

**FDL ORDINANCE #04/95, AS AMENDED**

**FOND DU LAC RESERVATION  
LICENSING REQUIREMENTS FOR CHILD CARE CENTERS AND PROGRAMS**

Adopted by Resolution #1268/95 of the Fond du Lac  
Reservation Business Committee, dated August 3, 1995  
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**FOND DU LAC RESERVATION  
LICENSING REQUIREMENTS FOR CHILD CARE CENTERS  
ORDINANCE #04/95, AS AMENDED**

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**Section 101      AUTHORITY AND PURPOSE**

This Ordinance is enacted pursuant to the inherent sovereign authority of the Fond du Lac Reservation Business Committee, as the governing body of the Fond du Lac Band of Lake Superior Chippewa, as granted by Article VI of the Constitution of the Minnesota Chippewa Tribe, and as recognized by the United States under Section 16 of the Indian Reorganization Act of 1934, 25 U.S.C. § 476, for the purpose of establishing minimum standards for the operation of child care centers and programs on the Fond du Lac Reservation.

**Section 102      FINDINGS AND APPLICABILITY**

The Reservation Business Committee finds that the health and welfare of the people of the Fond du Lac Band is promoted through the adoption of minimum standards to govern the operation of child care centers and programs within the Fond du Lac Reservation, and that these standards shall be the conditions for licensure by the Reservation Business Committee for all such facilities.

**Section 103      DEFINITIONS**

The following definitions shall apply to the interpretation and application of this Ordinance:

- a. **Age category.** "Age category" means the designations given a child according to the child's age. The age categories are as follows:
- (1) "Infant" means a child who is at least six weeks old but less than 16 months old.
  - (2) "Toddler" means a child at least 16 months old but less than 33 months old.
  - (3) "Preschooler" means a child who is at least 33 months old but who has not yet attended the first day of kindergarten.

- (4) "School age child" means a child who has at least attended the first day of kindergarten but is less than 13 years old.
- b. **Applicant.** "Applicant" means a person, corporation, partnership, voluntary association, or other organization that has applied for licensure under Fond du Lac Day Care Facility Standards. The term includes license holders that have applied for a new license to continue operating a child care program after the expiration date of their current license.
- c. **Building official.** "Building official" means a person designated by the Fond du Lac Reservation Business Committee to administer the Fond du Lac Building Code, which shall be substantively similar to the Uniform Building Code as codified under Chapter 16B of the Minnesota Statutes.
- d. **Center.** "Center" means a facility in which a child care program is operated but is not required to be licensed as a family or group family day care home.
- e. **Certified Child Care Provider.** "Certified Child Care Provider" means the status given to persons who have met the training and experience obligations and are available for independent child care assignments on the Reservation.
- f. **Certified Program.** Programs under the governance of the Fond du Lac Reservation Business Committee may apply for and receive a certification to provide child care under this Ordinance.
- g. **Child.** "Child" means a person 12 years old or younger.
- h. **Child Care Center.** "Child care center" means the systematic organization or arrangement of activities, personnel, materials, and equipment in a facility to promote the physical, intellectual, social, and emotional development of a child in the absence of the parent for a period of less than 24 hours a day.
- i. **Child care center program plan.** "Child care center program plan" means the written document that states the specific activities that will be provided by the license holder to promote the physical, intellectual, social, and emotional development of the children enrolled in the center.

- j. **Clean.** "Clean" means free from dirt or other contaminants that can be detected by sight, smell, or touch.
- k. **Disinfected.** "Disinfected" means treated to reduce microorganism contamination after an object has been cleaned. Disinfection must be done by rinsing or wiping with a solution of one-fourth cup chlorine bleach plus water to equal one gallon, or an equivalent product or process approved by the Indian Health Service.
- l. **Facility.** "Facility" means the indoor and outdoor space in which the child care program is provided.
- m. **Fire marshal.** "Fire marshal" means the person designated by the Reservation Business Committee to administer and enforce the Fond du Lac Fire Code, which shall be substantively similar to the Uniform Fire Code, as codified under Minnesota Statutes § 299F.011.
- n. **Health consultant.** "Health consultant" means a physician licensed to practice medicine under Chapter 147 of the Minnesota Statutes; a public health nurse or registered nurse licensed under Minnesota Statutes § 148.171; or other health professional designated by the Reservation Business Committee.
- o. **License.** "License" means a certificate issued by the Fond du Lac Reservation Business Committee authorizing the license holder to operate a child care program for a specified period of time in accordance with the provisions of this Ordinance, the terms of the license, and other applicable rules and conditions of the Reservation Business Committee.
- p. **License holder.** "License holder" means the individual, corporation, partnership, voluntary association, or other organization legally responsible for the operation of the child care program that has been granted a license by the Fond du Lac Reservation Business Committee.
- q. **Licensed capacity.** "Licensed capacity" means the maximum number of children for which the license holder is licensed to operate a child care program at any one time.
- r. **Medicine.** "Medicine" means a substance used to treat disease or injuries, maintain health, heal, or relieve pain. The term applies to prescription substances taken internally or applied externally.

- s. **Parent.** "Parent" means the person or persons with legal responsibility for a child such as the child's mother, father, or legally-appointed guardian.
- t. **Program staff person.** "Program staff person" means a teacher, assistant teacher, or aide, whether paid or unpaid, who carries out the child care program plan and has direct contact with children.
- u. **Sick child.** "Sick child" means a child with a condition or illness identified by a health consultant.
- v. **Staff person.** "Staff person" means a person, whether paid or unpaid, who works for the licensee.
- w. **Supervision.** "Supervision" occurs when a program staff person is within sight and hearing of a child at all times so that the program staff person can intervene to protect the health and safety of the child.
- x. **Variance.** "Variance" means time limited written permission by the Fond du Lac Reservation Business Committee for an applicant or license holder to depart from the written provisions of this document, if equivalent alternative measures are taken to ensure the health, safety, and rights of the children in care.

**Section 104      OPTIONS FOR CHILD CARE PROGRAMS**

A license holder under this Ordinance must provide one or more of the following child care programs:

- a. A "day program" which operates during normal waking hours (approximately 6 a.m. to 6 p.m.) and which:
  - (1) Operates for more than 30 days in any 12 month period; and
  - (2) Provides care to any child for more than 30 days in any 12 month period and 45 hours in any calendar month.
- b. A "drop in program" that operates for more than 30 days in any 12 month period. The program is not a day program and does not provide care to any child for more than a cumulative total of 45 hours in any calendar month.
- c. A "night care program" operated during normal sleeping hours (approximately 6 p.m. to 6 a.m.).

- d. A "sick care program" that provides care to a sick child.
- e. An "organized activity program" that provides services to youth under the direction of the Fond du Lac Reservation Business Committee or one of its divisions that does not locate its services in a specific center.

**Section 105      APPLICANT BACKGROUND STUDY**

- a. **Applicant Background Study.** An applicant background study of the applicant and all staff persons who will have direct contact with or access to persons served by the child care program must be made under this Ordinance in a manner prescribed by the Fond du Lac Reservation Business Committee.
- b. **Information on organizations.** If the applicant is an authorized representative of a partnership, corporation, voluntary association, or other organization legally responsible for the operation of the child care program, the applicant must make available and maintain the names and addresses of the owners and board members, the articles of incorporation, and an organizational chart in the center administrative record.

**Section 106      QUALIFICATIONS OF APPLICANTS AND STAFF**

- a. **Definitions.** The Following definitions shall apply to the application of this Section:
  - (1) **"Accredited course"** means a course that is offered for credit by or through an accredited post-secondary institution.
  - (2) **"Education"** means accredited course work from an accredited post-secondary institution in child development; children with special needs; early childhood education methods or theory; curriculum planning; child study techniques; family studies; child psychology; parent involvement; behavior guidance; child nutrition; child health and safety; early childhood special education methods or theory; child abuse and neglect prevention; recreational sports, arts, and crafts methods or theory; or coordination of community and school activities. "Education", as specified on the charts in sections 108 and 109, is in addition to the credential specified in column A unless the

course work has been completed as part of the credential.

- (3) "**Experience**" means paid or unpaid employment serving children as a teacher, assistant teacher, or aide, in a licensed child care center, or work as a student intern in a licensed center or an accredited school.
- (4) "**Student intern**" means a student of a post-secondary institution assigned by that institution for a supervised experience with children. The experience must be in a licensed center or an accredited school. The term includes a person who is practice teaching, student teaching, or carrying out a practicum or internship.
- (5) "**Staff supervision**" means responsibility to hire, train, assign duties, and direct staff in day to day activities and evaluate staff performance.
- (6) "**Supervisor**" means a person with staff supervision responsibility.

b. **General staff qualifications.** Staff persons who have direct contact with or access to children, and volunteers who have direct contact with or access to children and are not under the direct supervision of a staff person, must meet the qualifications in this section:

- (1) Persons who supervise staff persons or volunteers must be at least 18 years old and meet the qualifications for director, teacher, or assistant teacher.
- (2) Staff persons and contract consultants with qualifications that require licensure, certification, or registration by the State of Minnesota must have the current licensure, certification, or registration in their field on file within their personnel record.
- (3) Staff persons must be physically able to care for children and must not present a risk of transmission of reportable communicable disease.

c. **Investigation required.** The Reservation Business Committee shall conduct a background investigation of every employee, or applicant for employment in a facility subject to licensure under this Ordinance.

Investigations shall involve, at minimum, inquiries to every relevant local child protective services agency and local law enforcement agency within the geographical region where the applicant or employee has resided within the past ten (10) years.

- d. **Disqualification factors.** No employee in, or applicant for employment in a facility subject to licensure under this Ordinance shall be employed or be permitted to retain employment if one or more of the following conditions exist:
- (1) A background investigation for that applicant or employee has revealed that the applicant or employee has been found guilty of, or has entered a plea of nolo contendere or guilty to, any offense under federal, state or tribal law for crimes involving family violence, child abuse, child neglect, sexual assault, sexual contact, prostitution or crimes against persons, as defined under Fond du Lac Ordinance #13/94 and Section 408 of the Indian Child Protection and Family Violence Prevention Act of 1990. In the event that an employee or applicant has been charged with a crime within the scope of this Section and is awaiting trial for such crime, that individual's employment or consideration for employment shall be suspended until such time as that individual is exonerated of the charges.
  - (2) The applicant or employee has had parental rights terminated within the meaning of Minnesota Statutes § 260.221 or analogous state or tribal law.
  - (3) The applicant or employee has mental illness as defined in Minnesota Statutes § 245.462, subdivision 20, and the behavior has or may have a negative effect on the ability of the person to provide child care or is apparent during the hours children are in care.
  - (4) The applicant or employee abuses prescription drugs or uses controlled substances as named in Minnesota Statutes, Chapter 152, or alcohol to the extent that the use or abuse impairs or may impair the person's ability to provide child care or is apparent during the hours children are in care.
- e. **Reevaluation of disqualification.** An applicant or license holder that is disqualified from licensure or an employee, volunteer, or contractor of an applicant or

license holder who is not permitted to work based on the disqualification factors in subsection (d) may request that the Reservation Business Committee reevaluate the disqualification decision and remove the disqualification. The request for reevaluation must be made in writing and sent to the commissioner by certified mail. A request for reevaluation of a disqualification must either be accompanied by information establishing that the evidence relied upon by the Reservation Business Committee is erroneous, or must be accompanied by:

- (1) Copies of the charging documents, sentencing orders, and probation or parole reports, if any, including all conditions established by the court;
- (2) Evidence of training or rehabilitation of the applicant or license holder, or an employee, volunteer, or contractor of an applicant or license holder that has occurred since the incident; and
- (3) Any other information that the applicant or license holder, or an employee, volunteer, or contractor of an applicant or license holder believes the commissioner should consider in reevaluating the disqualification decision.

In determining whether or not to remove the disqualification, the Reservation Business Committee shall consider the period of time elapsed since the incident; the consequences of the incident that led to the finding; the vulnerability of the victim of the incident; the time elapsed without a repeat of the same or similar incident; and documentation of successful completion of training or rehabilitation pertinent to the incident. The Reservation Business Committee's disposition is the final administrative agency action.

## **Section 107     DIRECTORS**

- a.     **General requirements for a director.**     A director must:
- (1) Be at least 18 years old;
  - (2) Be a graduate of a high school or hold an equivalent diploma attained through successful completion of the general education development (GED) test;
  - (3) Have at least 1,040 hours of paid or unpaid staff supervision experience; and

(4) Have at least nine quarter credits or 90 hours earned in any combination of accredited courses in staff supervision, human relations, and child development.

b. **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 this document.

**Section 108      TEACHERS**

Persons employed as a teacher at a facility licensed under this Ordinance must be at least 18 years old and meet the qualifications required under this Section.

- 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.
- c. 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 or General Education Development (GED) diploma	Experience: 4,160 hours as assistant teacher  Education: 24 quarter credits
(2) Diploma from Association Montessori International; pre-primary 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) Pre-primary credential, primary diploma, or provisional certificate from the American Montessori Society; or diploma from the Association Montessori International with a baccalaureate degree required	Experience: 1,040 hours as assistant teacher, aide, or student intern  Education: no additional
(4) Minnesota technical institute certificate as a Child Development Assistant	Experience: 2,080 hours as an assistant teacher  Education: 6 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<br><br>Education: no additional required  |
| (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<br><br>Education: 6 quarter credits   |
| (7) | Baccalaureate degree from an accredited college or university in any field  | Experience: 1,040 hours as assistant teacher, aide, or student intern<br><br>Education: 18 quarter credits  |
| (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<br><br>Education: 6 quarter credits within one year of initial employment if teaching children under school age |
| (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<br><br>Education: no additional required   |

**Section 109     ASSISTANT TEACHERS**

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 required under this Section:

- 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.