

CHILD CARE LICENSING UNIT
HE-C 4002 NH CHILD CARE PROGRAM LICENSING RULES ♦ 2022 RULES MAJOR CHANGES SUMMARY

The following is a summary of major changes of the 2022 NH Child Care Program Licensing Rule. The complete rule can be found here:

<https://www.dhhs.nh.gov/oos/cclu/rules.htm>

He-C 4002.01 Definitions	
	Deleted the following definitions: “administer,” “bureau,” “critical rules,” “pesticide,” “regionally accredited college or university,” “supervision,” “toileting,” “wading pool,” and “water feature.”
(a), (c), (ar), (az), (bb)	Added the following new definitions: “accredited college or university,” “agency administrator,” “over-the-counter medications,” “related coursework,” and “rough handling,”
(j), (k), (n), (p), (q), (s), (w), (y), (aa), (ae), (ai), (ap), (at), (au), (ay), (bd)	Amended the following definitions to reference the statute so all definitions from statute read the same: “child,” “child care,” “commissioner,” “corrective action plan,” “department,” “family child care home,” “family group child care home,” “group child care center,” “guardian,” “infant and toddler program,” “license,” “monitoring visit,” “permit,” “preschool program,” “regularly,” and “school-age program.”
(l)	Amended “child care program personnel,” to “child care staff” and amended the definition
(o)	Amended “corporal punishment” by eliminating the list of actions and replacing them with a definition in line with what other statutes use. NOTE: added new definition for “rough handling” in (bc) to address other behaviors not considered corporal punishment.
(ao)	Amended “medication order”
(ba)	Amended “repeat citation” to change the look back from 5 years to 3 years.
(bi)	Amended “substitute” to clarify the roles and requirements.
He-C 4002.02 Licensure and Approval: Initial Applications, License Renewal, and Revisions (previously sections 02, parts of 04 and all of 05)	
	Combined previous sections 02, 04 and 05 related to licensure into one section; added NH Connections portal as an option for submitting applications; moved requirements for background checks and eligibility cards to new section 41; added requirement to submit documents required by the Secretary of State with renewal applications
New (k) & (l)	Clarified how the department determines the license capacity
He-C 4002.03 Timeframes for Departmental Response to Applications (previously in section 12)	
(a), (b)	Changed timeframe for the department to act on an application from 120 days to 60 days to align with changes to RSA 541-A:29
He-C 4002.04 Waivers of Rules (previously section 03)	
(a)	Amended to require applicants contact the unit to initiate the request of a waiver
(b)	Added NH Connections portal as an option for submitting waiver requests
(b)(6)	Removed the requirement to obtain signature of parents affected by the waiver and replaced with option to provide proof of notice to parents instead
He-C 4002.05 Program Administration and License and Permit Requirements (previously in section 04, parts of 13)	

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(b), (c)	Moved rules relative to authorization to exceed license capacity from old section 13 to this new section
(l)	Added 2 business days to provide requested records or information (previously no deadline)
(p)	Added requirement to reflect the statutory requirement under RSA 170-E:3. IV that programs notify parents and department when voluntarily giving up their license to operate as a legally licensed-exempt program
(q)	New requirement to notify the department when a programs closes temporarily for longer than 30 days
He-C 4002.06 Statements of Findings and Corrective Action Plans (same section and parts of previous section 04)	
	Removed the designation of critical and non-critical rules throughout
(d)	New rule for DHHS to issue Statement of Findings within 21 days of the exit interview as described in (c); added NH Connections portal as the place where the department uploads the Statement of Findings.
He-C 4002.07 Informal Dispute Resolution (previously in section 11)	
	No substantive changes; rewrote (b) for clarity but the requirement/content is the same
He-C 4002.08 Staff and Child Attendance Records (previously in section 13)	
	Condensed requirements for staff and child attendance records with no substantive changes and specified electronic attendance records are permissible
He-C 4002.09 Staff Record Requirements (previously in section 16, parts of 30 and 32)	
(a)(6) 08/31/2022	New rule requiring documentation to verify child care staff reviewed their job description
(a)(7)	New rule requiring documentation of supervision regarding disciplinary actions or investigations of child care staff
He-C 4002.10 Child Record Requirements (previously in sections 20, 17, and 08)	
(c) 12/31/2022	Updated the link to access Statements of Findings and a new option for parents regarding CCLU staff speaking with their child during routine visits. (New Child Registration and Emergency Information Form)
He-C 4002.11 Children Who are Ill (previously in section 17)	
(b)	Amended to align with DHHS Division of Public Health guidelines for excluding children with symptoms of illness, or in accordance with Division of Public Health guidelines during a disease outbreak or public health emergency
He-C 4002.12 Record of Injury (previously section 19)	
	No substantive changes; specified methods for notification of serious injuries to the department
He-C 4002.13 Children With Disabilities – New Section	
He-C 4002.14 Required Postings (combines rules from previous sections 04, 19, 27) No changes	
He-C 4002.15 Notice and Reporting Requirements to the Department and Parents (previously in more than one section)	
(a)(1)-(3) 05/23/2022	(1) Added NH Connections portal as a method to report a change in the name of the program (2) Within 2 business days report in writing or through NH Connections portal changes to mailing address, email address, or phone number; (3) is a new requirement to notify the unit within 5 business days when staff leave employment or household members are no longer part of the household by either updating the Staff Roster in NH Connections or in writing

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(a)(4)	Changed requirement from 10 to 5 business days to notify the unit of the vacancy of center director, site coordinator or site director, and added agency administrator as a new role requiring this notice
(a)(5)-(7)	New requirements to notify the unit when the program voluntarily closes, changes to legally license exempt status, or temporarily closes for longer than 30 days
(a)(9)	Clarified requirement to notify the unit prior to making structural changes to indoor or outdoor spaces to specify changes that would create a wall, change room capacity, or egress
(a)(11)	New requirement to notify the unit in writing within 5 business days if program discontinues using space for child care
(a)(12)	New requirement to notify the unit when a program calls law enforcement or emergency responders for incident involving enrolled children
(a)(13)	New requirement to notify the unit when there is a motor vehicle accident involving program staff and children
(c)(6)	New requirement to notify parents if their child sustains a bump or injury to face or head that is more than a minor scrape or scratch. as described in (6) a. through h.
(c)(13)	Amended requirement to notify parents when there is a communicable disease identified at the program to allow for notice via email or private social media accounts
He-C 4002. 16 Requirements for Written Policies and Procedures and Job Descriptions (New section; some parts previously in 17, 19, 24, 25)	
(c)	New rules specific to programs operating exclusively outdoors
(d)	New rule requiring programs to provide parents with written policies at enrollment
(e) 08/01/2022	New requirement to have written job descriptions for direct child care staff positions
(f)	New rule requirement an EOP prior to issuance of a permit or renewal of a license
(l) & (m)	New requirements to provide staff all policies and procedures at hire; ensure that staff are familiar with and comply with them, and for staff to review and sign off on changes to policies and procedures within 30 days of the date of the changes, with documentation of the review kept on file
He-C 4002.17 Emergency Preparedness and Practice Drills (previously in section 19)	
(a)	Exempts nature-based programs operating solely outside from requirement to conduct fire drills
(a)(1)-(3)	Clarified when programs shall conduct drills, based upon months of operation
(f) By December 31, 2022: (1) Practice 1 off site evacuation and	Requires all child care staff to practice off-site evacuations and bomb threats once a year; requires child care staff and children to practice at least 2 other components once per calendar year; and requires a review all EOP response actions will all staff 4 times each year

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one bomb threat with staff (once per year thereafter) (2) Practice 1 other component with staff and children (2 components each calendar year thereafter) (3) Review all EOP response actions with all staff 2 times (4 times each calendar year thereafter)	
(g)	New requirement for log of EOP drills and review required under (f)
He-C 4002.18 Interactions Between and Among Adults and Children (previously in sections 14, 24, 25)	
(e)(2)	Added rough handling as prohibited act, separate from corporal punishment
(e)(12)	Clarified yelling in anger or frustration as a prohibited act/behavior by staff
(e)(13)	Added profanity or obscene language as a prohibited act/behavior by staff
(g)-(k)	Added provisions to clarify what actions staff may take in response to a child's actions that pose an imminent serious safety risk to the child or others and implementation of a behavior management plan with input from the parents.
(l), (n)	Added clarification for programs that lock the doors and how to assure parents still have access to the program and opportunity to communicate with staff caring for their child
(o)	Added prohibition of staff from being impaired or using alcohol or illegal substances while on the job
He-C 4002.19 Programming (previously in section 24)	
(a)	New rule for planning transition of a child to a new classroom
(d)	New rule prohibiting children from providing care and supervision to other children
He-C 4002.20 Prevention and Management of Injuries (previously section 19)	
(b)	Clarified supervision requirements for center-based programs
(e)	Clarified supervision requirements in family child care homes
(g) 06/01/2022	Added requirements to rule specific to parental directions for administration and storage of medication pertaining to allergies
(j) 06/01/2022	New requirement for food prep staff to read and familiarize themselves with allergy care and treatment plans
(o)	Amended to allow CPR and first aid training via correspondence or on-line, provided a skill test is required prior to becoming certified

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He-C 4002.21 Administration and Storage of Medication (previously section 18)	
(a)	Removed American with Disabilities Act and replaced with “as provided by the child’s parents and in accordance with this section.”
(b)	Added definition of “administer” here.
Old 18(p)	Deleted requirement to obtain written authorization every 6 months for medication needed for chronic conditions.
New (p)	Clarified rules for the accessibility and storage of insulin, inhalers and epi-pens to assure timely administration and in accordance with parental instructions
He-C 4002.22 Approval of Child Care Space and Licensing Capacity: Indoors and Outdoors (previously section 21 and part of section 24)	
(b)(1)	Clarified requirement for written local fire approval to care for children on any floor that does not exit at grade level
(c)(3)	New rule requiring notice to the department within 5 business days when discontinuing using space for child care (cross ref. to 02(q))
(e)&(f)	Added floor space measured “wall-to-wall” and how the department determines the number of children; this codifies current practice
(j)	New rule clarifying requirement for activity space specific for use by the program, apart from other groups using the facility, during the hours of operation.
(m)&(n)	Replace former 21(f)-(k) regarding common space.
(q)	New rule regarding how the department determines license capacity for programs operating exclusively outdoors
He-C 4002.23 Health and Safety Requirements for Indoor Space (previously section 14)	
(c) & (d)	Replaced “toxic” with “harmful if swallowed” on labels of non-food items.
(g)	Amended prohibited pets to align with NH Division of Public Health recommendations, including maintenance of habitats
(i)	New rule regarding elimination of insects or rodents when present
(n)(3)	New rule requiring staff to store their belongings out of reach of children
(q) 12/31/2022	Added to rule the requirement to install window guards to window or glass doors if necessary to prevent injury to children (See https://nrckids.org/CFOC/Database/5.1.3.2 and https://nrckids.org/CFOC/Database/5.1.3.4 for guidance)
(y)-(aa)	New rules regarding wood/coal/pellet/gas stoves when used during child care
(ah)	Clarified rule for cleaning spills of bodily fluids
(ai)(3)	New rule for cleaning and disinfecting mops used for cleaning bodily fluids
He-C 4002.24 Health and Safety Requirements for Outdoor Space (previously section 14)	
(a)(1)-(3) 12/31/2022	New rules requiring accessible play areas, that the play area be age and developmentally appropriate for the children enrolled, and a new requirement to provide shade. (See https://nrckids.org/CFOC/Database/5.1.1.4 for guidance on accessible playgrounds, https://nrckids.org/CFOC/Database/6.1.0.7 for guidance on shade)

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(d)	New rule for fencing of outdoor play spaces located on a roof
(e) 12/31/2022	New rule requiring installation of protective barriers to prevent falls into outdoor stair or window wells
(f) & (g)	New rule requiring departmental approval of porches and decks before use as play areas
(h)(2)a.	Clarified rule so energy absorptive material which poses a choking hazard only applies to play areas used by children younger than 3 years of age.
He-C 4002.25 Learning Materials, Toys and Equipment (previously section 22)	
(d)	New rule prohibiting the use of toys/equipment identified by the Consumer Product Safety Commission as being hazardous
(g)	New rule providing for children age 30 months to 3 years to use small items under certain conditions
Old (m) & (n)	Deleted limitations on age of children using dramatic play items with ties or straps. Moved removing necklace during nap to (z) in section 26 on Rest & Sleep
He-C 4002.26 Rest and Sleep (previously section 23 and parts of 22)	
(d)	New requirement to discontinue using cribs/playpens with infants who have the ability to climb out
(l) & (m)	Clarified requirements for use of electronic monitors in family child care homes and center-based programs
He-C 4002.27 Water Testing and Sewage Disposal (previously section 15)	
(a)(4)b.	Deleted requirement if on a private well to test for uranium, to align with testing requirements for public water systems
(c)	New rules allowing the use of privies under specific conditions
He-C 4002.28 Bathroom Requirements (previously part of section 15)	
(b)	New rule allowing the use of portable sinks with approvals from the health officer and the department prior to use
He-C 4002.29 Diapering and Toilet Learning (previously section 28) No changes	
He-C 4002.30 Handwashing (previously section 26) No changes	
He-C 4003.31 Nutrition, Food Service and Food Safety (previously section 27)	
(a)	Added requirement to provide developmentally appropriate individual eating utensils/cups/bottles
(b)	New rule requiring eating and drinking utensils to be in good repair
(p)(8)	New rule to maintain menus on file for one year if providing snacks and meals
(t)	New rule for staff interactions with children during meals and snacks
He-C 4003.32 Field Trips, Water Activities and Transportation (previously section 29)	
(e), (4), (5)&(6)	New requirements for drivers and attendants to receive training in safe transportation of children prior to transporting children, that the driver is alert and not distracted when driving children, and that the driver takes attendance before and after each trip, and inspects vehicle after each trip to ensure no child is left alone in a vehicle
He-C 4002.33 Professional Development (previously section 30)	
(a), (a)(2)&(3)	Rewrote for clarity and flow; added requirements for when staff must complete 6 hours of professional development or provide

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	documentation of completion if obtained previous to employment at program
(b)(14)	Added training on EOP components as required professional development
(c) & (d)	Clearly identified which trainings are required to be completed prior to working with infants/children, no changes
(f)	Changed obtainment of professional development to within first 12 months of hire and then annually (every calendar year)
(g)	Changed obtainment of professional development to within first 12 months of hire and then annually (every calendar year); Amended exemptions from 18 hours of professional development; clarified full-time college means enrolled in a minimum of 12 credit hours/semester
(k)	Removed child development and child abuse and neglect from the list of professional development topic areas as they are already covered under topics in (b)
(m)	Added recertification in first aid as counting towards 2 hours and recertification of CPR as counting towards 3 hours of annual professional development requirements, unless otherwise specified on the training certificate or course description for more or fewer hours
He-C 4002.34 Family and Family Group Child Care Programs (previously section 35)	
(b)&(c)	New rules regarding location of family child care and restriction on number of licenses one family child care provider may hold
(d)(2)	Edited to add High School Equivalency Test (HiSet), or Test Assessing Secondary Completion (TASC) as equivalent to GED
He-C 4002.35 Requirements for Child Care Staff in Center-Based Programs (previously section 32)	
Throughout	Edited to add High School Equivalency Test (HiSet), or Test Assessing Secondary Completion (TASC) as equivalent to GED for all positions requiring such
(a)(1)	Reduced requirement for center director or qualified substitute to be on site from 2/3 of each day to 60% of each day's operating hours or 60% of evening and nighttime operating hours if night care program
(b)(2)	Reduced requirement for site director to be on site from 2/3 of each day to 60% of each day's operating hours for SAPs operating more than 5 hours per day
(c)(2)b. & c.	Reduced requirement for group leader in SAP or associate teacher in center-based programs to be in charge from 1/3 of the remaining operating hours to the remaining 40% of operating hours
(d)	Exempted programs operating only as a school age program from requirement to have at least one lead teacher on the premises at all times
(j)(3)	Eliminated the requirement for a center director to have 3 credits in child development in addition to the requirements in (5) a. through e.
(k)	Changed requirement for specific college credits to requirement for credits in "related coursework" (now defined)
(k)(5)-(7)	Added new options to qualify as a lead teacher

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(l)(4)c	Added new options to qualify as an associate teacher to align with RSA 170-E:11, I (n)
He-C 4002.36 Group Child Care Centers (previously section 33) <i>No changes</i>	
He-C 4002.37 Infant and Toddler Programs (previously section 34) <i>No changes</i>	
He-C 4002.38 Preschool Programs (previously section 35) <i>No changes</i>	
He-C 4002.39 School Age Programs (previously section 36)	
(c)-(d)	Added requirement to protect children from vehicular traffic for programs in public or private school buildings; condensed former rules found in 36(c)&(d)
He-C 4002.40 Night Care (previously section 37) <i>No changes</i>	
He-C 4002.41 Background Checks and Determination of Eligibility (previously part of sections 02, 04, and 05)	
(a) 05/02/2022	Add requirement to submit background checks via NH Connections
(c)(3)	Exempts high school and college students from requiring an eligibility card, in addition to those previously exempted
(e)	New requirement for a new hire whose has current eligibility to have a statement on file that since the previous background check was completed, they have not been convicted of any crimes or had any findings for abuse, neglect, or exploitation.
(f)	New rule for the department to make a final determination regarding an individual's eligibility for employment within 45 days of receipt of all required information to align with federal requirements
(g) 05/02/2022	New rule specifying that individuals shall not have access to children or be present in the program until receipt of notice of their eligibility
He-C 4002.42 Complaints and Investigations (previously section 07) <i>No change</i>	
He-C 4002.43 Confidentiality (previously section 08) <i>No change</i>	
He-C 4002.44 Enforcement Action and Right to Appeal (previously section 09)	
(d)(2)h.	New provision allowing the department to require the licensee to replace the center director, site director or site coordinator as a condition on the license
(h)	Revised to require program to provide the department with evidence of notice to parents of conditions imposed on the license
He-C 4002.44 Administrative Fines (previously section 10) <i>No substantive changes; editorial only</i>	

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Rule number and description	Deadline for compliance
4002.41(a) Background record checks submitted using NH Connections	05/02/2022
4002.41(g): Staff shall not have contact w/children or be present in the program until receipt of notice of eligibility from the department	05/02/2022
4002.15(a)(1)-(3): Notify CCLU w/in 5 business days when staff/HH member leaves via NH Connections Staff Roster or in writing	05/23/2022
4002.20(g): Obtain written parental directions for admin & storage of meds for allergies	06/01/2022
4002.20 (j) Food prep staff required to read and familiarize themselves with allergy care and treatment plans	06/01/2022
4002.09(a)(6): Documentation of verification of staff review of job description	08/01/2022
4002.16(e): Have written job descriptions for each direct care staff position	08/01/2022
4002.17(f): Practice EOP components	12/31/2022: (1) Practice 1 off site evacuation and one bomb threat with staff (once per year thereafter) (2) Practice 1 other component with staff and children (2 components each calendar year thereafter) (3) Review all EOP response actions with all staff 2 times (4 times each calendar year thereafter)
4002.23(q): Install guards on windows/glass doors if necessary to protect children	12/31/2022
4002.24(a)(1)-(3): Handicap accessible play areas/provide shade	12/31/2022
4002.24 (e) installation of protective barriers to prevent falls into outdoor stair or window wells	12/31/2022
4002.10(c) Update Child Registration form	04/23/2023