

## Licensed Child Care Fix-It Ticket Implementation

**Office of Inspector General  
Licensing Division**

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Minnesota Statutes, Chapter 3.197, requires the disclosure of the cost to prepare this report. The estimated cost of preparing this report is approximately \$1,500.

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# I. Legislation

The statutory language requiring this report is as follows:

## **Minnesota Statutes, section 245A.065. Child Care Fix-It Ticket**

(a) In lieu of a correction order under section 245A.06, the commissioner shall issue a fix-it ticket to a family child care or child care center license holder if the commissioner finds that:

- (1) the license holder has failed to comply with a requirement in this chapter or Minnesota Rules, chapter 9502 or 9503, that the commissioner determines to be eligible for a fix-it ticket;
- (2) the violation does not imminently endanger the health, safety, or rights of the persons served by the program;
- (3) the license holder did not receive a fix-it ticket or correction order for the violation at the license holder's last licensing inspection;
- (4) the violation can be corrected at the time of inspection or within 48 hours, excluding Saturdays, Sundays, and holidays; and
- (5) the license holder corrects the violation at the time of inspection or agrees to correct the violation within 48 hours, excluding Saturdays, Sundays, and holidays.

(b) The fix-it ticket must state:

- (1) the conditions that constitute a violation of the law or rule;
- (2) the specific law or rule violated; and
- (3) that the violation was corrected at the time of inspection or must be corrected within 48 hours, excluding Saturdays, Sundays, and holidays.

(c) The commissioner shall not publicly publish a fix-it ticket on the department's Web site.

(d) Within 48 hours, excluding Saturdays, Sundays, and holidays, of receiving a fix-it ticket, the license holder must correct the violation and within one week submit evidence to the licensing agency that the violation was corrected.

(e) If the violation is not corrected at the time of inspection or within 48 hours, excluding Saturdays, Sundays, and holidays, or the evidence submitted is insufficient to establish that the license holder corrected the violation, the commissioner must issue a correction order for the violation of Minnesota law or rule identified in the fix-it ticket according to section 245A.06.

(f) The commissioner shall, following consultation with family child care license holders, child care center license holders, and county agencies, issue a report by October 1, 2017, that identifies the violations of this chapter and Minnesota Rules, chapters 9502 and 9503, that are eligible for a fix-it ticket. The commissioner shall provide the report to county agencies and the chairs and ranking minority members of the legislative committees with jurisdiction over child care, and shall post the report to the department's Web site.

# II. Introduction

During the 2017 legislative session, the Minnesota Legislature created a new regulatory enforcement mechanism for licensed child care - the fix-it ticket. According to [Minn. Stat. 245A.06](#), subdivision 1(a), if the commissioner finds that an applicant or license holder has failed to comply with an applicable law or rule and

that the failure does not imminently endanger the health, safety, or rights of the persons served by the program, the commissioner may issue a correction order and an order of conditional license to the applicant or license holder. In response to stakeholder concerns and findings by the 2016 Legislative Task Force on Access to Affordable Child Care Report that some licensed providers experience correction orders as a “scarlet letter,”<sup>1</sup> the fix-it ticket was created to allow license holders to correct less serious infractions that do not imminently endanger the health, safety, or rights of children served in their programs without receiving a correction order under 245A.06.

[Minn. Stat. 245A.065](#), which creates the “fix-it ticket,” sets the parameters of the fix-it ticket and requires the department to submit a report outlining its implementation. The following report explains the parameters of the fix-it ticket, summarizes the department’s efforts to collect stakeholder input on the implementation of the fix-it ticket, identifies implementation considerations for the fix-it ticket, and lists the violations of [Minn. Stat. 245A](#), and Minnesota Rules [9502](#) and [9503](#) that are eligible for a fix-it ticket.

### III. Fix-it ticket parameters

Under Minn. Stat. 245A.065, the commissioner is charged with identifying which violations of 245A and Minnesota Rules 9502 and 9503 are eligible for a fix-it ticket. That list of violations, however, can only include violations that do not imminently endanger the health, safety, or rights of children served by the program and violations that can be corrected within 48 hours, excluding weekends and holidays. The department was primarily guided by these two parameters when making violations eligible for a fix-it ticket, in addition to practical implementation concerns and input from licensed child care providers and county licensing agencies. The department intends to revisit the list of eligible violations with stakeholders in the future as the department learns from the implementation of this new regulatory tool.

### IV. Input from stakeholders and county partners

As required by 245A.065, the department consulted with family child care license holders, child care center license holders, and county agencies to develop this report and identify the violations of Minn. Stat. 245A and Minnesota Rules 9502 and 9503 that are eligible for a fix-it ticket. The department held two meetings specific to the fix-it ticket to collect stakeholder and partner input.

#### A. Licensed child care provider stakeholder meeting – August 17, 2017

On Thursday, August 17, 2017, the department hosted a two-hour stakeholder meeting at the DHS Lafayette building for licensed child care providers to provide their input and perspectives on the fix-it ticket. The department invited licensed providers who had worked with legislators to propose the policy change during the

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<sup>1</sup> Legislative Task Force on Access to Affordable Child Care: Report and Recommendations to the Minnesota Legislature, page 33. Available at: <http://www.lcc.leg.mn/tfcc/meetings/Child%20Care%20Report%202017.pdf>.

2017 session as well as other licensed providers who had participated in previous stakeholder meetings during the 2016 and 2017 sessions. The meeting was held in the evening (starting at 6:00 PM) in recognition that many providers cannot attend daytime stakeholder meetings because they are busy providing care to children. The meeting was also made accessible by WebEx to accommodate attendance by providers who could not attend in person, including providers in greater Minnesota. Approximately 15 providers attended in person and more than 30 others participated via WebEx. The group included a mixture of family child care providers and child care center providers.

After a brief introduction and explanation of the parameters of the fix-it ticket, the meeting was structured as an open conversation for providers to propose violations that should be considered for fix-it ticket eligibility. In making suggestions, providers were asked to consider whether the violations they proposed both 1) did not endanger the immediate health, safety, or rights of the children served in the program and 2) could be fixed within 48 hours, excluding weekends and holidays. Providers suggested numerous violations in Minn. Stat. 245A, and Minnesota Rules 9502 and 9503. Consistent themes emerged that the following types of violations should be eligible for a fix-it ticket:

- Violations that could be easily fixed (e.g., items on a staircase that can be easily moved)
- Violations that are about cosmetic issues (e.g., broken toys that are not dangerous)
- Recordkeeping violations that do not impact the immediate health, safety, or rights of children in licensed programs (e.g., signatures on admission forms or listing a child's dentist)

## **B. County licensing agency partner meeting – August 24, 2017**

On August 24, 2017, the department hosted a one-hour WebEx meeting for county licensing agencies to provide input on the violations of 245A and Minnesota Rule 9502 that should be eligible for the fix-it ticket. Counties license and inspect family child care programs through authority delegated by the legislature<sup>2</sup> and, therefore, are particularly well suited to provide input on what violations of 245A and Minnesota Rule Chapter 9502, governing family child care, would be appropriate for a fix-it ticket. Approximately 130 separate callers logged in to the WebEx to participate in the discussion. Although many county licensors that joined the meeting had similar suggestions as the stakeholders that participated in the August 17<sup>th</sup> meeting, some county participants noted that certain violations – including water temperature, dog feces left in a yard, or missing immunization information – could pose an immediate health or safety risk to children in care. Additionally, several county licensors stated that they did not want safe sleep requirements to be eligible for a fix-it ticket, noting that safe sleep violations also immediately endanger the health and safety of infants in family child care homes. Counties provided valuable insight into their work with family child care providers and helpful information and suggestions for the department to consider.

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<sup>2</sup> Minn. Stat. 245A.16.

### **C. List of proposed violations circulated – September 8, 2017 and October 4, 2017**

After the department developed its initial list of recommended items to include in the fix-it ticket, it sought further input from licensed child care providers and county partners. On September 8, the department emailed to the group of child care provider stakeholders a proposed list of fix-it ticket eligible violations and requested input on this proposed list by September 14. During the feedback period, no providers indicated that they disagreed with the violations included in the proposed list. Notably, a few child care center providers requested that the department add additional items to the list.

On October 4, 2017, the department emailed the county licensing agencies a proposed list of fix-it ticket eligible violations and requested input on this proposed list by October 11. The county licensing agencies received the same proposed list circulated with child care provider stakeholders in September. During the feedback period, counties continued to offer a few additional recommendations for eligible items and continued to offer recommendations about possible implementation considerations.

While finalizing the report and list of eligible violations, the department continued to assess recommendations to add additional violations eligible for the fix-it ticket. In addition to the initial list of eligible items circulated with child care provider stakeholders and county licensing agencies, the department ultimately added 9 additional items to the list of eligible violations (four violations pertaining to child care centers and five violations pertaining to family child care providers).

## **V. Implementation considerations**

The fix-it ticket represents a significant departure from existing licensing processes utilized by the department and introduces the idea of a tiered violation system, utilized in several states, in which providers and regulators agree that certain violations have a lower risk of harm to children and can be corrected on site or within a short period of time after an inspection.

To ensure that the fix-it ticket is implemented consistently across the state and does not negatively impact the health and safety of children in licensed care, the department took the following into consideration when determining which violations of 245A and Rules 9502 and 9503 to make eligible for a fix-it ticket.

### **A. Stakeholder input and evaluation of violations**

Following the August meetings with stakeholders and county partners, the department reviewed all of the violations suggested for fix-it ticket eligibility. Per the requirements of 245A.065, violations eligible for a fix-it ticket may not impact the immediate health, safety, or rights of children served by the program. Violations that immediately impact the health, safety, or rights of children served by the program were excluded from eligibility along with violations that the department determined needed further examination to fully evaluate the violations' health and safety impact.

Violations that presented program integrity challenges were also excluded from the list of violations eligible for a fix-it ticket. Certain record keeping requirements, such as tornado drill logs or other ongoing record keeping requirements, must be maintained by license holders on an ongoing basis. If a license holder neglects to keep

these logs but the recordkeeping requirement is eligible for a fix-it ticket, the license holder may have an incentive to fabricate these records to avoid receiving a correction order. Therefore, to protect program integrity and avoid these implementation challenges, certain record keeping requirements were not included in the list of fix-it ticket eligible violations.

Although certain stakeholder and county suggestions were not included in the initial list of violations eligible for a fix-it ticket, the department intends for the fix-it ticket to be responsive to the realities of licensed care. The department intends to review the list of eligible violations approximately annually and evaluate, with stakeholder input, which violations should be eligible for a fix-it ticket. If, in the future, the commissioner changes the list violations eligible for a fix-it ticket, this change in policy will be communicated to licensed providers and county partners, as required by [Minn. Stat. 245A.1434](#).

## **B. Implementation timing and electronic checklist integration**

The department is in the process of implementing an electronic checklist for child care inspection and monitoring visits. This checklist will be utilized by both county licensors that monitor licensed family child care and state licensors that monitor licensed child care centers. Upon implementation of the fix-it ticket, both county and state licensors will have the ability to note when violations are fixed on site and will be prompted to select a fix-it ticket for violations that are eligible for the fix-it ticket. To accommodate electronic checklist integration and other required systems changes, some additional time is needed and therefore the department and counties will begin issuing fix-it tickets for eligible violations during licensing inspections occurring on or after January 1, 2018.

This November, the department sent notice to providers and county licensing agencies informing them that licensors are required to issue fix-it tickets beginning on January 1, 2018, for eligible violations.

# **VI. Violations eligible for a fix-it ticket**

After consultation with license holders, county licensing agencies, and other stakeholders, the department has determined that the following violations of 245A and Minnesota Rules, Chapters 9502 and 9503 will be eligible for a fix-it ticket under 245A.065. The department intends to revisit the list of eligible violations with stakeholders in the future as the department learns from the implementation of this new regulatory tool.



## Child Care Center Violations Eligible for a Fix-It Ticket as of January 1, 2018

Rule or Statute	Violation Description
9503.0120 (B)	A staff file has a copy of the post-secondary transcript but the transcript only contains the student ID number and not the individual's name.*
9503.0125 (E), (F) and (I)	Any of the following information is missing from a child's records: (E) the names, addresses, and telephone numbers of the child's source of regular medical and dental care and the source of medical and dental care to be used in case of an emergency; (F) the physical address for a child's emergency contact is not listed as required, so long as the contact's name and telephone number is documented;* (I) the hours and days of the week the child will attend the center.
9503.0140, subp. 10	There is one unflushed toilet. If there are multiple bathrooms, a fix-it ticket can be issued if there is one unflushed toilet (or less) per bathroom.*
9503.0140, subp. 16	One item from the list of required items is missing from the first aid kit.
9503.0140, subp. 18	Batteries are missing or dead in a flashlight or portable radio.
9503.0140, subp. 19	Toys have damage that is cosmetic in nature (e.g., a missing door knob from a dramatic play kitchen set) and is not hazardous to children.*
9503.0140, subp. 20	There are non-hazardous ripples in a rug.*
9503.0145, subp. 2	The menu does not reflect a required food or beverage item but a licensor observes a snack or meal being served and the snack or meal meets USDA nutritional guidelines.
9503.0145, subp. 3	The refrigerator is at a temperature of 41 degrees.*
9503.0155, subp. 13	The room temperature is between 65 and 67 degrees.*
9503.0155, subp. 16	The center did not have all fire extinguishers serviced annually, but there is at least one fire extinguisher in the center that has a current tag showing it has been serviced and is operational.*
9503.0155, subp. 17	There is a small hole in a screen.*
9503.0170, subp. 3	The license is not posted in a prominent place.
* Items marked with an asterisk are violations that stakeholders and/or county partners requested be made eligible for a fix-it ticket.	

## Family Child Care Violations Eligible for a Fix-It Ticket as of January 1, 2018

Rule or Statute	Violation Description
9502.0335, subp. 10	The license is not posted in a prominent place.
9502.0375, subp. 2	Failure to report that a household member has moved out in the past 30 days.*
9502.0405, subp. 3	Updates or changes to written policies have not been made as required.*
9502.0405, subps. 4 and 4(A)	Any items are missing on admission and arrangements form, or if items on the admission and arrangements form have not been updated.*
9502.0415, subp. 3.	Toys have damage that is cosmetic in nature (e.g., a missing door knob from a dramatic play kitchen set) and is not hazardous to children.*
9502.0425, subp. 5	The self-closing mechanism on the door from the home to the garage is broken.*
9502.0425, subp. 8	The indoor areas used by children are found to be between 59 and 61 degrees.*
9502.0425, subp. 10	Items that can easily be moved are on the stairs.*
9502.0425, subp. 16	A fire extinguisher has not been serviced annually, but it is overdue by less than one month.*
9502.0435, subp. 7	One item from the list of required items is missing from the first aid kit.
9502.0435, subp. 8(B)	Emergency phone numbers are not posted by the telephone.*
9502.0435, subp. 8(E)	Batteries are missing or dead in a flashlight or portable radio.*
9502.0435, subp. 12(C)	The license holder does not have the verification and/or tags that rabies vaccines have been provided to all dogs and cats, but all dogs and cats have received timely vaccinations.*
9502.0435, subp. 13(A)	Clean diapers are stored in a place that is accessible to children.
9502.0445, subp. 4(B)	The refrigerator is at a temperature of 41 degrees.*
9502.0445, subp. 3(D)	Bottles are unlabeled but the license holder can demonstrate that the license holder knows which bottle belongs to which infant.
245A.148	The cleaning product for disinfecting the diaper area does not meet requirements.*
245A.152	The license holder does not have verification of proof of liability insurance but the liability insurance is valid.*
245A.50, subd. 7	The license holder has completed training but is unable to locate verification at the time of the visit.*
* Items marked with an asterisk are violations that stakeholders and/or county partners requested be made eligible for a fix-it ticket.	