



STATE OF MAINE
Department of Public Safety
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Guidance 24-001

DATE: November 24, 2024
TO: Inspection / Plans Review Division
CC: Inspection / Plans Review Supervisors
SUBJECT: **Gates in Daycares**

**** Internal guidance is intended for fire inspectors and omits important information. ****

Effective January 1, 2025, please consider the following guidance for gates located in new and existing daycare homes, group daycare homes and daycare centers.

Gates located in daycares other than protecting children from fireplaces, stoves, and other hazards shall not be permitted in the means of egress.

Means of egress shall be continuously maintained free of all obstructions or impediments to full instant use in the case of fire or other emergency. A proper means of egress always allows unobstructed travel. Any type of barrier including, but not limited to gates, is an impediment to free movement in the means of egress.

Daycare door leaves shall be arranged to be opened readily from the egress side whenever the building is occupied. If any lock is provided on a means of egress door it shall not require the use of a key, a tool, or special knowledge or effort for operation from the egress side. Locks provided shall be readily operated under all lighting conditions.

Playpens, cribs, or other enclosures designed for infants are permitted in areas outside the means of egress. During both normal and emergency conditions, infants require direct support from a childcare provider.

I trust my supervisors to handle all matters related to this guidance and execute this guidance as their own.

A handwritten signature in black ink, appearing to read "Shawn Esler".

Shawn Esler, State Fire Marshal

The Office of the State Fire Marshal recently released internal guidance to its inspectors pertaining to gates and egress in daycares. This guidance was followed up with training and discussions related to this code interpretation. We were made aware this guidance was distributed by DHHS and prompted valid questions from daycare operators which led to this informational packet.

We have the utmost respect for our daycare operators and the challenges they face on a regular basis. We are committed to public education, sharing our experience with fire safety, and preventing death and injury from fire or other emergencies. Our daycare providers are stewards of safety, and we look forward to building strong working relationships with one another.

Why was this guidance issued?

The Office of the State Fire Marshal is required to follow existing laws and regulations adopted through legislative action. During some routine daycare inspections gates, playpens, and other devices were observed preventing both adults and children from travelling to exit doors in an emergency.

We have further observed special locking arrangements on doors intending to provide safe exits. Since egress obstruction has been observed across the State in daycare and educational facilities, our office felt compelled to begin informing daycare providers of potential egress concerns.

Why January 1, 2025?

Due to the fact we cover the entire State of Maine, we issued guidance to address consistency across the State. Fair and consistent application of code is important to us. We chose this date as a goal to begin our educational campaign.

What specific laws/code prompted this guidance?

Every component in the means of egress (an unobstructed route from any point in a building to a public way) must be operable by, and under the control of, the occupants attempting egress. One of the biggest obstacles a person can encounter, preventing them from free egress, is a locked door. Approaching a noncompliant locked door unexpectedly and without the means necessary to operate it is an example of when egress becomes outside of an occupant's control. This can hinder evacuation time and prevent occupants from getting to their point of safety. An unfortunate increase in hostile events, and similar threats has also increased the presence of security features on door assemblies within the means of egress to prevent unwanted entry. This added security, particularly where door assemblies to exit stairs and main egress routes are involved, could be disastrous in the event of a fire or other emergency. The provisions of NFPA 101, Life Safety Code, are aimed at preventing locked door assemblies in means of egress in the event of fire. The Code has attempted to balance this objective of free and unobstructed egress while also maintaining features that are essential to security within the building.

The National Fire Protection Agency (NFPA), Life Safety Code 101, establishes minimum life safety standards for existing and new daycare facilities. In accordance with NFPA, means of egress for daycare facilities shall be in accordance with Chapter 7 and Section 17.2.

7.5.1.1 Exits shall be located, and exit access shall be arranged, so that exits are readily accessible at all times.

7.1.10.1* Maintenance. Means of egress shall be continuously maintained free of all obstructions or impediments to full instant use in the case of fire or other emergency.

7.1.10.2.2 No obstruction by railings, barriers, or gates shall divide the means of egress into sections appurtenant to individual rooms, apartments, or other occupied spaces. Where the authority having jurisdiction finds the required path of travel to be obstructed by furniture or other movable objects, the authority shall be permitted to require that such objects be secured out of the way or shall be permitted to require that railings or other permanent barriers be installed to protect the path of travel against encroachment.

7.1.9 Impediments to Egress. Any device or alarm installed to restrict the improper use of a means of egress, and any device or system installed to monitor or record use of a means of egress, shall be designed and installed so that it cannot, even in case of failure, impede or prevent emergency use of such means of egress, unless otherwise provided in 7.2.1.6 and Chapters 18, 19, 22, and 23.

Are all gates not allowed?

Our office recognizes the need for gates to protect children from hazard areas. Off limit areas of a home, separation of pets from children, guarding a stairway from access, keeping children away from appliances, stoves, or heating devices, etc. are all examples where gates may be utilized (when approved by inspector/AHJ). We trust that daycare providers can effectively identify and mitigate hazard areas.

What happens if an inspector finds a gate in the means of egress?

In almost every situation or finding, our office works with our constituents to find a resolution to potential code concerns. We strive for voluntary compliance and our inspectors exercise discretion. Ninety nine percent of the time enforcement action is not required, and we consider that a last resort to address gross negligence.

Can I have a door with a lock to prevent children from going outside?

You can always lock your doors from someone entering your facility. Locks can be installed to prevent unwanted entry from outside, but not on the egress side of the exit doors. Single Action Locks are ideal for daycares. There are a wide variety of locksets to choose from, so what makes these locks so great for daycare facilities? In short, it's because these locks offer numerous safety benefits that allow for additional security while still being easy to operate. For one, there is no key or special knowledge/effort required to operate these locks when exiting a building. Even when the door is locked from the outside with a key, all you need to do is push the lever down or turn the knob to exit the building. The convenience of this feature is perfect for daycare doors that are frequently used. These locksets are also equipped with an interconnect device between the knob/lever and the deadbolt, requiring a single action to unlock both simultaneously. It does not lock behind you, making it a quick, easy exit without locking anyone out.

7.2.1.5.1 Door leaves shall be arranged to be opened readily from the egress side whenever the building is occupied.

7.2.1.5.2 Locks and latches shall not require the use of a key, a tool, or special knowledge or effort for operation from the egress side.

Are there options other than gates to prevent children from accidentally exiting?

There are many options including delayed egress locking arrangements, sensor releasing electronic locks, alarms, and other devices recognized by fire code to assist. Depending on your situation, our inspectors can provide onsite recommendations. For example, if you have a fire alarm and sprinkler system, you can use delayed egress that sounds an alarm for 30 seconds before the door releases. We cannot, however, recommend brands or specific companies. Any installation of the delayed, sensor releasing locks or other devices will need to obtain approval or possibly permitting prior to installation. Half doors are an acceptable replacement for a gate used in an egress path. They are on hinges, swing, and have a door handle.

Can I have a playpen, crib and other items designed to contain children?

Of course, play pens, cribs and other items made for children's use, are to be used for their design and age group. In most cases this would apply to infants. In emergencies, the children would require rescue from staff.

We ask that they are not placed in front of a doorway, corridor, hallway, escape window, or exit path-and should be approved by inspector or supervisor. If you are putting up permanent structures and walls, please contact our office to see if you need a construction permit for daycare centers (more than 12 children)

Can I have a gate or fenced outside area?

Of course, the intent of our guidance was to primarily address obstructions inside a daycare home or center.

The outside exit path outside should be clear of obstructions, including snow, so in the event of a fire or major emergency everyone can keep a safe distance for the arrival of emergency services. The exterior gates would also need to comply with egress requirements.

Please remember that we are here to help. If you have any questions or concerns, or need any clarification or help understanding these requirements, please do not hesitate to contact our office where you can be connected with one of our inspectors who can provide you with assistance.