-4-116a(b)(5)(D)	The child shall be placed on the child's back to nap or sleep.
K.A.R.28-4-117(a)(1)	A completed medical record on a form supplied by the department shall be on file for each child under 11 years of age enrolled for care and for each child under 16 living in the child care facility.
K.A.R.28-4-117(c)	Immunizations for each child, including each child of the provider under 16 years of age shall be current as medically appropriate and shall be maintained current for protection from the diseases specified in K.A.R. 28-1-20(d). A record of each child's immunizations shall be maintained on the child's medical record.

**Kansas  
Department of Health & Environment  
Bureau of Family Health  
Child Care Licensing Program**

**Licensing Indicator System for Child Care Facilities (effective 10/08/2013)**

K.A.R.28-4-125(b)	Within one week of the time a new person over 10 years of age resides, works or regularly volunteers in the facility, excluding children placed in care, a report of the name, and birthdate shall be filed with the Kansas department of health and environment.
K.A.R. 28-4-127(b)(1)(A)	Emergency Medical Treatment; Each facility shall have on file for each child; written permission of the parent, guardian, or legal custodian for emergency medical treatment on a form that meets the requirements of the hospital or clinic where emergency medical care will be given.
K.A.R.28-4-128(c)	Each person responsible for the children, including each substitute, shall be informed of and shall follow the emergency plans.
K.A.R.28-4-129(b)(1)	Below-ground swimming pools shall be enclosed by a fence not less than five feet high to prevent chance access by children.
K.A.R.28-4-129(b)(2)	Above-ground swimming pools shall be four feet high, or shall be enclosed with a fence not less than five feet high. Steps shall be removed from the pool when the pool is not in use.
K.A.R. 28-4-129(c)(1)	Children shall never be permitted to play without supervision in areas where there is a wading pool containing water.
K.A.R.28-4-129(c)(2)	Water in wading pools shall be emptied daily.
K.A.R.28-4-132(c)(10)	Diapering procedures recommended by the U.S. Department of Health and Human Services, Public Health Service, December, 1984, shall be followed in all child care facilities caring for infants and toddlers. Diapering and toileting procedures shall be posted in child care centers, group boarding homes, residential centers and group day care homes serving children under 2 1/2 years of age.

**Kansas  
Department of Health & Environment  
Bureau of Family Health  
Child Care Licensing Program**

**Licensing Indicator System for Child Care Facilities (effective 10/08/2013)**

**APPENDIX A**

**LICENSING INDICATOR SYSTEM  
PROHIBITIVE VIOLATION**

1. Intent to Deny ( K.S.A. 65-504);
2. Intent to Assess a Civil Penalty (K.S.A. 65-526)
3. Intent to Suspend ( K.S.A. 65-523 (limit, modify or suspend)
4. Intent to Revoke (K.S.A. 65-504)
5. Emergency Order of Suspension (K.S.A. 65-524 (limit , modify or suspend)