

**Department of State  
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312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower  
Nashville, TN 37243  
Phone: 615-741-2650  
Fax: 615-741-5133  
Email: [register.information@tn.gov](mailto:register.information@tn.gov)

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# Proposed Rule(s) Filing Form

*Proposed rules are submitted pursuant to T.C.A. § 4-5-202, 4-5-207 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.*

**Agency/Board/Commission:** State Board of Education  
**Division:**  
**Contact Person:** Rich Haglund  
**Address:** 9<sup>th</sup> Floor, 710 James Robertson Pkwy, Nashville, TN  
**Zip:** 37243  
**Phone:** 615-253-5707  
**Email:** [Rich.haglund@tn.gov](mailto:Rich.haglund@tn.gov)

**Revision Type (check all that apply):**

- Amendment  
 New  
 Repeal

**Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)**

Chapter Number	Chapter Title
0520-12-01	Standards for Infant/Toddler, Preschool and School-Age Extended Care Programs
Rule Number	Rule Title
0520-12-01-.01	Introduction
0520-12-01-.02	Definitions
0520-12-01-.03	Basis for Certification of Approval
0520-12-01-.04	Procedures for Obtaining a Certificate of Approval
0520-12-01-.05	Ownership, Organization, and Administration
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0520-12-01-.13	Transportation
0520-12-01-.14	Care of Children with Special Needs
0520-12-01-.15	Afterschool Programs serving Adolescents
0520-12-01-.16	Civil Penalties

Rule 0520-12-01 Standards for Infant/Toddler, Preschool and School-Age Extended Care Programs is amended by deleting the present language in its entirety and replacing it with the following:

Rules  
of  
The State Board of Education  
Office of the Commissioner

Chapter 0520-12-01  
Standards For Infant/Toddler, Preschool And School-Age Extended Care Programs

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0520-12-01-.01 Introduction.

- (1) Scope of Rules. These rules are applicable to: public, school-administered infant/toddler, pre-kindergarten, and/or school-age care programs, programs administered by approved Montessori schools and private church-related schools, as defined in T.C.A. § 49-50-801, programs operated by private schools as defined by T.C.A. § 49-6-3001(c)(3)(A)(iii), Lottery Education Afterschool Programs as mandated by the T.C.A. § 49-6-707, programs providing early intervention services through Tennessee Early Intervention Services school-administered head start, and even start, monitored by the Department of Education pursuant to T.C.A. § 49-1-302(l), providing child care services to children ages six (6) weeks through minority.
- (2) Purpose of Child Care Certification of Approval. The primary purpose of school-administered child care certification of approval is the protection of children. These minimum requirements seek to maintain adequate health, safety, and supervision of children while in a group setting. The secondary purpose of certification is to promote developmentally appropriate care.

Authority: T.C.A. §§ 4-5-201 et seq., 49-1-201(c)(24), 49-1-302(l), 49-1-1101 through 49-1-1109, 49-2-203(b)(11), 49-5-413 and 49-6-707.

0520-12-01-.02 Definitions. For purposes of this chapter, the following definitions are applicable:

- (1) Administrative Hearing. A hearing that is held under the Administrative Procedures Act rather than a court of law. The purpose of the hearing is to allow an agency the opportunity to challenge enforcement actions taken by the Department.
- (2) Adolescence. The period of physical and psychological development from the onset of puberty to maturity.
- (3) Approval. A preschool, school-age care or child care program is in accordance with the provisions of the law and the requirements (rules) of the State Board of Education. Approval is not transferable from one location to another or from one agency to another. The approval may be revoked at any time upon ninety (90) days notice to the agency; or if the health, safety, or welfare of the children in care imperatively requires it, may be suspended immediately.

- (4) Approved capacity. The designated maximum number of children permitted in a facility as determined by the department based upon available space, age of children, adult:child ratios, and group size. Capacity shall be designated on the certificate.
- (5) Auxiliary staff. Full and part-time employees of the program who provide non-caregiving services.
- (6) Caregiver or Care Provider. The person, persons, entity or entities directly responsible for providing for the supervision protection and basic needs of the child.
- (7) Certificate of Approval. A written form of approval issued by the Department of Education to agencies/programs providing care to children. Issuance of a Certificate of Approval is not an endorsement of child care methods or of the agency's operational philosophy. A Certificate of Approval is not transferable from one location to another or from one school and /or system to another.
- (8) Certified Childcare Professional (C.C.P.). An early childhood educational credential granted by the National Child Care Association
- (9) Chemical restraint. A medication that is prescribed to restrict a student's freedom of movement for the control of extreme violent physical behavior. Chemical restraints are medications used in addition to, or in replacement of, a student's regular drug regimen to control extreme violent physical behavior.
- (10) Child. A person under eighteen (18) years of age.
- (11) Child's Age. The age of child on September 30 of any given year except for infants/toddlers, whose age is based on calendar year.
- (12) Child Development Associate (C.D.A.). An early childhood education credential granted by the National Council for Professional Recognition
- (13) Child Care. The provision of supervision, protection, and at a minimum, the basic needs of a child or children for more than three (3) hours a day, but less than twenty-four (24) hours a day.
- (14) Child Care Advisory Council. A director of a local school system, a representative of a private, church-related school organization as defined by T.C.A. § 49-50-801, a representative from an institution of higher education, a parent of a child in a child care program, a coordinator of child care programs, a representative of the Department of Education, a representative of the Child Care Services of Department of Human Services and four other members appointed by the State Board of Education to advise in the establishment of child care standards and regulations and to act as a hearing tribunal for appeals from actions of the State Department of Education regarding the certificate of approval issued to child care programs.
- (15) Child Care Center. Any place or facility operated by any entity or person who provides child care for thirteen (13) or more children.
- (16) Child care program. Any place or facility operated by any public or private school which provides care for children in a before or after school-based program operated by a local board of education pursuant to T.C.A. § 49-2-203(b)(11), a public school administered early childhood education program, a church affiliated program operated pursuant to T.C.A. § 49-50-801, or federally funded early childhood education program such as a Title I program, a school-administered head start, or an even start program, state-approved Montessori school programs, programs operated by a private school as defined by T.C.A. § 49-6-3001, a LEAPS (Lottery Education Afterschool Program) as mandated by T.C.A. § 49-6-707 or an early intervention services program funded through the Tennessee Early Intervention Services.
- (17) Child Care System. The existence of two (2) or more facilities used for child care purposes which facilities are under the ownership, administration, or control of any individual(s), corporation, partnership, cooperative, or other public or private entity of any kind.

- (18) Commissioner. The executive head of the Department of Education, appointed by the Governor.
- (19) Conventional Care. Child care services provided between the hours of 6:00 a.m. and 6:00 p.m., Monday through Friday.
- (20) Day Care. Synonymous with definition of child care, above.
- (21) Department (SDE). The Tennessee Department of Education and its representatives.
- (22) Developmentally Appropriate. Practices which use the knowledge of child development to identify the range of appropriate behaviors, activities, and materials for specific age groups. This knowledge is used in conjunction with an understanding about children's growth patterns, strengths, interests, and experiences to design the most appropriate learning environment. A developmentally appropriate curriculum provides for all areas of a child's development, physical, emotional, social, and cognitive, through an integrated approach. For children birth to five years of age the Tennessee Early Learning Development Standards is adopted by the State Board of Education for guidance in appropriate learning expectations.
- (23) Director. The person with overall responsibility for the child care program.
- (24) Emergency situation. A child's behavior places the child or others at risk of violence or injury if no intervention occurs.
- (25) Extended isolation. Isolation which lasts longer than one (1) minute per year of the child's age.
- (26) Extended restraint. Physical holding restraint lasting longer than five (5) minutes.
- (27) Field Trip. A trip that is not part of the regular curriculum which is off the general premises and beyond reasonable walking distance.
- (28) Group. A specific number of children comprising an age range, assigned to specific staff in an assigned space, which is divided from the space of other groups by a recognizable barrier.
- (29) Group Child Care. Any place or facility operated by any person or entity that provides child care for three (3) or more hours per day for at least eight (8) children who are not related to the primary caregiver; provided, however, that the maximum number of children present in a group child care, including those related to the primary caregiver, shall not exceed twelve (12) children, with the exception that, if the group child care is operated in the occupied residence of the primary caregiver, children related to the primary caregiver nine(9) years of age or older will not be counted in determining the maximum number of children permitted to be present in a group child care, if those children are provided a separate space from that occupied by the group child care; and provided, further, that up to three (3) additional school-age children, related or unrelated to the primary caregiver, may be received for child care before and after school, on school holidays, on school snow days and during summer vacation. The Department may permit children in the separate space to interact with the children in the group child care in such manner as it may determine appropriate.
- (30) Home School. The provision of full-time educational services, as recognized by the Department of Education, to a child by the child's parent in the child's primary residence.
- (31) Infant. A child who is six (6) weeks through fifteen (15) months of age.
- (32) Isolation room. A space designed to isolate a child that is unlocked, cannot be locked from the inside, without structural barriers to exit, free of any condition that could be a danger to the child, well ventilated, sufficiently lighted, and where school personnel are in direct visual contact with the child at all times. Such spaces must comply with all applicable state and local fire codes.
- (33) Kindergarten. For approval purposes, the definition of a child care center excludes kindergarten programs for five-year-old children operated on essentially the same time schedule as public

school kindergartens. A kindergarten may be part of a public or private school system or may be operated independently. If the agency serves children under five years of age or exceeds the time schedule normally observed by public kindergartens, it shall be subject to the approval process for compliance with child care rules.

- (34) Law. Statutory or regulatory provisions affecting the operation of a child welfare agency including, but not limited to, the law as contained in T.C.A. § 49-1-302(l) and T.C.A. §§ 49-1-1101 through 49-1-1109, Chapter 0520-12-01, and these rules.
- (35) Meal. Meat or meat substitute, vegetable and/or fruit, bread or bread product, and fluid milk
- (36) Mechanical restraint. The application of a mechanical device, material, or equipment attached or adjacent to the student's body, including ambulatory restraints, which the student cannot easily remove and that restrict freedom of movement or normal access to the student's body. Mechanical restraint does not include the use of restraints for medical immobilization, adaptive support, or medical protection.
- (37) Noxious substance. A substance released in proximity to the child's face or sensitive area of the body for the purpose of limiting a child's freedom of movement or action, including but not limited to Mace and other defense sprays.
- (38) Off-site Activity. Any activity which occurs away from the general premises of the child care program's facility and beyond reasonable walking distance.
- (39) Owner. The individual(s), corporation, partnership, cooperative, or other private or public entity of any kind, or any combination thereof, who or which, through their authorized representative(s), assumes or is legally required to assume, ultimate responsibility for the control of a child care program.
- (40) Parent. A biological, legal, or adoptive parent, guardian, or legal or physical custodian who has primary responsibility for a child.
- (41) Physical holding restraint. The use of body contact by school personnel with a student to restrict freedom of movement or normal access to the student's body.
  - (a) The term "safe-hold" includes any technique through which an adult attempts to immobilize a violent child by wrapping their limbs around the child. The term does not include holds administered for the sole purpose of providing comfort or security to a distressed child.
  - (b) The term "serious self-inflicted injury" includes, but is not limited to, violent outbursts in which a child throws himself/herself against a wall, is hitting or cutting himself/herself, etc.
- (42) Pre-kindergarten. A developmental learning program that addresses the cognitive, physical, emotional, social and communication areas of child development for children, three (3) and/or four (4) years of age taught by a licensed teacher certified in early childhood education.
- (43) Preschool Child. A child who is six (6) weeks through five (5) years of age and not in kindergarten, including children who are more specifically defined under this subchapter as an "infant" or a "toddler".
- (44) Program. A public or private school-administered infant/toddler, pre-kindergarten/preschool and/or school-age care program; infant/toddler, pre-kindergarten/preschool and/or school-age care program administered by private, church-related schools as defined in T.C.A. § 49-50-801, a federally funded early childhood program such as Title I, a school-administered head start or even start program, state-approved Montessori school program, a LEAPS grant funded program as defined in T.C.A. § 49-6-707, or an early intervention services program funded through the Tennessee Early Intervention Services.

- (45) Related. Any children of the following relationships by marriage, blood, or adoption; children, step-children, grandchildren, siblings, step-siblings, nieces, and nephews of the primary caregiver. The term "related" includes any "grand" or "great" relationship (e.g. great niece, great grandchild, etc.) within the relationships indicated.
- (46) School-age Child. A child who is five (5) years of age and enrolled in kindergarten through seventeen (17) years of age. A five (5) year-old may be classified as a school age child in the summer immediately preceding the child's fall entry into kindergarten.
- (47) Snack. A fluid drink and two (2) of the following components, provided, however, that a fluid drink shall not be required if a fluid drink is chosen as one of these components:
  - (a) Vegetables or fruits
  - (b) Bread or Bread Alternative
  - (c) Meat or meat alternates, or
  - (d) Fluid Milk
- (48) Staff. Full and part-time caregivers, employees, or unpaid volunteers of the program
- (49) Substitute. Paid or unpaid persons who are replacements for regular staff.
- (50) Supervision. For the purposes of this Chapter, when children are not within the direct sight and sound of an adult, the term "supervision" means the following requirements:
  - (a) Children six (6) weeks of age through age two (2) years of age: the adult must be able to hear the child at all times, must be able to see the child with a quick glance, and must be able to physically respond immediately.
  - (b) Children three (3) years of age to five (5) years of age shall be safely protected by an adult in close proximity and not distracted by other tasks.
  - (c) Children six (6) weeks of age to five (5) years of age during mealtime: An adult must be in the direct sight and sound of child/children while the child/children are eating.
  - (d) Children, who are in kindergarten five (5) years of age through nine (9) years of age, shall be protected by an adult who adjusts restrictions appropriately for different age groups and abilities.
  - (e) Children ten (10) years of age through thirteen (13) years of age: The adult shall know the whereabouts and activities of the children at all times and must be able to physically respond immediately.
  - (f) Children fourteen (14) years of age to eighteen (18) years of age: The adults shall know the whereabouts and activities of the children, provide age appropriate guidance, and must be able to physically respond immediately.
  - (g) Mixed Age Groups. When children ages ten (10) years or above are grouped with children under ten (10) years of age, the minimum supervision requirements must be in accordance with the supervision required for the age group of the youngest child in the group.
  - (h) Helper devices such as mirrors, electronic sound monitors, etc. may be used as appropriate to meet these requirements.
- (51) Temporary Approval. A permit issued by the Department to a new child care program allowing and authorizing the program to begin child care operations while the program attempts to attain full compliance with all applicable regulations. The temporary approval is valid, unless

suspended, for one hundred twenty (120) days or until the Department grants or denies the application for annual certificate of approval.

- (52) Toddler. A child who is twelve (12) months through thirty (30) months of age.
- (53) Volunteer. A person who provides services for a child care center without payment and who is used to supplement the regular staff or substitutes. The volunteer shall not be used to meet classroom adult:child ratios. The names, addresses, telephone numbers and dates of service for all volunteers shall be recorded in the staff personnel records of the program.
- (54) Youth. A person who is ten (10) years of age through seventeen (17) years of age.

Authority: T.C.A. §§ 4-5-201 et seq., 49-1-201(c)(24), 49-2-203(b)(11)(B), 49-1-302(l), and 49-1-1102, 49-6-101, 49-6-707.

#### 0520-12-01-.03 Basis for Certification of Approval.

- (1) Annual Certification of Approval: Tennessee law requires that all child care programs, as defined in T.C.A. §§ 49-1-302(l) and 49-6-707, shall be reviewed annually by the Department of Education.
- (2) The inspection/approval process is based on rules developed and published in accordance with T.C.A. § 49-1-302(l)(1)(B) and based upon the following criteria:
  - (a) The safety, welfare and best interests of the children in the care of the program;
  - (b) The capability, training and character of the persons providing or supervising the care to the children and the use of such judgment by a caregiver in the performance of any of the caregiver's duties as would be reasonably necessary to prevent injury, harm or the threat of harm to any child in care;
  - (c) The quality of the methods of care and instruction provided for the children;
  - (d) The suitability of the facilities provided for the care of the children; and
  - (e) The adequacy of the methods of administration and the management of the program, the program's personnel policies, and the financing of the program.
- (3) The program must be maintained in compliance with the certification criteria listed in paragraph (2) above and any other certification criteria throughout the year.
- (4) Falsification of Records/Information. Includes but is not limited to falsified or forged records, documents, and/or concealment of services or children from monitoring by the Department. Falsification of any information required for Certification of Approval shall be grounds for suspension, denial, or revocation of the Certificate of Approval.
- (5) Specifications of the Certificate of Approval
  - (a) All programs shall be operated within approved capacity, the hours of operation, specific age ranges, services offered, and at the address designated on the certificate; and
  - (b) All programs shall operate within the restrictions stated on the certificate.

Authority: T.C.A. §§ 4-5-201 et seq., 49-1-201(c)(24), 49-1-302 et seq., 49-1-1101 through 49-1-1109, 49-2-203(b)(11), 49-6-707

#### 0520-12-01-.04 Procedures for Obtaining a Certificate of Approval.

- (1) The Department of Education offers consultation and instruction sessions to before and after school child care, as described in T.C.A. § 49-2-203(b)(11), school-administered early childhood

education programs, pre-kindergarten programs, school-administered Head Start and Even Start programs, approved Montessori programs, infant/toddler, preschool or school age programs administered by private schools, private, church related schools, as defined in T.C.A. § 49-50-801, Lottery Education Afterschool Programs (LEAPS), and Tennessee Early Intervention System programs. A child care program evaluator is available to serve schools in each major region of the state, east, middle and west.

- (2) The department will offer instruction in the certification process to schools announcing interest in developing infant/toddler, pre-kindergarten and/or school-age child care programs.
- (3) When a public or private school is planning to offer an infant/toddler, pre-kindergarten, and/or school-age care program, the Office of School-based Support Services of the Department of Education or a child care program evaluator assigned to the regional Department of Education Field Service Center must be contacted to start the certification process.
- (4) Upon satisfaction of the following minimum requirements, a temporary approval may be issued if:
  - (a) Verification director's qualifications meet the requirements. See Rule 0520-12-01-.07(4)(a);
  - (b) Verification of three (3) satisfactory references for the director;
  - (c) Verification that physical facilities have received fire safety and environmental approval;
  - (d) Verification that the on-site director/coordinator has successfully completed a criminal history background check and has a negative criminal history as required by T.C.A § 49-5-413;
  - (e) Verification by the Department, after appropriate on-site inspection, the site is suitable for child care activities and does not endanger the welfare or safety of children.
- (5) Denial or Restriction of Temporary Certificate of Approval.
  - (a) The temporary certificate of approval shall remain in effect, unless suspended, for a period of one hundred twenty (120) days, or until such time as the Department grants or denies the annual certificate of approval, whichever is later.
  - (b) During the temporary certificate of approval period, the program must attain and maintain compliance with all applicable regulations. The failure to obtain and maintain compliance during this period may result in the denial of the certificate of approval.
- (6) Evaluation Process for Annual Certificate of Approval.
  - (a) The temporary certificate of approval is issued to authorize the program to begin infant/toddler, pre-kindergarten or preschool and/or school-age care operations while the program attempts to attain full compliance with all other applicable regulations.
  - (b) The Department shall perform a minimum of two (2) visits to the program during the temporary certificate of approval period, at least one (1) of which shall be unannounced.
  - (c) The Department shall perform at least one (1) observation of the caregivers' interaction with children during the temporary certificate of approval period.
  - (d) During the temporary certificate of approval period, the program must provide verification, including any required supporting documentation as directed by the Department, of compliance with all applicable regulations and further, that the applicant otherwise meets, or has continued to meet, all the requirements set forth in paragraph (4) above.

- (e) During the temporary certificate of approval period, the Department shall determine whether an annual or restricted certificate of approval shall be issued to the program.
  - (f) If the Department determines that any of the requirements set forth in this Chapter has not been, or cannot be, satisfactorily met then it may deny the issuance of a certificate of approval.
  - (g) If the Department determines that the conditions of the program's facility, the methods of care or other circumstances warrant, it may issue a restricted temporary license that permits operation of the program, but limits the program's authority in one (1) or more areas of operation.
  - (h) Issuance of a Certificate of Approval. The Department shall issue a Certificate of Approval if the Department determines that the program:
    1. Has fully complied with all laws and regulations governing the specific program; and
    2. Has demonstrated a reasonable probability that the program can maintain compliance with all regulations during the certification of approval period.
    3. Upon issuance of the annual Certificate of Approval, the program must maintain compliance with all applicable regulations and restrictions on the Certificate of Approval, if any, throughout the certification period.
- (7) Renewal And Re-Evaluation.
- (a) Programs currently certified as approved by the Department must submit an updated annual report prior to the expiration of the existing Certificate of Approval.
  - (b) Certified program must demonstrate compliance with requirements set forth in paragraphs (4) and (6).
  - (c) Upon demonstration of compliance with all laws and regulations governing the program and if the program has demonstrated a reasonable probability that the program can maintain compliance with all laws and regulations during the Certification period, the Department shall issue a new annual Certificate of Approval.
  - (d) If the Department determines that any of the requirements set forth in Chapter 0520-12-01 has not been, or cannot be, satisfactorily met, then it may deny the issuance of the new annual Certificate of Approval.
  - (e) If the Department determines that the conditions of the applicant's facility, its methods of care or other circumstances warrant, it may issue a restricted annual Certificate of Approval that permits operation of a program, but limits the program's authority in one (1) or more areas of operation.
- (8) Throughout the temporary certification period and during the annual re-evaluation period, immediate access to all areas of the child care facility shall be granted to all Department representatives and other inspection authorities (i.e., fire safety, sanitation, health, Department of Children's Service, etc.) during operating hours.
- (9) If the Department determines, as a result of its inspections or investigations or those of other local, state or federal agencies or officials, or through any other means, that a plan is necessary to insure the safety of the children in the care of the program the Department may require the program to implement such a safety plan.

Authority: T.C.A. §§ 4-5-201 et seq., 49-1-302(l), and 49-1-1101 et seq.

0520-12-01-.05 Ownership, Organization, and Administration.

(1) Statement of Purpose and Need.

- (a) An applicant for approval to operate a school-administered infant/toddler, pre-kindergarten/preschool, school-age care, TEIS early intervention, or school-administered or community organization administered LEAPS program shall submit a written statement to the Department of Education governing the following areas:
  - 1. A description of the services to be offered to children and parents and reasons these services are needed at the proposed location;
  - 2. Ages of children to be served;
  - 3. Hours of operation;
  - 4. A Description of meal provision or preparation;
  - 5. Admission requirements and enrollment procedures; and
  - 6. Provision for emergency medical care.
- (b) If, after being approved, a child care provider wishes to change the scope or type of service offered to children and families, an amended statement shall be filed with the Department for approval prior to implementation.

(2) Organizational Structure.

- (a) The organization of every program shall be such that legal and administrative responsibility is clearly defined and available upon request.
- (b) Every program shall have an on-site director.
- (c) Following the issuance of an initial approval, program may operate without an on-site director for a period of no more than sixty (60) days total within the annual approval year. A qualified person, as determined by the Department, shall be in charge in the interim.

(3) Finances.

- (a) In order to ensure the appropriate continuity of care for children the program management must provide a reasonable plan with a proposed budget for the financial support of the program. The proposal must demonstrate a reasonable plan for the financial support of the program which would assure adequate staffing, equipment and safe operation. Adequate financing of the center's operation shall be maintained throughout the year.
- (b) Proposed budgets and other relevant financial records shall be available to the Department of Education upon request.
- (c) If any program is the subject of any bankruptcy or receivership petition or order, or any other action that may affect the financial status or operational status of the program, including but not limited to foreclosure notices, liens, etc. or, if any program is the subject of any local, state or federal regulatory action, such as but not limited to, the fire safety, health, environmental zoning or local, state or federal grant compliance status or tax enforcement proceedings, the program's management shall immediately notify the Department and shall provide current documentation of the status of the program, including copies of necessary administrative and/or court legal documents applicable to that status.

(4) Insurance.

- (a) General liability, automobile liability and medical payment insurance coverage shall be maintained on the operations of the program's facilities and on the vehicles owned, operated or leased by the program and as follows:
    - 1. General liability coverage on the operations of the program's facilities shall be maintained in a minimum amount of five hundred thousand dollars (\$500,000) per occurrence and five hundred thousand dollars (\$500,000) general aggregate coverage.
    - 2. Medical payment coverage shall be maintained in the minimum amount of five thousand dollars (\$5,000) for injuries to children resulting from the operation of the program.
    - 3. Automobile coverage for programs that transport children:
      - (i) Automobile liability coverage shall be maintained in a minimum amount of five hundred thousand dollars (\$500,000) combined single limit of liability.
      - (ii) Medical payment coverage shall be maintained in the minimum amount of five thousand dollars (\$5,000) for injuries to children being transported in vehicles owned, operated or leased by the program.
  - (b) The requirements of this paragraph shall not apply to a program that is under the direct management of a self-insured administrative department of the state, a county or a municipality or any combination of those three (3) or that has, or whose parent entity has a self-insurance program that provides, as determined by the Department, the coverage and the liability limits required by these rules.
  - (c) Documentation that the necessary insurance is in effect, or that the administrative department or other entity is self-insured, shall be maintained in the records of the program and shall be available for review by the Department.
- (5) Enrollment Restrictions.
- (a) Enrollment of children under six (6) weeks of age is prohibited.
  - (b) Children shall not be in care for more than twelve (12) hours in a twenty-four (24) hour period except in special circumstances (e.g., acute illness of or injury to parents, severe weather conditions, natural disaster, and unusual work hours). In such cases every effort shall be made to minimize the amount of time spent in the program by exploring and documenting alternatives (i.e., part time care, care with a relative, etc.)
  - (c) Individualized plans for the care of a child in excess of twelve (12) hours due to special circumstances shall be signed by the parent and the director/administrator and must be approved by the Department. Plans shall be updated annually.
  - (d) The program shall not admit a child into care until the parent has supplied the program with a completed application, immunizations record (for children over two (2) months of age), and a health history.
  - (e) All children physically present in the program's facility or the program's assigned area within the facility shall be counted in the adult:child ratio and group size, and shall have all required records on file before care is provided.
  - (f) The program shall maintain documentation that the parent was offered an on-site visit of the program to review the facility and the parent had an opportunity to review the program's policies and procedures prior to the child being enrolled into the program.

(6) Requirements for Communication with Parents.

- (a) A copy of the program's policies, procedures, and the Department's Summary of Certification requirements shall be supplied to the parent upon admission of the child. The program's policies shall include:
  - 1. Criteria for the dis-enrollment of children.
  - 2. Specific criteria concerning the release of children to anyone whose behavior may place the children at immediate risk.
- (b) The program shall require the parent to sign for receipt of the policies and Summary of Certification Requirement, and the signed receipt shall be maintained by the program in the child's file.
- (c) Parents shall be permitted to see the professional credential(s) of staff upon request.
- (d) Each center shall implement a plan for regular and ongoing communication with parents. This plan shall include but not be limited to communication concerning curriculum, changes in personnel, or planned changes affecting children's routine care. Documentation shall be maintained for the most recent quarter.
- (e) During operating hours, parents shall be permitted access to their children. Programs shall develop a policy and implementation plan regarding non-custodial parent access and/or denial of access to children. The policy and implementation plan shall be provided to all parents. (The policy may be included in the parent handbook.)
- (f) Parents shall give written permission in advance of the child's removal from the premises, including prior notification and consent for each off-site activity, except in cases of emergencies or investigative procedures conducted pursuant to the child-protective services laws or other applicable laws.
- (g) Children shall be signed in and out of the program by the custodial parent or attendance recorded by the appropriate staff person. School-age students may sign themselves into the program. Program staff shall verify parental authorization and the identity of any person to whom a child is released.
- (h) An abuse prevention awareness program for parents shall be offered at least once a year. The program shall include a child abuse prevention component, approved by the Department of Education, with information on the detection, reporting, and prevention of child abuse in child care centers and in the home.
- (i) Notifying Parents of Violations
  - 1. Within the Certification year, after issuing two (2) formal notices of violations in compliance with rules, a notice of Probation, or after issuing any type of legal enforcement order, the Department may, in its discretion, require the program to notify parents and funding sources of the circumstances. Such notification shall be a letter prepared by the Department to be provided to each parent or posted in the program with parents' signatures indicating they have seen the letter.
  - 2. The Department may, at its discretion, notify parents and funding sources of any decision affecting the program rendered by the State Board of Education Child Care Advisory Council serving in the role of Hearing Board for appeals or by any court.

(7) General Record Requirements.

- (a) All records required by this Chapter shall be maintained in an organized manner on-site at the program and shall be immediately available to the Department upon request.

- (b) A child's records shall be kept for one (1) year following the child's leaving the agency; provided, however, that the health record shall be returned to the child's parent upon request when the child leaves the agency. Records of children enrolled in pre-kindergarten programs may be made part of the child cumulative file.
  - (c) Staff records shall be maintained for at least one (1) year following the separation of the staff from the program.
- (8) Children's Records.
- (a) General Requirements for Children's Records shall include:
    1. A current information form, which shall be updated annually and as changes occur, and which shall include:
      - (i) The child's name and date of birth;
      - (ii) Name of parent(s);
      - (iii) Child's and parents' home address (or addresses) and phone numbers;
      - (iv) Parents' business addresses, phone numbers, and approximate work hours;
      - (v) Any special needs or relevant history of the child or the child's family; and
      - (vi) The name and address (home and business or school) of a responsible person to contact in an emergency if parent(s) cannot be located promptly.
    2. Name, address, and telephone number of a physician to call in case of an emergency.
    3. Written consent of parent(s) regarding emergency medical care.
    4. A written plan stating to whom the child shall be released.
    5. Written transportation agreement between parent and the program regarding daily transportation between home and the program and the program and school. If parents have a third party transportation arrangement, verification and details of the arrangement shall be maintained in the child's file.
    6. A copy of the child's health history provided by the child's parent or other caretaker, which need not be signed or certified by a health care provider, shall be on file in the program and shall be available to appropriate staff.
    7. Daily attendance records for each child to include time in and time out.
    8. Prior written permission of parent for each off-site activity.
    9. Immunization Record.
      - (i) The program shall maintain a written record in the child's file, as set forth in subparagraphs (b) and (c), verifying that the child has been immunized according to current Department of Health guidelines.
      - (ii) Exceptions to this immunization record requirement may be made only if:

- (I) The child's physician or the health department provides a signed and dated statement, giving a medical reason why the child should not be given a specified immunization; or
- (II) The child's parent provides a signed written statement that such immunizations conflict with his/her religious tenets and practices.

10. Reports of Incidents, Accidents, Injuries and Fatalities.

- (i) Incidents, accidents and injuries shall be reported to the parent as soon as possible, but no later than the child's release to the parent or authorized representative.
- (ii) Incidents, accidents and injuries to children shall be documented immediately as follows:
  - (I) Date and time of occurrence;
  - (II) Description of circumstances; and
  - (III) Action(s) taken by the agency.
- (ii) Documentation of incidents, accidents and injuries to children shall be filed in the child's record no later than one (1) business day immediately following the occurrence.
- (iii) The Department shall be notified of any child fatality at the program no later than one (1) calendar day immediately following the death.

(b) Preschool Children's Record Requirements.

- 1. Additional information for infants, toddlers and all non-verbal children shall be recorded and shared with parents daily as follows: the time and amount of feeding, any incidence of excessive spitting up, toileting and/or times of diaper changes, sleep patterns, and developmental progress.
- 2. Before a child under the age of thirty (30) months of age is accepted for care, the parent shall provide proof of a physical examination within three (3) months prior to admission, signed or stamped by a physician or health care provider. This record must be kept on file at the program.
- 3. The records of any child who is five (5) years old in an agency which lacks approved kindergarten status for purposes of T.C.A. § 49-6-201 shall include a signed acknowledgment by the child's parents that recognizes that the child's attendance does not satisfy the mandatory kindergarten prerequisite for the child's enrollment in first (1<sup>st</sup>) grade. The statement of acknowledgment shall be signed by the parent and maintained in the child's file.

(c) School-age Children's Record Requirements.

- 1. The information form for school-age children shall list the name, address, and phone number of the school the child attends.
- 2. If the school-age program is not located within the school in which the child is enrolled, the program shall have on file a statement from the parent (or the school) that the child's immunizations are current and that his/her health record is on file at the specified school which the child attends.
- 3. The records of any child who is five (5) years old in a center which lacks approved kindergarten status for purposes of T.C.A. § 49-6-201 shall include a

signed acknowledgment of the child's parents that recognizes that the child's attendance does not satisfy the mandatory kindergarten prerequisite for the child's enrollment in first grade. The statement of acknowledgment shall be signed by the parent and maintained in the child's file.

- (d) Immigrant children. Schools may request information but may not deny enrollment to undocumented immigrant children regardless of their immigrant status. *Plyler v. Doe*, 457 U.S. 202 (1982).
- (9) Staff Record Requirements Shall Include:
  - (a) Name, birth date, social security number, (used by the employer for Federal/State tax purposes), address, and telephone number of all staff members, including volunteers, and a contact for each staff member in an emergency;
  - (b) Educational background and educational experiences, including dates and places of diplomas received, and conferences, courses, and workshops attended in the preceding year;
  - (c) Documentation, signed by the examining licensed physician, licensed psychologist, licensed clinician, Nurse Practitioner or Physician's Assistant, verifying that the staff person is capable of safely and appropriately providing care for children in a group setting. The documentation shall be on file within ten (10) calendar days of employment or starting to work;
  - (d) An updated statement of each staff member's physical health shall be obtained every third (3<sup>rd</sup>) year, or more often if deemed necessary by the Department;
  - (e) At least three (3) references from non-relatives, either written or with documented interviews of each reference on each staff member;
  - (f) Written, verified record of employment history;
  - (g) Documentation of annual performance reviews;
  - (h) Date of employment and date of separation from the program;
  - (i) Daily attendance (including time in/out) of staff;
  - (j) Signed and completed criminal history disclosure form;
  - (k) Verification of criminal background check results;
  - (l) Verification of Vulnerable Persons Registry results;
  - (m) Driver records shall additionally contain:
    - 1. Copy of driver's license showing proper endorsement;
    - 2. Verification of a passed drug screen; and
    - 3. Verification of Cardiopulmonary Resuscitation (CPR) and First Aid certifications;
  - (n) Volunteer Records. Records of volunteers shall be maintained on-site at the program and must include names, addresses, telephone numbers and dates of service of all volunteers.
- (10) Right to Privacy/Confidentiality.

The program staff shall not disclose or knowingly permit the use by other persons of any information concerning a child or family except as required by law, regulation or court order, or as may be necessary to be disclosed to public authorities in the performance of their duties and which may be necessary for health, safety, or welfare of any child enrolled in the program or the child's family.

(11) Posting of Certificate of Approval and Other Required Documentation.

- (a) During the hours of operation, the current Certificate of Approval to operate the program shall be posted near the main entrance in a conspicuous location.
- (b) The Department of Human Services toll-free complaint number shall be posted in a conspicuous location.
- (c) The Department of Children's Services' child abuse number shall be posted near the main entrance in a conspicuous location and at each telephone.
- (d) A copy of all current applicable Department Certification rules shall be maintained in a central space and available to all staff and parents.
- (e) No smoking signs shall be posted in a conspicuous manner.
- (f) The program shall post any other materials as directed by the Department.

(12) Release of Children

- (a) Children shall only be released to a responsible designated person in accordance with the child release plan required by these rules. The program shall verify the identity of the authorized person by requiring presentation of a photo identification.
- (b) The person to whom the child is released must sign the child out of the program.
- (c) Children should not be released to anyone whose behavior, as deemed by a reasonable person, may place the child(ren) in imminent risk. Immediately call 911, the local law enforcement agency or other emergency services number prior to the release of children to a parent. If the person, displaying risky behavior, is not the parent, the program shall not release the child and the parent shall be called immediately.

Authority: T.C.A. §§ 4-5-201 et seq., 49-1-302(l), 49-1-1109 through 49-1-1109, 49-6-2101, 49-6-2105, 49-6-2107, 49-6-2108, 49-2-2110, 49-6-2114, 49-6-2116, 55-9-602 et. seq., 55-50-301 et. seq., 37-1-403(a)(8), and 55-50-401 et. seq.

0520-12-01-.06 Supervision.

(1) Supervision Procedures.

(a) Program Responsibility for the Children's Supervision.

1. The management of the program shall maintain a system that enables all children in the program's care to receive a level of supervision of their status and activities that is appropriate to their age and their development, physical and mental status so as to ensure their health and safety and that allows program personnel to know the whereabouts of each child.
2. This system shall include a mandatory visual inspection of all areas of the building and grounds immediately prior to closing the program for the day in order to ensure that no children have been unintentionally left in any part of the program's facilities or in any vehicles that the program uses to transport children.

- (b) Children six (6) weeks of age through two (2) years of age: the adult must be able to hear the child at all times, must be able to see the child at a quick glance, and must be able to physically respond immediately.
- (c) Children three (3) years through five (5) years of age shall be safely protected by an adult in close proximity and not distracted by other tasks and must be able to physically respond immediately.
- (d) Children six (6) weeks of age to five (5) years of age during mealtime: An adult must be in the direct sight and sound of child/children while the child/children are eating.
- (e) Children who are in kindergarten five (5) years of age by September 30<sup>th</sup> through nine (9) years of age shall be protected by an adult who adjusts restrictions appropriately for different ages and abilities and must be able to physically respond immediately.
- (f) Children ten (10) years of age through thirteen (13) years of age: The adult shall know the whereabouts and activities of the child/children at all times and must be able to physically respond immediately. Youth/children shall have the opportunity to develop independence.
  1. Staff shall position themselves strategically for adequate supervision and quick response.
  2. Staff shall be aware of the dynamics (interactions) and activities of the entire group even when dealing with only part of the group at a time.
- (g) Children fourteen (14) years of age to eighteen (18) years of age: The adult shall know the whereabouts and activities of the children, provide age appropriate guidance and must be able to physically respond as needed.
- (h) Mixed-age Groups. When children ages ten (10) and above are grouped with children under ten (10) years of age, the minimum supervision requirements must be in accordance with the supervision required for the age group of the youngest child in the group.
- (i) Helper devices such as mirrors, electronic sound monitors, etc. may be used as appropriate to meet these requirements.
- (j) Caregivers shall monitor children's toileting and be aware of their activities while respecting the privacy needs of the child.
- (k) When more than twelve (12) children are present on the premises, but a second (2<sup>nd</sup>) adult is not required by the adult:child ratio rules, contained in this Chapter, a second (2<sup>nd</sup>) adult shall be physically available on the premises.
- (l) The program shall maintain a plan, approved by the Department's child care program evaluator, that enables a caregiver in an emergency situation to call a second (2<sup>nd</sup>) adult who can respond quickly while maintaining as much supervision of the children in care as is possible under the circumstances.
- (m) All children for whom care is provided at any one time shall be included in the program's enrollment, square footage allowance, and approved capacity.
- (n) Auxiliary staff may be used as emergency substitutes if their qualifications permit, but not while performing auxiliary duties.
- (o) If meals are served, any person responsible for preparing meals and washing the dishes shall not be included in the adult:child ratio while preparing meals or washing dishes.

- (p) When more than twelve (12) school-age children in first (1<sup>st</sup>) grade and above are present, a separate group, a separate space, and a separate program type shall be provided for them.
- (2) Assignment of Children to Groups.
  - (a) Each child must be on roll in a defined group and assigned to that group with a specific teacher and/or caregiver.
  - (b) Maximum group size requirements shall be maintained at all times when children are indoors with the exceptions of meals served in common dining rooms, napping in common nap rooms, or outdoors on the playground.
  - (c) When infants are cared for in a center with older children, they shall not be grouped with children older than thirty (30) months of age and a separate area shall be provided for them.
  - (c) In order to assure the continuity of care for children thirty (30) months of age to five (5) years of age and their caregivers, the children shall be kept with the same group throughout the day and shall not be moved, shuffled, or promoted to a new group until required based upon the developmental needs of the child; provided however, that:
    - 1. For children, groups, excluding infants and toddlers, may be combined for short periods for a special activity, e.g. special assembly, visiting performers, or community helpers, etc., of no more than thirty (30) minutes duration per day as long as adult:child ratios are met.
    - 2. Groups, excluding infants and toddlers, may be combined, for up to one (1) hour at the beginning of the day and for up to one (1) hour at the end of the day as set forth in the Adult:Child Ratio Chart 3.
  - (d) Each group must have a "home base" with enough space for the entire group.
- (3) Required Adult:Child Ratios.
  - (a) The adult:child ratios shall be maintained by the program while the children are indoors and on the playground.
  - (b) Adult:child ratios and group sizes may exceed the required limit by up to ten percent (10%) rounded to the nearest whole number, for no more frequently than three (3) days per week; provided however:
    - 1. Infant and toddler groups may never exceed the required ratios and group sizes;
    - 2. The pre-kindergarten classes implemented in accordance with State Board of Education rule 0520-01-03-.5-.05 may never exceed twenty (20) children; and
    - 3. The approved capacity of the classroom, based on square footage, may not be exceeded;
  - (c) Any number of children in excess of the adult:child ratios requires a second qualified adult caregiver; provided, however, that the maximum group size shall not be exceeded.
  - (d) Adult:Child Ratio Charts
    - 1. Chart 1 - Single Age Grouping and Adult:Child Ratio Chart

Maximum Group Size and Adult:Child Ratio							
Single-Age Grouping	8	12	14	16	18	20	No Max

Infants: 6 wks. – 15 mos.	1:4						
Toddlers (12 mos. – 30 mos.)		1:6					
2 years (24 mos. – 35 mos.)			1:7				
3 years					1:9		
4 years						1:13	
5 years						1:16	
School-Age (K - 12 years)							1:20
13 to 18 years							1:30

2. Chart 2 - Multi-Age Grouping and Adult:Child Ratio Chart

Maximum Group Size and Adult:Child Ratio							
Multi-Age Grouping	8	16	18	20	22	24	No Max
Infants/Toddlers: 6 wks. – 30 mos.	1:5						
2-4 years		1:8					
2.5 - 3 years (30 – 47 mos.)			1:9				
2.5 - 5 years				1:11			
2.5 – 12 years	1:10						
3 – 5 years (includes 3 – 4 years)					1:13		
4 - 5 years						1:16	
5 - 12 years							1:20
13 to 18 years							1:30

3. Chart 3 – Allowable Combined Group & Adult:Child Ratio Chart for first/last hour of each day only:

Maximum Group Size and Adult:Child Ratio							
	10	15	20				
2 – 12 years	1:10						
3 – 12 years		1:15					
4 – 12 years			1:20				

(4) Naptime Supervision (Requirements for Naptime and Nighttime Care).

(a) At naptime and during nighttime care, after the children have settled down, adult:child ratios may be relaxed so long as the children are adequately protected and all of the following requirements are met:

1. At least one (1) adult shall be awake and supervising the children in each nap room/sleeping area;
2. Infant/toddler ratios shall be maintained; and
3. The adult:child ratio for children ages thirty-one (31) months and above can be fifty percent (50%) of the required ratio if there are enough adults on the premises so that the adult:child ratio required for children when they are awake shall be met immediately in an emergency.

(b) Maximum group size limits do not apply as long as the appropriate adult:child ratio is met at the fifty percent (50%) level.

(c) Safe Sleep Practices:

1. Infants shall be positioned on their backs when placed in a crib for sleeping.
2. In order to avoid the risk of smothering, soft bedding for infants is prohibited.
3. Infants shall not be wrapped tightly or swaddled in blankets for sleeping.
4. Infants shall be touched by a caregiver every fifteen (15) minutes in order to check breathing and body temperature.
5. Pillows shall be prohibited for infants.
6. If a child appears not to be breathing, the program must immediately begin CPR and call for emergency medical assistance.
7. Before any caregiver can assume caregiving duties of any type in an infant room they shall be oriented in the foregoing SIDS procedures.

(d) Naproom Lighting. The areas where infants sleep shall be lit in a manner which allows the caregiver to quickly, at a glance, verify that the child's head is uncovered, that the child is breathing, and otherwise visually verify the child's condition.

(5) Playground Supervision.

(a) The same adult:child ratios are applicable for the playground as in the classrooms.

(b) A playground supervision plan shall be written and implemented which includes:

1. Arrival and departure procedures;

2. Supervision assignments of staff to assure that all areas of the playground can be seen so that all children can remain within sight of the caregivers;
3. Identification of which staff will merely supervise in their assigned zone while other caregivers, if any, interact with children as play facilitators;
4. Emergency plans specific to a variety of circumstances, such as, child injury, weather evacuation, toileting and other personal care needs of children or staff, etc.; and
5. A communication link among playground supervisors and a designated staff person, if available, inside the program's facility.

(6) Supervision During Off-Site Activities.

- (a) Preschool Children. The number of adults displayed in adult:child ratio in charts 1 and 2 must be doubled during off-site visits.
- (b) School-age Children (Kindergarten - 13 years of age).
  1. The number of trained caregivers required to be present on off-site activities shall be at a minimum, equivalent to the number that would be required in the classroom; additional adults to meet the following off-site ratios in chart 4 may be caregivers, volunteers and/or unpaid staff.

2. Chart 4 – Off Site Activities for School-age Children

Number of Children On Activity	Trained Caregivers	Additional Adults	Total Adults Required
1 – 20	1	1	2
21 – 30	2	1	3
31 – 40	2	2	4
41 - 50	3	2	5

- (c) School-age Children (14 to 18 years of age). The number of trained caregivers required to be present on off-site activities shall yield an adult:child ratio of 1:20, additional adults to meet this ratio may be caregivers, volunteers and/or unpaid staff.
- (d) A minimum of two (2) adults is required for any off-site activity.
- (e) The program must maintain a system utilizing an off-site attendance roll which tracks the whereabouts of each child while off the premises.

(7) Supervision While Swimming. When children are swimming, the adult:child ratios in Chart 5 and the following requirements shall be met:

(a) Chart 5 – Swimming Adult:Child Ratio Chart

Age Group	Adult:Child Ratio
Infants (6wks-12 months)	1:1
Toddlers/Twos (13 -35 months)	1:2
Three Year Olds	1:4
Four Year Olds	1:6
Five Year Olds	1:8
School-Age (K -13 years)	1:10
14 to 18 years	1:20

- (b) Although group swimming for infants and toddlers is not prohibited, it is not recommended.
- (c) At least one (1) adult present shall have a current certificate in advanced aquatic lifesaving skills. This person must supervise from above the level of the swimmers, preferably from an elevated lifeguard chair or otherwise from the pool deck.
- (d) The lifeguard may not be included in the required adult:child ratio while performing lifeguard duties.
- (e) Remaining caregivers should supervise both in and out of the water.
- (8) Transportation Supervision. Supervision for transportation of children shall comply with rules in 0520-12-1-.13(2).

Authority: T.C.A. §§ 4-5-201 et seq., 49-1-302(l), 49-1-1101 through 49-1-1109, 49-5-413, 49-6-3001 and 71-3-507 (g) & (h). Administrative History: Original rule filed September 26, 1990; effective December 29, 1990. Amendment filed April 30, 2002; effective July 14, 2002.

0520-12-01-.07 Staff.

(1) Responsibility for Staff.

- (a) The board, owner, applicant, or other designated agent of the program shall be responsible for selecting individuals qualified and of suitable character to work with children.
- (b) The director, with the guidance of the board or owner of the program, shall be responsible for staff and program and the day-to-day operation of the program.
- (c) Each location where children are kept shall have an on-site director.
- (d) To be designated as such, the on-site director of a program in operation up to twelve (12) hours a day shall be physically present in the program's facilities daily at least half of the total hours of operation. If a program operates more than one (1) shift, the on-site director shall be physically present at least one (1) shift.
- (e) To be designated as the director or person in charge (on a daily basis) of a multi-site program, he/she shall be employed full-time in that capacity.
- (f) An assistant director or other staff member shall be designated to be in charge in the absence of the director and all staff shall be notified of this designation.
- (g) Management shall evaluate all staff in the performance of their duties. Caregivers shall be evaluated for knowledge and understanding of growth and development patterns of children and understanding of appropriate activities for children as well as those with special needs. The Tennessee Frameworks for Evaluation process for licensed, pre-kindergarten teachers (certified in early childhood education) shall be accepted as the performance evaluation requirements of this subsection.

(2) General Staff Qualifications.

- (a) Every staff person, including auxiliary staff, substitutes, volunteers, and practicum students, shall be physically, mentally, and emotionally capable of using the appropriate judgment for the care of children, and otherwise performing his/her duties satisfactorily.
- (b) A person who has a physical, mental, or emotional condition which is in any way potentially harmful to children shall not be present with the children.

- (c) Every staff person, both paid and unpaid, who is under the age of eighteen (18) years must be supervised by an adult while in the presence of children.
  - (d) At least one (1) adult available on the premises at all times during program operating hours must be able to read and write English.
  - (e) Prior to assuming duties, each new employee shall receive orientation in, and be able to explain:
    - 1. Program philosophy;
    - 2. Job description;
    - 3. Emergency procedures;
    - 4. Policies regarding discipline of children;
    - 5. Policies regarding the reporting of child abuse; and
    - 6. Policies for receiving and dismissing children.
  - (f) Within the first two (2) weeks on the job, each employee (including auxiliary staff, such as bus driver, cook, etc.) shall receive instruction in:
    - 1. Child abuse detection, reporting, and prevention;
    - 2. Parent-center communication;
    - 3. Disease control and health promotion;
    - 4. An overview of certificate of approval requirements; and
    - 5. Information on risks of infection to female employees of childbearing age.
  - (g) All training shall be documented in the program's records and be available for review by the Department's staff at any time.
  - (h) The program must maintain written documentation that each employee has read the full set of all applicable rules. In addition, a copy of the rules (0520-12-01) shall be maintained in an area that is readily accessible to all staff.
- (3) Multi-Site Personnel.
- (a) Multi-Site Coordinator. The multi-site coordinator must meet the same requirements listed below for a single site program director.
  - (b) Qualifications of On-Site Director Under a Multi-site Coordinator:
    - 1. At least two (2) years of college training or a department-recognized credential in addition to at least one (1) year of full-time documented work experience with young children in a group setting; or
    - 2. A high school diploma or its equivalent educational credential recognized by the Department in addition to at least two (2) years of full-time (paid or unpaid) documented work experience with young children in a group setting.
- (4) Qualifications for Director of a Single Site Program.
- (a) The director shall meet at least one (1) of the minimum qualifications listed in the chart below:

If Minimum Education Is:	The Minimum Group Care Experience Required Is:
Graduation from an accredited four-year (4-year) college	One (1) year of full-time (paid or un-paid) experience in a group setting. [2 years School-age care = 1 year full time]
Sixty (60) semester hours (two [2] years) of college training, with at least thirty (30) hours of which shall be in business or management, child or youth development, early childhood education or related field	Two (2) years of full-time (paid or un-paid) experience in a group setting [2 years School-age care = 1 year full time]
High School Diploma (or Department recognized equivalent), and Tennessee Early Childhood Training Alliance (TECTA) certificate for completing thirty (30) clock hours of orientation training, or the equivalent as recognized by the Department	Four (4) years of full-time (paid or un-paid) experience in a group setting [2 years School-age care = 1 year full time]
Has been continuously employed as an on-site program director or child care agency owner since July 1, 2000	Not Applicable

(b) Training Requirements:

1. Prior to issuance of the first annual certificate of approval, directors shall complete an orientation on rules implementation provided by the Department of Education child care program evaluator.
2. During the first year of employment a new director shall:
  - (i) Complete an orientation course within three (3) months of assuming the position; provided, however, that this course shall not be required if the director has:
    - (I) Received specific training meeting the requirements of this part within three (3) years prior to employment; or
    - (II) Earned a Bachelors degree, an Associates degree in child development or early childhood education, a CDA credential, or a CCP credential;
  - (ii) Have evidence of receiving at least thirty-six (36) clock hours of Department recognized, competency-based training or one-to-one consulting sessions, at least six (6) hours of which must be in administration, management or supervisory training; or
  - (iii) Earn credit during the year in one (1) academic course in administration, child development, early childhood education, health/safety, inclusion of children with special needs, or other related field.
3. After the first (1) year of employment, the director shall:
  - (i) Earn credit during the year in one (1) academic course in administration, child development, early childhood education, health/safety or other related field; or
  - (ii) Have evidence of receiving at least eighteen (18) clock hours annually in workshops, competency-based training, or one-to-one consulting sessions:

- (I) Six (6) hours shall be in administration management or supervisory training; and
  - (II) Four (4) hours of the required eighteen (18) hours may be earned by conducting training.
- (c) If the Principal of a school serves as Director of the program. The Principal qualifications and training are in accordance with T.C.A. § 49-2-203.
- (5) Assistant Director Qualifications.
  - (a) The on-site assistant director shall have at least two (2) years of college training or a Department recognized credential and one (1) year of full-time or two (2) years of part time school-age care documented work experience (paid or un-paid) in a group setting; or
  - (b) The on-site assistant director shall have earned a high school diploma or equivalent educational credential recognized by the Department and two (2) years of full-time or four (4) years of part time school-age care documented work experience (paid or un-paid) in a group setting.
- (6) Caregiver Qualifications.
  - (a) Each caregiver shall be at least eighteen (18) years of age. Exception, sixteen (16) and seventeen (17) year old students currently enrolled in Department recognized career and technical early child development/child care program may be counted in the adult-child ratio; provided, however, that they shall always be under the direct supervision of an adult and shall not be left alone with a group of children.
  - (b) Each group shall have at least one (1) caregiver present who has a high school diploma or equivalent educational credential as recognized by the Department.
  - (c) Training for Caregivers During the First (1<sup>st</sup>) Year of Employment.
    - 1. New caregivers shall complete, within the first (1<sup>st</sup>) thirty (30) days of employment with the program, two (2) clock hours of pre-service orientation training offered or recognized by the Department. Pending completion of the orientation training, the caregiver's employment status as a caregiver with the program is conditional.
    - 2. New caregivers shall additionally complete sixteen (16) hours of Department-recognized, competency-based training within the first (1<sup>st</sup>) year of employment, six (6) hours of which must be completed within the first six (6) months of employment.
    - 3. Failure of the caregiver to complete the required two (2) hours of pre-service orientation and/or failure to complete the required six (6) hours of training within the first (1<sup>st</sup>) six (6) months of employment shall require that the employee be removed from caregiver duties until completion of the training.
    - 4. Exception. Caregivers who have been employed in early childhood education programs or child care programs during the last three (3) years, hold a Bachelors or Associates degree in child development or a related field, or who hold a Child Development Associate (CDA) credential or Child Care Professional (CCP) credential as recognized by the Department shall instead comply with the training requirements for experienced caregivers required in subparagraph (d) below.
  - (d) Training for Caregivers After First (1<sup>st</sup>) Year of Employment.

1. Experienced caregivers shall complete at least twelve (12) clock hours annually of Department recognized, competency-based training.
  2. A maximum of two (2) hours training credit may be credited for Child and Adult Care Food Program (CACFP) training or USDA Free and Reduced Price Meal Program training.
  3. At least six (6) hours of the required training shall be obtained outside of program.
  4. Up to four (4) hours of training credit annually may be earned by conducting training.
  5. Credit for Tennessee Early Childhood Training Alliance Orientation Training Completion of a thirty (30) hour orientation class through the TECTA system shall satisfy the caregiver's minimum annual training requirements for two (2) years.
- (7) Substitutes.
- (a) The names, addresses, telephone numbers and dates of service shall be recorded for all substitutes in the staff personnel records of the program.
  - (b) Substitutes shall comply with the same orientation requirements defined by these rules for all program staff.
  - (c) Substitutes who have acted as caregivers for two hundred (200) or more hours in the previous calendar year shall meet the training requirements contained in the rules for caregivers.
  - (d) Substitutes providing services for thirty-six (36) hours or more in a calendar year shall:
    1. Meet the criminal background check requirements contained in these rules; and
    2. Meet the same requirements as regular staff for the physical examination required by these rules.
  - (e) Practicum Students. Persons serving temporarily as caregivers in field service placements as part of an educational course of study or other curriculum requirement shall not be considered as substitutes for purposes of this paragraph.
- (8) Volunteers.
- (a) Volunteers may be used to provide services and supplement the required caregivers or substitutes without payment, but are not counted to meet the adult:child ratios. If counted in the adult:child ratio, or provide services for more than twenty (20) hours per calendar week, volunteers shall meet the qualifications for substitutes as set forth in paragraph 0520-12-01-.0 7(7) above.
  - (b) Management shall be responsible for and supervise the activities of volunteers to assure safety of the children.
  - (c) Records for volunteers shall be maintained as required in 0520-12-01-.05.
- (9) Criminal Background and Vulnerable Persons Registry Review Requirements.
- (a) Individuals Requiring a Fingerprint Criminal Background Review and Abuse (Vulnerable Persons) Registry Check:

1. Any individual applying to work as a paid employee, a director, or manager of a program in a position that will require or allow the individual to have contact with children at any time;
  2. Any individual applying to work as a new substitute and who is expected to offer, or who provides, at least thirty–six (36) hours of substitute services to the program in any calendar year.
  3. Any individual applying for a certificate of approval to operate a program as defined in T.C.A. § 49-1-1102 et seq. and who has significant contact with children in the course of the role of operator. For purposes of this subparagraph, an “operator” shall be an individual who is an owner or administrator of a school-administered infant/toddler, preschool and/or school-age care program, pre-kindergarten, school-administered Head Start or Even Start, approved Montessori, Lottery Afterschool Education Program, TEIS early intervention program.
- (b) Individuals applying to work as a paid employee of a program, administered by a local education agency (LEA) or the State Department of Education, shall have their name, address and social security number submitted to the Department of Children’s Services Background Check and the Sex Offender Registry to verify that the person does not appear on any of these registries as required by T.C.A. § 49-10-608.
- (c) Pending outcome of the criminal background check as described in this paragraph; the outcome of the review of the individual’s status on the Department of Health’s Vulnerable Persons Registry; and, for LEA and State Department of Education applicants, the outcome of the Department of Children’s Services Background Check and the Sex Offender Registry, the applicant for employment or a substitute or volunteer position, or for a director/owner, seeking to be certified to operate a program, shall be conditional and shall be dependent upon the results of these background checks.
- (d) Requirements for Submission of a Fingerprint Sample.
1. Programs shall utilize an established user agreement between the Tennessee Bureau of Investigation and the local education agency, private school, or community based organization for the processing of applicant fingerprints.
  2. Fingerprint Sample. The program shall be responsible for obtaining and submitting the fingerprint sample of any person required by the Chapter in the form and manner directed by the Tennessee Bureau of Investigation.
    - (i) Within ten (10) calendar days of the first day of beginning employment or substitute status;
    - (ii) Within ten (10) calendar days of the new program application for Certificate of Approval;
  3. Vulnerable Persons Registry. The program shall be responsible for determining, within the same time periods as set forth in part (d)2 above, the status on the Department of Health’s Vulnerable Persons Registry of any individual who is required by subparagraph (a) above to undergo a criminal history background check. Verification of status check shall be maintained in the employee’s record pursuant to the requirements set forth in 0520-12-01-.05.
  4. Department of Children’s Services Background Check and the Sex Offender Registry. The LEA or State Department of Education administered program shall be responsible for determining, within the same time periods as set forth in part (c)2 above, the status on the Department of Children’s Services Background Check and the Sex Offender Registry of any individual who is required by T.C.A. § 49-10-608 to undergo a criminal history background check. Verification of such

status check shall be maintained in the employee's record pursuant to the requirements set forth in 0520-12-01-.05.

(10) Exclusions Of Persons from Contact with Children.

(a) Prohibited Criminal or Abuse or Neglect History.

1. No individual with a prohibited criminal history as defined below, regardless of whether such individual is required by these rules to undergo a criminal background check, may work, substitute or volunteer in a program, or be resident, owner, director or manager of a program who has access to children, or be an operator who has significant contact with children or otherwise have unrestricted access to children in any manner whatsoever.
2. An individual shall be immediately and automatically excluded from a program or any contact whatsoever with children, as described above, if the individual's criminal history includes:
  - (i) A criminal conviction or a no-contest or guilty plea; or any pending criminal action, including individuals subject to any warrant, indictment or presentment, etc.; or placement in a pretrial diversion; or,
  - (ii) A pending juvenile action or previous juvenile adjudication, which, if an adult, would constitute a criminal offense; and
  - (iii) Any of the circumstances in subparts (i) or (ii) above involves any of the following criminal offenses:
    - (I) Any offense (including a lesser included offense) involving the physical, sexual or emotional abuse or gross neglect of a child or involving a threat to the health, safety or welfare of a child;
    - (II) Any offense (including a lesser included offense) involving violence, or the threat of violence against another person; and/or
    - (III) Any offense (including a lesser included offense) involving, the manufacture, sale, distribution or possession of any drug.
3. An individual shall also be immediately and automatically excluded from the program or from access in any manner whatsoever to the children in the care of the program, if the individual:
  - (i) Reveals a prohibited or potentially prohibited criminal history on the criminal history disclosure form; or
  - (ii) Is listed on the Department of Health's Vulnerable Persons Registry;
  - (iii) Is known to the management of a program as a perpetrator of child abuse or child sexual abuse or to have a prohibited criminal record, who is identified to the program's management by the Department of Children's Services as a validated perpetrator of abuse of a child based upon an investigation conducted by the Department of Children's Services or by the child protective services agency of any other state; or, who at anytime is identified by any person or entity to the program's management and is confirmed by the Department as having a prohibited criminal history.
4. Exclusions from driving duties. An individual with a prohibited history as set forth below shall be immediately and automatically excluded from providing driving duties on behalf of the program if the individual:

- (i) Has a pending criminal action (including warrants, indictments, presentments, etc.) is completing pretrial diversion, or has been convicted of or pled guilty to any offense involving the use of a motor vehicle while under the influence of any intoxicant, which constitutes a violation of T.C.A. §§ 39-13-213; 55-10-101; 55-10-102 or 55-10-401; or
  - (ii) Has been convicted of or pled guilty to any felony involving use of a motor vehicle while under the influence of any intoxicant. In such case, the individual shall not be employed or otherwise serve as a driver for a program for a period of five (5) years from the date of the conviction or guilty plea.
5. Exclusions for Child Neglect. An individual who has been identified by the Department of Children's Services as having neglected a child based on an investigation conducted by the Department of Children's Services, or any child protective services agency of any state, and who has not been criminally charged or convicted or pled guilty as stated above, shall be supervised by another adult while providing care for children.
- (b) The program shall immediately review the report of the background check received from the Tennessee Bureau of Investigation, and shall immediately consult with the Department to resolve any questions relative to the person's status. Upon determination that the person's status prohibits the person from having access to children as described in part 7 of Rule 0520-12-01-.07(10)(a), the program shall immediately exclude such person from access to children. Failure to exclude the person under this part will result in immediate suspension of the program's certificate of approval.
  - (c) Failure to exclude individuals with a criminal history or abuse or neglect finding. Failure to immediately exclude any individual subject to exclusion or supervision pursuant to this subchapter may result in immediate suspension, denial or revocation of the program's certificate of approval.
- (11) Waivers from Exclusions Due to Criminal or Abuse or Neglect History.
- (a) Any person who is excluded or whose certificate of approval or operator status is denied based upon the results of the criminal history background review or based upon any other determination may request in writing to the Department within ten (10) calendar days of receiving notice of such exclusion or denial, a waiver from these automatic exclusion requirements.
  - (b) Excluded individuals may also make a written request for a waiver by letter or directly on the criminal history disclosure form.
  - (c) Requests for a waiver shall state the basis for the request, including any extenuating or mitigating circumstances that would, in the person's opinion, clearly warrant an exemption from the exclusion. Any documentary evidence may also be submitted with the request.
  - (d) Requests for waivers shall be heard by an advisory committee, composed, at a minimum, of law enforcement personnel, persons experienced in child protective services, persons experienced in child development issues and child care providers issued a certificate of approval by the Department and reviewed by the Department.
  - (e) Any person who is excluded from providing care or services to children under any provisions of this subchapter shall remain excluded pending the outcome of any exemption review and appeals.
- (12) Supplemental Background Checks.

- (a) The Department may, at anytime, request that the criminal background or status on the Department of Health's Vulnerable Persons Registry of any individuals having access to children under any of the circumstances set forth in this subchapter be reviewed using the processes described above. All other provisions applicable to any pre-employment, residential or access status of any individual shall apply to any background review conducted pursuant to this paragraph (12).
- (b) The employment status of persons for whom a post-employment criminal background check was conducted, or the status of existing program owners or operators, substitutes or volunteers of a program for whom a criminal background check was conducted after issuance of a certificate of approval or after employment or assuming duties as a volunteer or substitute, and who were not otherwise subject to a pre-status applicant background check and to the exclusionary provisions provided in this subchapter, shall be governed by the provisions of this subchapter.

Authority: T.C.A. §§ 4-5-201 et seq., 49-1-302(I), 49-1-1101 through 49-1-1109, 49-2-203, 49-5-413, 49-6-300, and 49-10-608. Administrative History: Original rule filed September 26, 1990; effective December 29, 1990. Amendment filed April 30, 2002; effective July 14, 2002.

0520-12-01-.08 Equipment for Children.

(1) General.

- (a) Manufacturer's safety instructions shall be followed for the use and/or installation of all indoor and outdoor equipment and appliances. Such instructions shall be retained and communicated to all appropriate staff.
- (b) All indoor and outdoor equipment shall be well made and safe. There shall be no dangerous angles, no sharp edges, splinters, nails sticking out, no open S-hooks or pinch points within children's reach.
- (c) Electrical cords on equipment for children shall be inaccessible to the children.
- (d) Damaged equipment shall be repaired or removed from the room or playground immediately.
- (e) Equipment shall be kept clean by washing frequently with soap and water.
- (f) There shall be developmentally-appropriate equipment and furnishings for each age group in attendance.
- (g) Individual lockers, separate hooks and shelves or other containers, placed at children's reaching level, shall be provided for the belongings of each child, ages infant - preschool.
- (h) In infant/toddler rooms, equipment and space shall be provided for climbing, crawling, and pulling without the restraint of playpens or cribs.
- (i) A place shall be provided for each school-age child's belongings.

(2) Indoor Play Equipment.

- (a) Pieces of equipment, such as television sets, bookcases, and appliances, shall be secured or supported so that they will not fall or tip over.
- (b) Sufficient indoor equipment, materials, and toys shall be available to:
  1. Meet active and quiet play needs of all children enrolled;
  2. Provide a variety of developmentally appropriate activities so that each child has at least three (3) choices during play time; and

3. Adequately provide for all the activities required in Section 0520-12-01-.09 Program.
- (c) Toys, educational and play materials, shall be organized and displayed within children's reach so that they can select and return items independently.
- (d) Toys or teaching aids that are small or that have small parts that can be inhaled or swallowed shall be inaccessible to infants and toddlers.
- (3) Outdoor Play Equipment.
- (a) There shall be developmentally appropriate outdoor play equipment for children who are in care more than three (3) daylight hours.
- (b) All outdoor play equipment and materials shall be sufficient in amount and variety so that children have an opportunity to participate in a minimum of at least three (3) different types of play using either stationary equipment and/or portable play materials.
- (c) All outdoor play equipment shall be placed to avoid injury:
1. Fall zones shall extend six (6) feet away from the perimeter of climbing equipment and away from retainer structures, fences, and other equipment and out of children's traffic paths.
  2. Agencies with a playground continually certified as approved since prior to January 1, 2002 shall be permitted to maintain fall zones of at least four (4) feet; provided, however, that any expansion or addition shall comply with the six (6) feet fall zone required by part 1 above.
- (d) Anchorage of Equipment.
1. Supports for climbers, swings, and other heavy equipment that could cause injury if toppled shall be securely anchored to the ground, even if the equipment is designed to be portable.
  2. Portable equipment shall otherwise be anchored to the ground if the height and weight of the equipment exceeds the height and weight of the smallest child who will use the equipment.
- (e) An acceptable resilient surfacing material, as recognized by the Department, shall cover fall zones in accordance with the following chart:

Resilient Surfacing Material	Minimum Acceptable Depth
Wood chips or Mulch	Six (6) inches
Double Shredded Bark	Six (6) inches
Pea Gravel	Six (6) inches
Medium Gravel	Eight (8) inches
Fine Sand	Eight (8) inches
Course Sand	Eight (8) inches
Artificial (Manufactured) Surface	As recommended by Manufacturer

- (4) Naptime and Sleeping Equipment.
- (a) There shall be equipment for napping or sleeping for each preschool child who is in care for six (6) hours or more.

- (b) A quiet rest area and cots or mats shall be available for children who want to rest or nap. However, no child shall be forced to nap.
- (c) No child shall be forced to stay on a cot or on a mat for an extended period of time.
- (d) All nap/sleep equipment shall be in good condition and comply with the following requirements:
  1. Individual cots or two-inch (2") mats shall be provided for children ages twelve (12) months to five (5) years.
  2. Individual beds or cots shall be provided for children sleeping for extended periods of more than two and one half (2-1/2) hours, such as during nighttime care.
  3. Each child under twelve (12) months shall have an individual, free-standing, crib at least twenty-two inches (22") x thirty-six inches (36") with an open top.
  4. Mattresses and foam pads shall be covered with safe, waterproof material.
  5. A clean sheet or towel shall be used to cover whatever the child sleeps on.
  6. A clean coverlet shall be available to each child.
  7. Soiled sheets and coverlets shall be replaced immediately.
  8. For health and safety reasons each crib, cot, bed or mat shall be labeled to assure that each child naps on his own bedding.

Authority: T.C.A. §§ 4-5-201 et seq., 49-1-201(c)(24), 49-1-302(l), 49-1-1101 through 49-1-1109, 49-2-203(b)(11), and Executive Order No. 24 (November 11, 1988). Administrative History: Original rule filed September 26, 1990; effective December 29, 1990. Amendment filed April 30, 2002; effective July 14, 2002.

0520-12-01-.09 Program.

- (1) Schedule and Routines.
  - (a) Routines such as snacks, meals, and rest shall occur at approximately the same time each day.
  - (b) There shall be a balance between child's choice and adult-directed activities.
  - (c) There shall be alternating periods of vigorous activity and quiet play or rest throughout the day.
  - (d) Special consideration shall be given to providing early morning and late afternoon activities that will help children cope with possible unhappiness over separation from parents and end-of-day fatigue.
  - (e) Each caregiver shall be responsible for providing consistent care for a specific infant(s)/toddler(s). "Consistent care" includes, but is not limited to, planning, record-keeping for the child, communication, general interaction with and routine care of the child.
  - (f) The caregiver(s) shall give individual attention to each child, in addition to the time devoted to diapering and feeding.
  - (g) Children shall not be left in restraining devices such as swings, car seats, or high chairs (in excess of thirty (30) minutes). Stimulation shall be provided to children in those settings.

- (h) Opportunities shall be provided for children to interact with one another.
  - (i) Opportunities shall be provided for children to be by themselves to play alone or do homework, if they choose, in a small quiet area away from other activities.
  - (j) Youth ten (10) years and older shall be encouraged to participate in the planning of their schedules and activities.
  - (k) Extended Care. Children shall be given the same opportunities for developmentally appropriate activities during extended care hours as during conventional care hours.
- (2) Television, Radio, Videos, and Computers:
- (a) Programs, movies, computer games, and music with violent or adult content (including "soap operas") shall not be permitted in children's presence.
  - (b) Programs/movies/computer games shall be developmentally appropriate for the viewers.
  - (c) Parents shall be informed of movie showings and video/computer games and their ratings.
  - (d) Videos, movies, and video/computer games must be previewed by staff for content.
  - (e) If television, video tapes/DVDs, video/computer games, and/or movies are used, they shall be limited to:
    1. Two (2) hours per day, or the length of a movie if more than two (2) hours in case of school-age children.
    2. Extended Care. Television viewing by children during night care between 6 p.m. and 6 a.m. shall be limited to one (1) hour.
  - (f) All programs shall be designed for children's education and/or enjoyment.
  - (g) Up to one (1) additional hour per day, but not more than three (3) days per week, can be added to viewing time for computer use.
  - (h) School-age children and adolescents may use computers for completion of homework or for test prep with no limits on viewing time.
  - (i) Computers, if used, shall be located in view of a caregiver for monitoring purposes.
  - (j) Computers which allow internet access by the children shall be equipped with monitoring or filtering software, or an analogous software protection, which limits children's access to inappropriate web sites, e-mail, and instant messages.
  - (k) Other activity choices shall be available to children during television/movie viewing or computer use.
- (3) Outdoor Play and Playground Routines.
- (a) An opportunity for outdoor play shall be extended to children of all ages who are in care more than three (3) daylight hours; provided, however, for programs where outdoor play is prohibitive or dangerous, as determined at the discretion of the Department, unoccupied indoor space providing fifty (50) square feet per child is acceptable.
  - (b) Children shall be allowed to experience a variety of weather conditions:

1. Children shall be provided an opportunity for outdoor play when the temperature range, after adjustment for wind chill and heat index, is between thirty-two (32) degrees and ninety-five (95) degrees Fahrenheit and not raining;
  2. Children shall be properly dressed and the length of time outside adjusted according to the conditions and the age of the children.
- (c) Caregivers shall be alert for signs of dehydration, heat stroke, frostbite, etc., dependent upon the season.
- (d) Each agency shall develop a set of age appropriate playground rules that uses positive language. Rules shall be posted in each play area.
- (4) Reclining Rest Period:
- (a) A reclining rest period of at least one (1) hour shall be provided for all preschool children in care for six (6) hours or more.
  - (b) Each child shall be allowed to form his own patterns of sleep.
  - (c) A child shall not be left in a crib or on a cot for an unreasonable length of time.
- (5) Behavior Management and Guidance.
- (a) Attention spans and skills of children shall be considered so that caregivers do not require children to engage in developmentally inappropriate behavior.
  - (b) Discipline shall be reasonable, appropriate, and in terms the children can understand.
  - (c) Discipline that is shaming, humiliating, frightening, verbally abusive, or injurious to children shall not be used.
  - (d) Discipline shall not be related to food, rest, or toileting.
  - (e) Spanking or any other type of corporal punishment is prohibited. ("Corporal punishment" is the infliction of bodily pain as a penalty for behavior of which the punisher disapproves.)
  - (f) Caregivers shall not focus solely upon unacceptable behavior.
  - (g) Praise and encouragement of good behavior shall be used.
  - (h) Efforts shall be made to help children develop a feeling of self-worth beginning in infancy and continuing throughout the school-age years.
  - (i) When a child is engaging in unacceptable behavior the caregiver shall, prior to disciplining the child, first distract the child's attention and substitute a desirable activity.
  - (j) Time out shall be reasonable and developmentally appropriate.
    1. Time out shall take place in an appropriate location based upon the development of the child.
    2. The length of each time out session shall be based on the age of the child and shall not exceed one (1) minute per each year of age of the child; provided, however, that in no event shall any child below the age of thirty-six (36) months be placed in time-out for more than three (3) minutes, and no child between thirty-six (36) months and sixty (60) months of age shall be placed in time-out for longer than five (5) minutes.

- (6) Physical Care - Toilet Training.
- (a) Toilet training shall never be started until a child has been in the program long enough to feel comfortable.
  - (b) Toilet training shall not be started until a child is able to understand, to do what is asked of them, and to communicate their need to use the bathroom.
  - (c) Children shall not be made to sit on the potty or toilet for more than five (5) minutes.
  - (d) Children shall be diapered or cleaned immediately in a safe, sanitary manner.
- (7) Educational Activities.
- (a) Activities shall be based on developmentally appropriate educational practices.
  - (b) A daily program shall provide opportunities for learning, self-expression, and participation in a variety of creative activities such as art, music, literature, dramatic play, science, and health.
  - (c) Staff shall plan ahead for developmentally appropriate activities; written lesson plans shall be provided for children of each age group.
  - (d) Indoor physical activities, requiring children to use both large and small muscles, shall be provided for children of each age group.
  - (e) For infants/toddlers, a portion of the day shall include floor time for activities that develop physical, social, language and cognitive skills.
  - (f) Because of the importance of language development and communication skills, infants and toddlers shall have language experiences with adults on a daily basis.
  - (g) Personal Safety Curriculum required:
    - 1. For ages three (3) through school-age, the curriculum shall include instruction in personal safety as needed but at least once a year.
    - 2. The personal safety curriculum shall include a Department-recognized component on the prevention of child abuse, based upon Department curriculum guidelines. The program may choose terminology and instructional methods for this curriculum with a goal of providing clear, effective and appropriate instruction to the children in personal safety, including the prevention of child abuse.
    - 3. The personal safety curriculum used by the program shall be made available to the parents and legal guardians for review.
    - 4. The record of each enrolled child shall include a copy of the signed notification form acknowledging that parents/legal guardians have been provided an opportunity to review the agency's personal safety curriculum, and have been notified of the sexual abuse/personal safety curriculum for their child.
    - 5. If parents/legal guardians have questions regarding the personal safety component of the curriculum, a representative of the program shall meet with the parent/legal guardian to discuss the personal safety component of the curriculum.
    - 6. For school-age children, the personal safety curriculum is integrated in the Health and Wellness curriculum during the school day for K-12 students. The school-age children enrolled in the program shall be provided information on reporting physical, verbal or sexual abuse to the students.

- (h) Children, enrolled in a school-administered pre-kindergarten program, shall participate in an educational curriculum, correlated with the Tennessee Early Learning Developmental Standards (TN-ELDS) as required by T.C.A. § 49-6-104(b)(5).
- (8) Extended Care. Agencies providing nighttime care shall meet the following additional requirements:
  - (a) Calming activities preceding bedtime shall be provided, including such things as listening to a story or soft music. In addition, individual/adult attention shall be provided as needed.
  - (b) Routine personal hygiene shall be encouraged and supervised. A plan shall be made with parents for brushing teeth, baths, bed dress, etc.

Authority: T.C.A. §§ 4-5-201 et seq., 37-1-403, 37-1-601, 37-1-603, 49-1-302 (I), 49-1-1101 through 49-1-1109, 49-6-104. Administrative History: Original rule filed September 26, 1990; effective December 29, 1990. Amendment filed April 30, 2002; effective July 14, 2002.

0520-12-01-.10 Health And Safety.

- (1) Children's health records shall be maintained as directed under subchapter 0520-12-01-.05.
- (2) Each child shall be immunized according to the current Department of Health guidelines unless exempted pursuant to subchapter 0520-12-01-.05(8). Programs serving non-school-age children shall maintain written policies for dis-enrollment of children who fail to comply with Department of Health immunization guidelines in a timely manner.
- (3) Children shall be checked upon arrival and observed for signs of communicable disease during the day.
- (4) A child's temperature should be taken using a non-invasive method unless otherwise prescribed by a physician. Symptomatic children shall be removed from the group until parents are contacted and health issues are resolved.
- (6) Universal precautions, as defined by the Department of Health and required by 0520-01-03-.08(2)(g)4, shall be followed when handling or cleaning bodily fluids.
- (7) First Aid.
  - (a) A standard first aid kit (for example, one approved by the American Red Cross) shall be available to all staff, and all staff shall be familiar with its contents and use.
  - (b) At least one staff member who has current certification or equivalent in first aid from a certifying organization recognized by the Department shall be on duty at all times. The course shall be a minimum of three (3) hours and shall be taught by a certified first aid instructor. Extended Care: All staff shall have certification or equivalent in first aid from a certifying organization recognized by the Department.
  - (c) Current and comprehensive first aid information shall be available to all staff who interact with children and the agency shall provide periodic training and updates on basic first aid and the use of the first aid kit.
- (8) Emergency Treatment.
  - (a) Cardiopulmonary Resuscitation (CPR) Requirements.
    - 1. At least one staff member on duty shall hold current certification in Infant/Pediatric Cardiopulmonary Resuscitation (CPR) from the American Red

Cross, the American Heart Association, or other certifying organization, as recognized by the Department.

2. Extended Care. All staff shall be certified in Infant/Pediatric Cardiopulmonary Resuscitation (CPR) from a certifying organization recognized by the Department.

- (b) The initial CPR course shall be a minimum of four (4) hours and shall be taught by an individual currently certified, as recognized by the Department, to provide CPR instruction.
- (c) When school-age children are present, and/or in a school-age only program, at least one staff member shall hold current certification, pursuant to the requirements listed in subparagraphs (a) and (b) above, in Adult CPR. Extended Care: All staff shall be certified pursuant to the requirements listed in subparagraphs (a) and (b) above, in adult CPR.

(9) Preparation for Emergencies.

- (a) The program, in consultation with appropriate local authorities, shall develop a written plan to protect children in the event of disaster such as, but not limited to, fire, tornado, earthquake, chemical spills, floods, etc. and shall inform parents of the plan.
- (b) The program shall implement these emergency procedures through timely practice drills to meet local regulations and local emergency services plans and shall maintain documentation of drills for one year. Extended Care: At least one (1) of these drills shall be conducted during extended care hours.

The following emergency telephone numbers shall be posted next to all telephones and be readily available to any staff member:

- 1. Fire Department;
- 2. Police Department/Sheriff;
- 3. Nearest Hospital Emergency Room;
- 4. Child Abuse Hotline;
- 5. Local Emergency Management Agency;
- 6. Ambulance or Rescue Squad; and
- 7. Poison Control Center.

- (d) If 911 or a similar generic number is operable in the community, it shall be posted in addition to the above numbers.
- (e) All home/work contact numbers for parents shall be readily available to all staff.

(10) Contagious Conditions:

- (a) Impetigo and diagnosed strep shall be treated appropriately for twenty-four (24) hours prior to readmission of the child to the center.
- (b) Children diagnosed with scabies or lice shall have proof of treatment and be free of nits prior to re-admission.

- (c) The program may not provide care and/or isolation for a child with contagious condition unless written instructions are obtained from a licensed physician or certified health care provider.
  - (d) Parents of every child enrolled shall be notified immediately if one of the following communicable diseases has been introduced into the program:
    - 1. Hepatitis A;
    - 2. Food borne outbreaks (food poisoning);
    - 3. Salmonella;
    - 4. Shigella;
    - 5. Measles, mumps, and/or rubella;
    - 6. Pertussis;
    - 7. Polio;
    - 8. Haemophilus influenza type B;
    - 9. Meningococcal meningitis; and
    - 10. Any other illness identified by the state or local Department of Health.
  - (e) The program shall report the occurrence of any of the above diseases to the local health department as soon as possible, but no later than the end of the day in which it occurred.
- (11) Notification to Parents of Accidents, Injuries, Illnesses.
- (a) Staff shall make every reasonable attempt to notify parents immediately when a child sustains serious injury/injuries, including but not limited to, massive bleeding, broken bones, head injuries, possible internal injury, etc., to arrange for emergency treatment.
  - (b) Staff shall make every reasonable attempt to notify parents immediately when a child shows signs of serious illness, including but not limited to, high temperature, disorientation, coughing, vomiting or diarrhea with blood present, severe difficulty breathing, seizure, etc. to arrange for emergency treatment.
  - (c) Accidents, injuries, and every sign of illnesses shall be reported, or a reasonable attempt made to report, to the parent as soon as possible, but no later than the child's release to the parent or authorized representative.
  - (d) In no event shall the program delay seeking emergency treatment due to a delay in making contact with the parent.
- (12) Medications.
- (a) All medications, prescription and non-prescription shall be received from the parent by a designated staff person or management level staff person.
  - (b) An alternate staff person shall be available to administer medication in the event the designated staff person is absent.
  - (c) The staff person designated in subparagraph (a) above shall document verification of the following:
    - 1. The parent's written authorization to administer medication;

2. That medicines or drugs are in the original prescription container, are not out of date, and labeled with the child's name;
  3. The specific dosage and times medication is to be administered to the child; and
  4. That the parent has provided the program with instructions on the methods of administration.
- (d) The following documentation of administration shall be maintained in the child's file and a copy provided to the parent:
1. Times medications administered;
  2. Noticeable side effects; and
  3. Name of staff person administering medication to child.
- (e) The parent shall sign documentation verifying that:
1. The administration information required by subparagraph (c) above was received, and
  2. Unused medication was returned to the parent.
- (f) Medication shall not be handled by children. Exception: A physician's authorization for the current school year shall be on file for school-age children who must have self-administered medications. Assistance to school-age children self administering medication must be in accordance with Guidelines for Use of Health Care Professionals and Health Care Procedures in a School Setting, developed by the Department of Health in accordance with T.C.A § 49-5-415.
- (g) Medication shall never be administered in bottles or infant feeders unless authorized by a physician.
- (h) Accessibility of Medications.
1. All medicines, prescription and non-prescription, whether requiring refrigeration or not, shall be stored in a locked compartment or container.
  2. If medicine requiring refrigeration is kept in a refrigerator used for food storage, the medicine shall be put in a leak-proof locked container.
  3. Keys for these compartments shall be inaccessible to children.
  4. Exception for Emergency Administration. Medication requiring emergency administration, as directed by the physician, nurse practitioner or physician's assistant, e.g., "EpiPen", asthma inhaler, etc., may be kept in an unlocked container that is inaccessible to children.
- (i) Unused medication shall be returned to the parent.
- (j) Public school-administered programs shall follow the procedures for student medications defined in the School Health policy, adopted by the Local Education Agency in accordance with 0520-01-01-.08(1).

(13) Prohibited Practices and Products.

- (a) Smoking.

1. Smoking is not permitted in the presence of children.
  2. Under state law, smoking in child care centers that are not private homes is restricted within a child care facility to areas where children are not permitted access, and parents must be given notice that the facility has a smoking area.
    - (i) No smoking signs must be posted conspicuously within the facility as provided by state law.
    - (ii) Federal law prohibits smoking in any part of a child care facility that is not a private residence if the facility is constructed, operated, or maintained with Federal funds.
- (b) Alcoholic Beverages.
1. The use of alcoholic beverages is not permitted in child care centers during the hours of operation of the center.
  2. Alcoholic beverages shall not be present in areas where children are permitted access in the child care facility.
- (c) Illegal or inappropriate activities on the premises, property, or in a vehicle on the facility property or used for transportation of children enrolled in the program or any activity that otherwise places children at risk are prohibited.
- (d) Firearms shall not be on the premises of a child care agency, in any vehicle used to transport children or in the presence of a child. Exception: In a private residence, firearms and other deadly weapons or tools on the premises shall be secured in such a way that they are inaccessible to children.
- (e) Kitchen knives and other potentially dangerous utensils or tools shall be secured so that they are not accessible to children.
- (f) Staff's personal belongings (such as, but not limited to, contents of purses, backpacks, coat pockets, diaper bags, etc.) shall be inaccessible to children at all times.
- (14) Diapering.
- (a) Children shall be diapered/changed and cleaned immediately when wet or soiled.
  - (b) For the protection of children and adults, the Centers for Disease Control guidelines for handwashing and diapering procedures shall be followed.
  - (c) The diapering area and/or toilet training area shall be located near a handwashing lavatory and shall be located in a separate area from the food preparation/service area.
  - (d) All diapering surfaces must off the floor, nonporous and shall be sanitized using solutions for general cleaning and sanitizing purposes:
    1. For general cleaning and sanitizing purposes, a fresh solution of one quarter (1/4) cup chlorine bleach to one (1) gallon of water (or one (1) tablespoon bleach to one (1) quart of water) shall be made daily.
    2. Substitutions for the bleach solution required in part 1 above, that are approved for the child care setting by the Department of Health are permissible.
    3. The solution required in part 1 above is not appropriate for items associated with food preparation or for items that children frequently place in their mouths, and the Health Department does not permit the use of higher concentrations than these in food preparation areas. Specific jurisdictions may have even more

stringent requirements, therefore, the local health department should be consulted.

(e) A tightly covered container with plastic liner shall be used for diaper disposal and shall be inaccessible to children. This container shall be emptied by closing the liner and disposing of it in an outside receptacle.

(f) Special Needs Children.

1. If older children are enrolled who lack independent toileting abilities, rules regarding diapering of preschool children shall apply.
2. Children shall be changed in a location designated for that purpose and which provides privacy from other children and adults.
3. School-age children may be diapered on the floor on a nonporous washable, surface that adequately protects the floor from contamination.
4. The floor beneath the diapering surface shall be immediately cleaned after each diapering.
5. The diapering area shall be located near a handwashing lavatory. This area shall be in a separate location from food preparation/service area.

(15) Naptime Care.

- (a) In order to avoid the spread of airborne diseases, children shall be positioned on mats in a face-to-feet alternating pattern.
- (b) Spacing of cots, cribs, and mats shall allow sufficient space to walk between them.

(16) Tuberculosis (TB) Screening.

- (a) Tuberculosis (TB) screening prior to on-going contact with children is recommended for any individual who:
  1. Was born in a country other than the United States, Canada, Western Europe, Australia, New Zealand, and Japan;
  2. Has a weakened immune system (Human Immunodeficiency Virus (HIV), cancer, taking chemotherapy drugs, etc.); or
  3. Has been recently exposed to tuberculosis.
- (b) Any person who has had a cough for three (3) weeks or longer should be evaluated by a physician for tuberculosis.
- (c) Future screening is not required for individuals who have been treated for tuberculosis or latent tuberculosis infection unless persistent pulmonary symptoms develop or there is contact with tuberculosis.
- (d) All children born in countries other than the United States, Canada, Western Europe, Australia, New Zealand, and Japan shall present evidence of a tuberculin skin test performed in the United States at any time after twelve (12) months of age. Any child with a positive tuberculin skin test shall be referred to a physician for evaluation. After the initial evaluation, future periodic screening is not required unless the child develops persistent pulmonary symptoms or there is contact with tuberculosis.

(17) Staff Health.

- (a) Staff health records shall be maintained as directed under subchapter 0520-12-01-.05(9).
  - (b) A statement of mental or emotional health shall be obtained from a psychiatrist or clinical psychologist when deemed necessary by the Department.
- (18) Duty to Report Child Abuse and Neglect.
- (a) Duty to Report.
    1. Every operator, owner, director, teacher, or staff member of, or substitute staff member or volunteer in a program is individually responsible, and is required by T.C.A. §§ 37-1-403 and 37-1-605, to immediately report any reasonable suspicion of child abuse or neglect to the Department of Children's Services, local law enforcement or the judge of the juvenile court in the county of the child's residence.
    2. Determining Suspicion of Abuse/Neglect.
      - (i) Due to both the immediate risk to children's safety, as well as to the extreme risk of destroying or losing critical evidence, the program and/or individual staff shall not delay reporting possible abuse or neglect in an attempt to conduct an investigation to verify the abuse/neglect allegations.
      - (ii) In determining a reasonable suspicion for purposes of reporting, the program shall limit questioning of the child and may make only the most basic inquiries necessary to determine if any reasonable possibility of abuse or neglect exists.
      - (iii) The program does not have to, and shall not attempt to, validate (or "prove") the allegation prior to making a report as required by this paragraph (18). A final determination of the validity of the report of abuse or neglect shall be made exclusively by the Department of Children's Services and/or by law enforcement upon the report by the program's staff.
    3. Any statement from a child reasonably indicating abuse/neglect of that child or another child or any evidence of abuse/neglect observed on a child shall be immediately reported by staff to the Department of Children's Services in a manner specified by that department, to local law enforcement or to the judge of the juvenile court in the county of the child's residence.
  - (b) The telephone numbers of the Department of Children's Services, the local law enforcement or the juvenile judge of the county of the child's residence for staff to call to report suspected abuse and neglect shall be posted in a conspicuous location by each telephone.
  - (c) Prohibited Procedures for Reporting Suspected Child Abuse/Neglect/Penalties.
    1. The program shall not develop or implement policy that inhibits, interferes with or otherwise affects the duty of any staff, including substitutes and volunteers, to report suspected abuse or neglect of a child as required by subparagraph (a) above and T.C.A. §§ 37-1-403 and 605, and shall not otherwise directly or indirectly require staff to report to the program management or seek the approval of program management prior to any individual staff member reporting the suspected abuse or neglect.
    2. A report of suspected child abuse or neglect of a child enrolled in the program by the operator, owner, director, teacher or staff member of, or substitute staff member or volunteer in a program shall not be made to any other entities or

persons, including, but not limited to, hospitals, physicians, or educational institutions as an alternative to or substitute for the reporting requirements to the persons or entities specifically listed in subparagraph (a) above.

3. The operator, owner, director, teacher, or staff member of, or substitute staff member or volunteer in the program shall not suggest to advise or direct a parent or caretaker of a child enrolled in the program to make a report of suspected child abuse or neglect regarding that parent's or caretaker's own child who is enrolled in the program as a means of fulfilling the duty of the operator, owner, director, teacher or staff member of, or substitute staff member or volunteer in, the program to report child abuse or neglect as required by T.C.A. §§ 37-1-403 and 37-1-05.
4. Because the statutory requirements of T.C.A. §§ 37-1-403 and 37-1-605 do not authorize the prohibited procedures described in parts 1-3 of this subparagraph (c) to fulfill the statutory duty of any person, and especially the duty of those certified as approved by the Department of Education to care for and protect vulnerable children, to make timely and effective reports of child abuse and neglect to appropriate investigative agencies, and because the prohibited procedures described in parts 1-3 of this subparagraph (c) are unreliable procedures to ensure that the appropriate authorities are to timely and satisfactorily investigate suspected child abuse or neglect, any action that does not comply in all respects with subparagraph (a) above, will not fulfill the statutory duty to report child abuse or neglect and the certification of approval requirements of this Chapter.
5. Failure to Report Properly Is Grounds for Suspension, Denial or Revocation of the Program's Certificate of Approval.
  - (i) Failure to make the reports required by subparagraph (a) above or the use of the prohibited methods described in parts 1-3 of this subparagraph (c) as an attempt to fulfill the duty to report suspected child abuse or neglect, for children in the care of the program are, by themselves, grounds for suspension, denial or revocation of the program's certificate of approval.
  - (ii) If the facts establish by a preponderance of the evidence that there has not been strict compliance with the requirements of subparagraph (a) above or that the prohibited procedures described in parts 1-3 of this subparagraph (c) have been utilized as an alternative means of fulfilling the requirements of subparagraph (a) above, these circumstances shall create a rebuttable presumption for the Administrative Law Judge and the Child Care Advisory Council Review Board that the duty to report child abuse or neglect has not been fulfilled, and this ground for suspension, denial, or revocation of the program's certificate of approval by the Department of Education shall be sustained unless such presumption is rebutted by a preponderance of the evidence.
- (d) Agency Duties During Investigations of Child Abuse and Neglect: Custodial Authority of Children.
  1. Every operator, owner, director, teacher or staff member of, or substitute staff member or volunteer in a program certified as approved by the Department of Education shall fully cooperate with all agencies involved in the investigation of child abuse or neglect.
  2. The program shall provide access to records of children and staff.
  3. The program shall allow appropriate investigators to interview children and staff.

4. The program shall not interfere with a child abuse and neglect investigation.
  5. The program shall protect the child by requesting the investigator's identification.
  6. The program shall maintain confidentiality of the investigation and shall not disclose the investigation or details of the investigation except as required to carry out procedures for the protection of children or as otherwise directed by the Department of Children's Services, law enforcement or the Department of Education.
- (e) Upon notification of a pending abuse/neglect investigation of any program staff member or resident of a home-based program, the program shall enter into a Safety Plan with the Department regarding the individual's access to the program and the children in the care of the program.
  - (f) All agency staff, including non-caregiving staff, shall receive training regarding the procedures to report child abuse and neglect.
- (19) A parent shall be notified before the child leaves the premises except in emergency circumstances, except that an authorized investigator with the Department of Children's Services or local law enforcement may take a child off the premises of the program if he/she has obtained custody of the child as follows:
- (a) Voluntary placement agreement with the parent;
  - (b) Court order;
  - (c) Emergency assumption of custody under T.C.A. § 37-1-113 without parental permission;
  - (d) If the child's parent or legal guardian is present and approves; or
  - (e) In conjunction with investigative procedures under the child abuse laws.

Authority: T.C.A. §§ 4-5-201 et seq., 49-1-302(l), 49-1-1101 through 49-1-1109, 49-5-415, 49-6-5001 & 5002, 37-1-113, 37-1-401 et seq., 37-1-601 et seq., 37-1-605, and 20 U.S.C. § 6081 Administrative History: Original rule filed April 30, 2002; effective July 14, 2002.

0520-12-01-.11 Food.

- (1) Nutritional Needs.
  - (a) If the program provides meals, the program shall provide developmentally appropriate meals, snacks, and drinks for each child that are of sufficient proportions and nutritional value to meet each child's health needs in accordance with the following minimum requirements:
    1. For children in the agency at least four (4) hours, one (1) snack shall be provided, unless the four (4) hour period covers a normal meal hour, in which case a meal shall be served. However, if the child is fed their meal at home or in school, the child shall be served two (2) snacks in lieu of a meal.
    2. Children in care five (5) to six (6) hours shall be provided one (1) meal and one (1) or two (2) snacks. However, if the child is fed their meal at home or in school, the child shall be served two (2) snacks in lieu of a meal.
    3. Children in care seven (7) to ten (10) hours shall be provided one (1) meal and one(1) or two (2) snacks.
    4. Children in care for longer than ten (10) hours shall be provided two (2) complete meals and one (1) or two (2) snacks.

5. A meal shall be offered to children who arrive before 7:00 a.m. and who have not had breakfast at home.
  6. Extended Care. For children in extended night care, meal and snack service will not apply while children are asleep, but snacks will be offered if the child awakens and indicates hunger.
- (b) Appropriate foods shall be encouraged; highly inappropriate foods, e.g., foods high in sugar and/or fat content but containing low nutritional value, shall not be served.
  - (c) Powdered milks shall be used only in a cooked food product.
  - (d) All special needs diets shall be prepared as prescribed by a physician or by the written instructions of the parent.
  - (e) In order for parents to be aware of the food their children are receiving, the week's menus shall be planned and posted by the first day of each week and remain posted throughout the week.
    1. These menus shall be followed, although reasonable substitutions are permissible, if the substituted food contains the same nutrients.
    2. Any change shall be documented in advance of the meal.
  - (f) Food shall not be forced on or withheld from children.
  - (g) Food as Behavior Management.
    1. Foods served as part of the meal/supplement pattern shall not be used as reward; nor shall food be used or withheld as a form of discipline.
    2. Desserts and sweets must not be used as rewards or a form of discipline.
  - (h) New foods shall be introduced to infants and toddlers one at a time over a five (5) to seven (7) day period with parent's approval.
  - (i) The feeding schedule for infants shall be in accordance with the child's need rather than according to the hour.
  - (j) Staff shall support parent's decision to continue breast feeding.
  - (k) Parents and caregivers shall work together when weaning an infant to insure consistency in the weaning process. Weaning shall be delayed until after an infant adjusts to group care.
  - (l) Children shall not be permitted to carry a bottle with them throughout the day.
- (2) Meal Service.
- (a) Caregivers and children shall wash their hands with soap and water.
  - (b) High chairs and tables on which food is prepared and served shall be washed with soap and water and sanitized prior to and after snacks and meals.
  - (c) Floors under tables and high chairs on which food is served shall be swept and/or vacuumed after each meal and cleaned as needed.
  - (d) Dishes and Utensils.

1. Napkins, individual forks and/or spoons shall be provided for children who feed themselves.
  2. Individual dishes as necessary for the type of feeding shall be provided.
  3. Routine food service dishes, utensils, and bottles shall be break-resistant.
- (e) Due to the extreme risk of choking, solid foods (including cereal) shall not be given in bottles or with infant feeders to children with normal eating abilities unless authorized by a physician. Violation of this rule may result in suspension, revocation or denial of the agency's ability under its certificate of approval to provide infant care.
- (f) To avoid choking, foods shall be appropriately sized for the eating and chewing abilities of children. Special attention should be given when serving raw fruits and vegetables and prepackaged meats and cheeses, such as hotdogs, pepperonis, and cheese cubes.
- (g) At mealtime, children shall be seated at appropriately sized tables and chairs, and adults shall supervise them in accordance with subsection 0520-12-01-.06(1)(d).
- (h) Formula and Food Brought from Home:
1. All formulas and food brought from home shall be labeled with the child's name.
  2. Milk shall be placed immediately in the refrigerator.
  3. Once milk has been warmed, it shall not be re-warmed or returned to the refrigerator.
  4. For optimum digestion, formula is to be served at body temperature.
  5. Frozen breast milk shall be dated when expressed.
  6. All formulas remaining in bottles after feeding shall be discarded.
- (i) Microwaves, Bottle Warmers, and Crock Pots. In order to prevent scald and splash burns:
1. Microwave ovens, bottle warming devices, and crock pots, including cords, shall not be accessible to preschool children.
  2. School-age children shall use microwaves only under direct supervision.
  3. Children shall never be held while removing a bottle from a crock pot or warming device.
  4. The "splash zone" area immediately surrounding microwaves, crock pots and warming devices shall be kept inaccessible to children at all times.
  5. All crock pots, bottle warmers and other warming devices shall be maintained at the device's lowest available temperature setting.
  6. Crock pots and bottle warming devices shall be secured in such a manner as to prevent them from tipping over, splashing and spilling.
  7. Bottled breast milk, infant bottles, and formula shall not be heated in a microwave oven.
  8. To prevent scalding, liquid and solid foods heated in a microwave oven shall be checked for "hot spots" prior to serving.

- (j) Previously opened baby food jars shall not be accepted in the center. If food is fed directly from the jar by the caregiver, the jar shall be used for only one feeding.
  - (k) Infants shall be held while being fed as long as they are unable to sit in a high chair, an infant seat, or at the table.
  - (l) To avoid the risk of serious injury or choking, children shall always be restrained in the high chair manufacturer's restraint device while sitting in a high chair. Children who are too small or are too large to be restrained using the manufacturer's restraint device shall not be placed in a high chair.
  - (m) Bottles shall not be propped, and a child shall not be given a bottle while lying flat.
  - (n) When children are capable of using a high chair, they shall be allowed to do so and to experiment with food, with feeding themselves, and to eat with fingers or spoon.
  - (o) Children shall never be left without adult supervision while eating.
- (3) Food Storage.
- (a) Potentially hazardous foods requiring cold storage shall be maintained at forty-five (45) degrees Fahrenheit (F) or below, and accurate thermometers for measurement of the food temperature shall be kept in the refrigerators where such food is stored.
  - (b) Potentially hazardous food requiring hot storage shall be maintained at an internal temperature of one-hundred forty (140) degrees F or above.
  - (c) Frozen foods shall be maintained at a temperature of zero (0) degrees F or below.
  - (d) Thermometers shall be placed in all freezers and all other cold storage equipment.
  - (e) All dry food supplies shall be stored in closed containers. These foods shall be stored in a manner to prevent possible contamination and to allow for proper cleaning of the storage area. Containers of food shall be stored at a minimum of six (6) inches above the floor or on movable dollies.
  - (f) All food shall be protected from contamination during storage, preparation, transportation, and serving.
  - (g) No poisonous or toxic materials except those required for sanitization purposes may be used or stored in a food-service area of a facility.
- (4) Food Sanitation.
- (a) Home canned food and raw milk are prohibited.
  - (b) Raw fruits and vegetables shall be washed before use.
  - (c) All eating and drinking utensils shall be thoroughly cleaned and sanitized after each use with the exception of single-service utensils which shall be discarded following use.
  - (d) Single-service articles shall be made from non-toxic materials and shall be stored, handled, and dispensed in a sanitary manner.
  - (e) All utensils and food-contact surfaces or equipment used in the preparation, transportation, service, display, or storage of potentially hazardous food shall be cleaned and sanitized prior to and after each use.
  - (f) Milk and food shall not be placed on the table longer than fifteen (15) minutes prior to the beginning of the meal to avoid contamination and spoilage.

Authority: T.C.A. §§ 4-5-201 et seq., 49-1-302(l), and 49-1-1101 through 49-1-1109. Administrative History: Original rule filed April 30, 2002; effective July 14, 2002.

0520-12-01-.12 Physical Facilities.

- (1) Inspections and Compliance with Fire, Health and Safety Standards.
  - (a) All facilities shall annually pass an inspection verifying compliance with all applicable state and local fire and environmental requirements.
  - (b) The following facilities, in addition to meeting the requirements set forth in subparagraph (a) above, shall pass inspection by the State Fire Marshal's Division of the Tennessee Department of Commerce and Insurance and the Food and General Sanitation Division of the Tennessee Department of Health:
    1. Facilities that have never been awarded a certificate of approval or a DHS child care license;
    2. Facilities that have not previously been approved by the State Fire Marshal;
    3. Facilities that have relocated; and/or
    4. Existing facilities with renovations, new construction, additions to, and/or changes in occupancy.
- (2) Neither a temporary nor an annual license shall be issued unless all of the following requirements are met:
  - (a) The physical facility meets all requirements set forth in paragraph (1) above;
  - (b) The physical facility (indoor and outdoor) present no apparent hazards; and
  - (c) The physical facilities are otherwise deemed appropriate by the Department for the safe care of children.
- (3) Requests for inspections are made by the Department's child care program evaluator, but it is the responsibility of the applicant to obtain verification of the inspections and the approvals.
- (4) Building Plans: Plans for new construction must be drawn by a registered architect or engineer and submitted to the fire prevention division of the Department of Commerce & Insurance and to the local health department when required by such departments and in accordance with the respective departments' procedures.
- (5) Continuing compliance. Physical facilities shall maintain compliance with all applicable codes as set forth in paragraph (1) above, throughout the certification year and shall additionally comply with any updated standards issued by the fire safety section of the Department of Commerce and Insurance and the food and general sanitation section of the Department of Health.
- (6) Annual inspection. All facilities shall be inspected and approved annually by either state codes enforcement officers or authorized local fire safety inspectors and by environmentalists. Exception: Public and private schools are inspected based on a schedule established by the fire marshal and/or fire officials of partnering jurisdictions.
- (7) The program shall not be located in a building used for purposes which would be hazardous to the children or would prohibit outdoor play unless the program is an inner city program which has requested and has been granted an exception from the Department pursuant to the requirements for "Outdoor Play" found in paragraph 0520-12-01-.09 of this Chapter.

- (8) Telephones and Other Communication Devices.
- (a) There shall be a working telephone in the center.
  - (b) If answering machines/voice mail must be used, they shall be monitored at thirty (30) minute intervals (except when staff and children are off premises) so that emergency messages can be received.
  - (c) Parents shall be informed that answering machines/voicemail are used.
- (9) Licensed Capacity of Physical Space.
- (a) The maximum number of children who may be present inside a physical space (e.g., the program's "certificated capacity") shall be determined in accordance with the minimum square footages set forth in this paragraph; provided, however, the Department may, in its discretion as determined reasonably necessary to maintain the health and safety of the children in care, restrict the program's certificated capacity below the maximum which is set forth in these rules.
  - (b) A minimum of thirty (30) square feet of usable indoor play space shall be provided for each child.
  - (c) Each naproom shall contain a minimum of thirty (30) square feet of floor space per child.
  - (d) Teen parenting career and technical classes (formerly known as "vocational") shall have separate space for the group of young children with thirty (30) square feet of usable play space per child apart from the classroom space for the students.
  - (e) Occupational/career and technical child care classes shall have separate space for the group of young children, with thirty (30) square feet per child of usable space, apart from the classroom space for students. The designated separate space may be located in the same room and divided by movable barriers less than four (4) feet in height.
  - (f) For the purposes of calculating square footage requirements, any area used as restrooms, halls, kitchen, or office space, and any space used by cribs or large pieces of furniture, shall not be considered "usable play space" and shall not be counted toward the program's certificated space.
  - (g) Rooms with sufficient floor space, as defined by the requirements set forth in these rules, may be divided and used for more than one (1) group; provided, however, that each area is adequately equipped and arranged and that each group shall have the security of a stable classroom space.
- (10) Outdoor Play Area.
- (a) Outdoor play areas shall contain a minimum of fifty (50) square feet of usable play space for each child using the area at one time.
  - (b) Agencies Initially Certificated After January 1, 2002. The outdoor play area must be enclosed by a fence or barricade at least four (4) feet in height. Provided, however, the Department may in at its discretion grant a waiver from this provision when the Department determines that the lack of such fence or barricade poses no apparent or potential risk to children.
  - (c) The areas where children play or are cared for shall be properly maintained:
    - 1. A written playground maintenance plan shall be prepared by the program to address routine, remedial, and preventive maintenance and to designate who is responsible for each maintenance need.

2. A pre-play/care inspection of the outdoor play area shall be completed by the program before children play outdoors.
  3. The play/care areas shall be free of hazardous items or materials unless adequately protected by storage, inaccessibility, proper supervision, or other safety procedures.
  4. These areas shall present no conditions which are hazardous to children.
  5. All such areas shall be free of all animal wastes.
- (11) Equipment Hazards.
- (a) Cords on window blinds shall be inaccessible to children.
  - (b) Electrical cords on equipment shall be inaccessible to children.
  - (c) All indoor and outdoor areas shall be kept safe by the absence of, or the immediate removal or repair of, any object, fixture, equipment, or substance in the facility or grounds that could potentially cause injury to a child.
- (12) General Sanitation and Safety of Building and Grounds.
- (a) Water Supply.
    1. The drinking water supply serving child care facilities shall be from a source approved by the health authority having jurisdiction.
    2. Drinking water from individual single service cups or an approved drinking fountain shall be provided in all occupied rooms.
  - (b) Sewage and Waste Disposal.
    1. Connection to a public storage disposal system shall be made where possible. The use of a private sewage disposal system shall have the approval of the local health department and it shall be operating satisfactorily.
    2. All garbage shall be removed from the building daily.
    3. All garbage storage receptacles shall be outside and kept closed with tight-fitting lids.
    4. The area surrounding the garbage containers shall be kept clean.
  - (c) Building, Grounds and Pools.
    1. The building shall be kept clean and maintained in good repair, without unsafe cracks, leaks or unsatisfactory plumbing.
    2. Adequate natural and/or artificial lighting shall be provided throughout the facility.
    3. All rooms used by children shall be maintained at a temperature of between sixty-eight (68) to seventy-eight (78) degrees F by means of heating, cooling or ventilation sources approved for use.
    4. Stoves, hot radiators, steam and hot water pipes, fans, or other heat generating equipment shall be adequately protected by screens, guards, insulation, or suitable measures that will protect children from coming in contact with them.

5. Broken glass, trash and debris shall be kept removed from the building and grounds.
6. Building and grounds shall be kept free of unprotected ponds, wells, cisterns, refrigerators or similar hazards.
7. Swimming pools shall be fenced to prevent entry of children without adult supervision.
9. Swimming pools and/or wading pools shall not be used without prior approval by the Health Department.
10. Grounds, tire swings and containers shall have adequate drainage to prevent standing water that can breed mosquitoes and other insects.
11. If animals or birds are kept in classrooms as pets, they shall be caged away from the food storage and preparation or service area, and cages kept clean.
12. Turtles shall not be kept as pets due to the risk of salmonella.

Authority: T.C.A. §§ 4-5-201 et seq., 49-1-202, 49-1-302(l), and 49-1-1101 through 49-1-1109. Administrative History: Original rule filed April 30, 2002; effective July 14, 2002. Amendment filed September 6, 2007; effective January 28, 2008.

0520-12-01-.13 Transportation.

(1) Management Responsibility.

- (a) If a program provides transportation or contracts for transportation, the management shall be fully responsible for all transportation of children, including between home and program (if different facility from school), to and from school, and on field trips.
- (b) Program management is responsible for operating transportation services in compliance with:
  1. All State laws, regarding school transportation, T.C.A. §§ 49-6-2102 through 49-6-2115 & 49-6-2117 through 49-6-2118;
  2. All rules and regulations, promulgated by State Board of Education, Chapter 0520-01-5 regarding school transportation and school buses.
- (c) Vehicles used to transport children and which are owned or operated by, contracted for or which are otherwise under the direction or control of the program, shall carry automobile liability insurance coverage for each vehicle used for that purpose in the minimum amounts required by T.C.A. § 49-6-2111 and defined in State Board of Education Pupil Transportation rules 0520-01-05-.01(2).
- (d) Vehicles used to transport children must be in compliance with the Federal Motor Vehicle Safety Standards as defined by Title 49 part 571 of the Code of Federal Regulations and the Tennessee Minimum School Bus Standards, adopted by the State Board of Education as required by Rule 0520-01-05-.02.
  1. Unless the certification label states the fifteen (15) passenger van is a "school bus", the National Traffic and Motor Vehicle Safety Act, 49 U.S.C. § 30112, prohibits the use of a fifteen (15) passenger van to transport students to and from school or a school-related activity. The fifteen (15) passenger van is defined as any vehicle that seats ten (10) to fifteen (15) passengers, not including the driver.

2. Children may be transported in passenger vehicles, however, children of all ages but must be in compliance with passenger restraint laws, T. C. A. § 55-9-602, at all times in passenger vehicles (vehicles weighing less than 10,000 pounds).
  - (i) Any child under one (1) year of age or any child weighing twenty (20) pounds or less shall be properly secured in a child passenger restraint system in a rear facing position.
  - (ii) Any child, one (1) through three (3) years of age weighing greater than twenty (20) pounds shall be properly secured in a child passenger restraint system in a forward facing position.
  - (iii) Any child four (4) through eight (8) years of age and measuring less than four feet, nine inches (4'9") in height shall be properly secured in a passenger motor vehicle using a separate carrier, an integrated child seat or a belt-positioning booster seat.
  - (iv) Any child, nine (9) through twelve (12) years of age, measuring four feet, nine inches (4'9") or more in height, shall be properly secured in a passenger motor vehicle using a seat belt system in the rear seat of the vehicle.
  - (v) Any child, thirteen (13) through fifteen (15) years of age, shall be properly secured in a passenger motor vehicle using a seat belt system.
- (e) Federally approved child care restraint systems must be provided and utilized during the transport of any child three (3) years of age and under on a school bus.
- (f) No child shall be allowed to ride on the floor of a vehicle, and no child shall be placed with another child in the same restraint device.
- (g) All school buses shall be inspected in compliance with the Rules and Regulations for School Bus Inspection, Chapter 1340-3-3, promulgated by and regulated by the Tennessee Department of Safety.
- (h) All persons hired for the position of "school bus driver" shall:
  1. Be issued a commercial driver's license (CDL) by the Tennessee Department of Safety;
  2. Knows and understands the school system's or private school's policies and procedures concerning transportation and to bus driver's responsibilities and duties;
  3. Has no criminal offense or criminal record of a violation of any of the following:
    - (i) Driving under the influence of an intoxicant as prohibited by T.C.A. § 55-10-401;
    - (ii) Vehicular assault as prohibited by T.C.A. § 39-13-106;
    - (iii) Vehicular homicide as prohibited by T.C.A. § 39-13-213(a)(2);
    - (iv) Aggravated vehicular homicide as prohibited by T.C.A. § 39-13-218; or
    - (v) Manufacture, delivery, sale or possession of a controlled substance as prohibited by T.C. A. § 39-17-417;
  4. Completed the annual physical and mental examinations of school bus drivers as required by T.C.A. § 49-6-2108;

5. Complete the annual training for school bus drivers presented by the Tennessee Department of Safety.
  - (i) Drivers of any passenger vehicle, used to transport children, shall possess a current, valid driver's license and endorsement required by the Tennessee Department of Safety for transporting children in the applicable type of vehicle.
  - (j) Seating capacity on a school bus shall be in compliance with T.C.A. § 49-6-2110 (a), requiring a minimum of thirteen linear inches of seat space for each student.
  - (k) Vehicles used for transporting children shall have a clearly visible identifying sign.
    1. Exceptions to vehicle identification, i.e. signage:
      - (i) Vehicles used exclusively for the occasional field trip; or
      - (ii) Vehicles used exclusively for the limited provision of emergency transportation, e.g., vehicle used when regular vehicle has a mechanical breakdown;
      - (iii) The Department may waive the vehicle identification requirements for programs under the direction or control of a public agency.
  - (l) Develop transportation routes (school bus routes) in compliance with T.C.A. § 49-6-2105 to ensure no child is on a school bus more than one and one-half (1½) hours in the morning and one and one-half (1½) hours in the afternoon.
  - (m) A vehicle used to transport children shall have fire extinguishers, emergency reflective triangles, a first aid kit, and a blood-borne pathogenic clean-up kit, and an adult familiar with the use of this equipment on board. Emergency exiting procedures shall be practiced by all staff responsible for transporting children on a regular basis. (Not applicable to occasional transportation by volunteers).
  - (n) Firearms are prohibited in vehicles used to transport children.
- (2) Supervision of Children During Transportation.
  - (a) An adult must be in the vehicle whenever a child is in the vehicle.
  - (b) An adult must be seated behind the steering wheel if the motor is running and children are being loaded and/or are on board.
  - (c) Transportation of children with special needs shall be in compliance with the Individual Education Plan (IEP) for each child. Bus drivers who do not return to a central depot shall stipulate that all buses will be checked at the end of every run to make sure that no person remains on the bus as defined in T.C.A. § 49-6-2114.
  - (d) Adult Monitor Requirements.
    1. An adult monitor, in addition to the driver, is required on the vehicle for the transportation of four (4) or more children ages six (6) weeks to four (4) years of age.
    2. An adult monitor, in addition to the driver, is required on the vehicle for all routes exceeding thirty (30) minutes for children ages six (6) weeks to four (4) years of age, regardless of the total number of children being transported.

3. An adult monitor, in addition to the driver, is required on the vehicle for the transportation of four (4) or more non-ambulatory children (permanently or temporarily non-ambulatory) of any age.
  4. An adult monitor, in addition to the driver, is required if more than ten (10) pre-kindergarten students four (4) years of age are transported on the same bus.
  5. An adult monitor shall not be seated in the front passenger seat, but shall be seated in the vehicle in a position which will allow:
    - (i) Each child to be seen with a quick glance;
    - (ii) Each child to be heard at all times;
    - (iii) Each child's activities to be observed; and
    - (iv) The monitor to respond immediately should there be an emergency.
- (3) Responsibility for Loading, Unloading and Tracking Each Child.
- (a) Passenger Log:
    1. A passenger log shall be used to track each child during transportation.
    2. The first and last name of each child received for transport shall be recorded on the passenger log. A sibling group shall not be listed as a single group entry, for example, "Smith children".
    3. The driver of the vehicle or the monitor shall be designated by management as the person responsible for completing the log.
  - (b) Loading Procedures:
    1. As each child is loaded onto the vehicle the time the child was placed on the vehicle shall be recorded on the passenger log.
    2. If the child was loaded from home, the parent or other authorized person will additionally sign the log indicating the child was placed on the vehicle.
  - (c) Unloading Procedures:
    1. The individual designated by the program as responsible for the log shall update it immediately upon the child being released from the vehicle. The designated staff member shall update the log by:
      - (i) Recording the time the child was released; and
      - (ii) Initialing next to the time of release.
    2. When the child is released to a parent or other authorized person, that person must sign the log indicating that the child was released to them.
    3. When Pre-Kindergarten children are transported, on the return route the school bus driver must not leave a Pre-K child at the child's home or bus stop unless the parent or other authorized person is present. If the parent or other authorized person is not present, the Pre-K student is not to exit the bus and the school bus driver is to follow the process/policy developed by the school system in collaboration with the Department of Children's Services and/or the police or sheriff's office.

- (d) Confirming that Every Child is Off the Vehicle.
  - 1. Driver Responsibilities. Immediately upon unloading the last child and to ensure that all children have been unloaded the driver shall:
    - (i) Physically walk through the vehicle;
    - (ii) Inspect all seat surfaces, under all seats and in all compartments or recesses in the vehicle's interior.
    - (iii) Sign the log, with the driver's full name, indicating the children are all unloaded.
- (e) If a child is expected for transport (based on the roster) but is not present at the location, the driver may not leave the location without checking with a designated member of staff and the center. If the designated member of staff is not present in the loading area and there is not an additional adult on the vehicle, all children will accompany the driver into the facility to verify the whereabouts of the child.

Authority: T.C.A. §§ 4-5-201 et seq., 49-1-302(I), 49-6-2101 through 2117, 55-9-602, 55-10-401. Administrative History: Original Rule filed September 26, 1990; effective December 29, 1990. Amendment filed April 30, 2002; effective July 14, 2002.

#### 0520-12-01-.14 Care Of Children with Special Needs.

In addition to the preceding rules, if children with special needs are cared for in the center, the following rules shall be met:

- (1) When children with special needs are enrolled, all reasonable and appropriate efforts shall be made to provide those children equal opportunity to participate in the same program activities as their peers.
- (2) Parents or other appropriate individual identified by the parent shall provide information and, as appropriate, training to care givers regarding special needs/techniques/emergency measures, as utilized in the child's home to ensure the child's well-being.
- (3) Adaptations to the environment shall be directed toward normalizing the lifestyle of the child with a disability by helping him/her become independent and develop self-help skills.
- (4) Behavior management techniques or program activities which would tend to demean or isolate the child are prohibited.
- (5) The program shall inform parents of any specialized services available from the program, and if the program is aware of any specialized services available through third parties, shall additionally inform the parent of such services.
- (6) Efforts to provide specialized service (e.g., speech/hearing therapy, physical therapy, psychological evaluation, or services for mentally retarded) either directly or by referral, shall be conducted only with written permission by the parent in accordance with the Individual Family Service Plan (IFSP) or Individual Education Plan (IEP) and documented in the child's record. Any information exchange regarding these services that is shared with or received from third parties shall also be documented.
- (7) Emergency Plans.
  - (a) The program shall have written individualized emergency plans for each child with a disability who requires more assistance in emergencies than other children of the same age or in the same group.

- (b) The program shall maintain documentation that the Emergency Plan is practiced monthly.
- (8) Each non-verbal child's daily activities, including, as applicable to the individual child, the time and amount of feeding, elimination, times of diaper changes, sleep patterns, and developmental progress, shall be recorded and shared with the parent(s) daily.
- (9) Diapering of School-age Children with special needs shall be completed as required by Rule 0520-12-1-.10(14).
- (10) Physical Restraint shall be in accordance with T.C.A. §§ 49-10-1301 through 1305 and rules promulgated by State Board of Education in accordance with T.C.A. § 49-10-1306.
  - (a) A student receiving special education services, as defined by T.C.A. § 49-10-102(4), may be or isolated, only if such restraint or isolation is provided for in the individual education program, except that such student may be restrained or isolated in emergency situations, if necessary to assure the physical safety of the student or others nearby.
  - (b) If school personnel impose restraints or isolation in an emergency situation, the school shall immediately contact the school principal or the principal's designee. The principal or principal's designee shall see and evaluate the student's condition within a reasonable time after the intervention and the student's parent or guardian shall be notified, orally or by written or printed communication, the same day the isolation or restraint was used.
  - (c) If the student's individualized education program does not provide for the use of isolation or restraint for the behavior precipitating such action or if school personnel are required to use isolation or restraint longer than five (5) minutes, then an individual education program meeting shall be convened within ten (10) days following the use of such isolation or restraint. If the behavior precipitating such action also warrants a change of placement, the child will have all rights provided under applicable state and federal law.
  - (d) School personnel who must isolate or restrain a student receiving special education services, as defined by T.C.A. § 49-10-102(4), whether or not such isolation or restraint was in an emergency situation or provided for in the student's individual education program, shall report the incident to the school principal or the principal's designee who shall record the use of such isolation or restraint and the facts surrounding such use. A copy of such record shall be made available at individual education program meetings and upon the request of the student's parent or legal guardian.
    - 1. If the school principal or principal's designee or any person having knowledge of the isolation or restraint have reason to believe that such isolation or restraint was unreasonable, unsafe, or unwarranted, and such isolation or restraint caused injury to the student, the incident shall be reported pursuant to T.C.A. § 37-1-403.
    - 2. School personnel shall remain in the physical presence of any restrained student and shall continuously observe a student who is in isolation or being restrained to monitor the health and well-being of such student.
  - (e) Administering a chemical restraint to a student receiving special education services, as defined by T.C.A. § 49-10-102(4), is prohibited, provided that nothing in this subsection shall prohibit the administration of a chemical restraint when administered for therapeutic purposes under the direction of a physician and with the child's parent or guardian's consent to administer such chemical restraint.
  - (f) Administering a noxious substance to a student receiving special education services, as defined by T.C.A. § 49-10-102(4), is prohibited.
  - (g) Use of any mechanical restraint on any student receiving special education services, as defined by T.C.A. § 49-10-102(4), is prohibited.

- (h) Any form of life threatening restraint, including restraint that restricts the flow of air into a person's lungs, whether by chest compression or any other means, to a student receiving special education services, as defined by § 49-10-102(4), is prohibited.
- (i) The use of isolation or physical holding restraint as a means of coercion, punishment, convenience or retaliation on any student receiving special education services, as defined by T.C.A. § 49-10-102(4), is prohibited.
- (j) The use of physical holding restraint in the following circumstances is not prohibited:
  1. The brief holding by an adult in order to calm or comfort;
  2. The minimum contact necessary to physically escort a student from one area to another;
  3. Assisting a student in completing a task or response if the student does not resist, or resistance is minimal in intensity or duration; or
  4. Holding a student for a brief time in order to prevent any impulsive behavior that threatens the student's immediate safety.
  5. The program is not required to notify the student's parent or guardian pursuant to Section 10(b) above in any of the circumstances listed in this subdivision (j).
- (k) The use of a locked door, or use of any physical structure that substantially accomplishes the intent of locking a student in a room or structure, to isolate or seclude a student, is prohibited.
- (l) Local education agencies shall develop policies and procedures, in accordance with 0520-01-09-.23, governing:
  1. Personnel authorized to use isolation and restraint;
  2. Training requirements; and
  3. Incident reporting procedures.
- (m) Notwithstanding any provision of this section, actions undertaken by school personnel to break up a fight or to take a weapon from a student are not prohibited; however, these acts shall be reported.

Authority: T.C.A. §§ 4-5-201 et seq., 37-1-403, 49-1-302(l), 49-1-1101 through 49-1-1109, 49-10-102, 49-10-1301 through 1306. Administrative History: Original rule filed April 30, 2002; effective July 14, 2002.

0520-12-01-.15 After School Programs serving Adolescents (youth who are in the period of physical and psychological development from the onset of puberty to maturity)

- (1) Organization and Administration.
  - (a) Program shall have an adequate budget.
  - (b) Records shall be kept on all adolescents enrolled in the program.
  - (c) Staff records shall be maintained for each employee: educational background, reference checks, TBI check, in-service training, physical exams and reviews.
  - (d) Program volunteers shall complete criminal history background checks and appropriate in-service training.

- (e) The program shall post their Certificate of Approval and provide parents with a copy of the policies and procedures.
  - (f) Parents shall have access to all areas of the program when their adolescent is present.
  - (g) If the program provides transportation, the transportation shall be in accordance with 0520-12-01-.13.
- (2) Staff Qualifications.
- (a) The director is responsible for the day to day operations, including staff and program.
  - (b) A person shall be designated to serve as acting director when the director is absent.
  - (c) Staff shall be in compliance with 0520-12-01-.07 (9)-(12) Criminal Background and Vulnerable Persons Registry Review Requirements.
  - (d) Staff shall have knowledge of adolescent behavior and development.
  - (e) Staff shall be physically, mentally and emotionally stable.
  - (f) All new employees shall have orientation and child abuse prevention training before working with the adolescents.
  - (g) The director shall have at least a high school diploma and four (4) years experience working with adolescents.
  - (h) All caregivers shall be a minimum of eighteen (18) years of age and one caregiver in each group shall have a high school diploma.
  - (i) Directors shall have eighteen (18) hours in-service training each year and caregivers twelve (12) hours.
- (3) Supervision and Grouping of Children:
- (a) Each group shall have adult supervision.
  - (b) Minimum staffing requirements per group of adolescents (adult:adolescent ratio) is 1:30.
  - (c) Swimming and field trips require ratios be doubled.
- (4) Equipment.
- (a) All equipment shall be in good condition and kept clean.
- (5) Program, Schedule and Routines:
- (a) Snacks and meals (if full day program) shall be scheduled regularly.
  - (b) Adolescents shall have time for self-directed activities, as well as, adult-directed activities.
  - (c) Adolescents shall have choices regarding activities and an opportunity to help plan activities.
  - (d) Parents shall be informed of any TV or movies or computer games to be shown.
  - (e) Staff shall monitor computer use.
  - (f) Sports and physical activity shall be offered, weather permitting.

- (6) Behavior Management and Guidance:
  - (a) Caregivers shall be knowledgeable of developmentally appropriate adolescent behavior.
  - (b) Discipline shall be in accordance with rules and policy adopted by the program to define program objectives, student expectations, behavioral code, and discipline procedures. The rules and policy shall be made available to all participants in an accessible document such as a student handbook.
  - (c) No corporal punishment is allowed.
  - (d) Good behavior shall be praised and encouraged.
- (7) Educational Activities:
  - (a) Adolescents shall have opportunities for learning, self expression, and enrichment activities each day.
  - (b) Adolescents shall receive child abuse awareness and personal safety information, such as "Safe at Last" curriculum if not made available through their school curriculum.
- (8) Health and Safety, Adolescent Health.
  - (a) Adolescents shall have immunizations in accordance with Chapter 0520-01-03-.08. and current Tennessee law.
  - (b) Instructions for any adolescent's special health needs shall be documented.
  - (c) Parents shall be notified if their adolescent is hurt or becomes ill.
  - (d) All parents shall be notified of any communicable diseases.
  - (e) Use of medications shall be in accordance with school system's policy for the administration of medications and health care procedures as defined by T.C.A. § 49-5-415 and State Board of Education guidelines.
  - (f) There is to be no smoking.
- (9) Staff Health.
  - (a) Staff shall have documentation they are physically and mentally able to work with children.
- (10) Safety.
  - (a) There shall be a staff member present at all times who has current certification in CPR and first aid training.
  - (b) A first aid kit must be on the premises as well as a first aid chart.
  - (c) There shall be no firearms on the premises.
  - (d) There shall be an Emergency Management Plan, a written plan to protect students in event of disaster, such as fire, tornado, earthquake, chemical spills, floods, etc.
- (11) Food, Nutritional Needs.
  - (a) Adolescents will receive meals and snacks based on the amount of time spent in the program.

- (b) Menus shall be posted.
  - (c) Special diets and instructions shall be provided in writing.
- (12) Physical Facilities.
- (a) Programs shall be in buildings that are not hazardous or dangerous to children.
  - (b) All facilities shall have annual fire and health inspections.
  - (c) All programs shall have a working telephone.
  - (d) Programs shall have thirty (30) square feet of usable space per adolescent.
  - (e) Outdoor recreation/sports area shall have fifty (50) square feet per student.
- (13) Care of Adolescents with Special Needs.
- (a) Programs serving adolescents with special needs shall follow the rules defined in 0520-12-01-.14.
  - (b) Adaptations shall be directed towards helping the adolescent become independent and developing self-help skills.
  - (c) Specialized services provided shall be documented and information shared with appropriate parties.

Authority: T.C.A. §§ 49-1-302(l), 49-1-1101 through -49-1-1109, 49-6-707.

0520-12-01-.16 Civil Penalties.

- (1) Pursuant to T.C.A. § 49-1-1107(c)(2) the following are the minimum and maximum civil penalties that may be assessed against a child care program authorized pursuant to T.C.A. § 49-1-1101, et seq.
- (2) The department shall assess the civil penalty in an order which states the reasons for the assessment of the civil penalty, the factors used to determine its assessment and the amount of the penalty. The order may not be imposed solely upon the recommendation of an agent of the department. All orders shall be reviewed by the department's legal staff before being imposed.
- (3) Prior to the department's assessment of a civil penalty, a program determined by an agent of the department to be in violation of these rules may be prescribed a plan of corrective action. Failure to follow a plan of corrective action as prescribed by the department may result in the assessment of a civil penalty.
- (4) Definitions.
  - (a) "Negligence" is the failure of a child care program, owner, staff, auxiliary staff, director or other employees to comply with the duties or standards imposed by these rules, federal, state and local laws, or the standards of care generally required of school-administered child care programs.
  - (b) "Intentional disregard" is the knowing forbearance of a child care program, owner, staff, auxiliary staff, director or other employees to comply with the duties or standards imposed by these rules, federal, state and local laws, or the standards of care generally required of school-administered child care programs.
  - (c) "Plan of corrective action" is a plan which provides a schedule for the completion of work to bring a program into compliance with these rules, federal, state and local laws, or the

standards of care required of school-administered child care programs. The plan must include specific strategies to be implemented in program design during the completion of the work. The plan must ensure that children will not be placed in danger due to the program area which is not in compliance and it must ensure that children will not be placed in danger by the work being done to bring the area into compliance.

(5) Civil Penalties Schedule.

(a) Major Violations.

1. For any violation of a law or regulation that, due to negligence or intentional disregard of a law or regulation, results in serious injury to, or death of, a child, the Department may assess a civil penalty in a range from seven hundred fifty dollars (\$750.00) up to one thousand dollars (\$1,000.00). The Department shall determine the amount of the penalty based upon the extent of the injury to the child and whether the injury or death of the child was the result of negligence or intentional disregard of the law or regulation. Consideration of the program's history of prior violations shall also be a factor in the determination of the amount of the civil penalty.
2. For any violation of a law or regulation that, due to negligence or intentional disregard of a law or regulation, results in an injury to a child, the Department may assess a civil penalty in a range from three hundred dollars (\$300.00) up to five hundred dollars (\$500.00). The Department shall determine the amount of the penalty based upon the extent of the injury and whether the injury to the child was the result of negligence or intentional disregard of the regulation. Consideration of the program's history of prior violations shall also be a factor in the determination of the amount of the civil penalty.
3. For violations of the following categories of regulations the Department may impose a civil penalty of two hundred dollars (\$200.00) for the first violation, three hundred dollars (\$300.00) for the second violation, and four hundred dollars (\$400.00) for the third and any subsequent such violation:
  - (i) Failure to follow any regulation related to organization, ownership and administration of a program pursuant to Section 0520-12-01-.06 of these rules;
  - (ii) Failure to follow any regulation related to health and safety pursuant to Section 0520-12-01-.10 of these rules;
  - (iii) Failure to follow any regulation related to food, nutritional needs and meal service pursuant to Section 0520-12-01-.11 of these rules;
  - (iv) Failure to follow any regulation related to maintenance of equipment pursuant to Section 0520-12-01-.08 of these rules;
  - (v) Failure to follow any regulation related to maintenance of physical facilities pursuant to Section 0520-12-01-.12 of these rules;
  - (vi) Failure to follow any regulation related to adult: child ratios pursuant to Section 0520-12-01-.06 of these rules;
  - (vii) Failure to follow any regulation related to supervision of children pursuant to Section 0520-12-01-.06 of these rules;
  - (viii) Failure to follow any regulation related to dispensing or storing medications pursuant to Section 0520-12-01-.10 of these rules;

- (ix) Failure to follow any regulation related to care of children with special needs pursuant to Section 0520-12-01-.14 of these rules;
- (x) Failure to follow any regulation related to program staff pursuant to Section 0520-12-01-.07 of these rules;
- (xi) Failure to properly store hazardous items such as, but not limited to, cleaning products, pesticides, hazardous chemicals, or other poisonous items pursuant to Section 0520-12-01-.10 of these rules;
- (xii) Failure to properly remove or secure firearms within the physical facility and under the ownership or control of the program, or its staff or other persons permitted access to the children, or failure to prevent exposure of children in the program's care to firearms which are under the control of the program, or its staff, or other persons who have been permitted by the program to have access to the children pursuant to Section 0520-12-01-.10 of these rules; or
- (xiii) Failure to follow or failure to complete a plan of corrective action.

(b) Minor Violations.

1. A minor violation shall be any violation of a law or regulation not described as a major violation in part 1.
2. Each minor violation may subject the program to the proscription of a corrective action plan by the Department or to a civil penalty of fifty dollars (\$50.00).
3. The existence of six (6) or more minor violations of any type in any period of twelve (12) months shall constitute a major violation and may be subject to a civil penalty imposed by the Department of two hundred dollars (\$200.00) in addition to the penalty for each minor violation. Three (3) or more minor violations of the same regulation in any period of twelve (12) months shall constitute a major violation and may be subject to a civil penalty imposed by the Department of two hundred dollars (\$200.00) in addition to the penalty for each minor violation.

- (6) Upon timely notice of a request for an appeal pursuant to T.C.A. § 49-1-1107(c)(5), the Department shall appoint a hearing officer to conduct the appeal proceedings before the council. The hearing officer shall have the authority of an Administrative Law Judge of the Department of State and shall conduct the appeal process pursuant to the rules of procedure for hearing contested cases as provided in Chapter 1360-4-1 of the Rules and Regulations of the Tennessee Department of State.

Authority: T.C.A. § 49-1-302 and 49-1-1107(c)(2).

\* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Jim Ayers				X	
Flavius Barker				X	
Vernita Justice	X				
Carolyn Pearre	X				
Richard Ray	X				
Jean Anne Rogers	X				
Fielding Rolston	X				
Theresa Sloyan	X				
Melvin Wright	X				
Katie McMillan				X	

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the State Board of Education on 11/06/2009, and is in compliance with the provisions of TCA 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State.

Date: 1-4-2010

Signature: Gary L. Nixon

Name of Officer: Gary L. Nixon

Title of Officer: Executive Director



Subscribed and sworn to before me on: 1/5/10

Notary Public Signature: Phyllis E. Childress

My commission expires on: \_\_\_\_\_

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Robert E. Cooper, Jr.  
 Attorney General and Reporter

2-26-10  
 Date

RECEIVED  
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Department of State Use Only

Filed with the Department of State on: 3/15/10

Effective on: 8/29/10

Tre Hargett by Mark Hart, POA

Tre Hargett  
 Secretary of State

**Regulatory Flexibility Addendum**

Pursuant to § T.C.A. 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

(If applicable, insert Regulatory Flexibility Addendum here)



**Additional Information Required by Joint Government Operations Committee**

All agencies, upon filing a rule, must also submit the following pursuant to TCA 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

T.C.A. § 49-1-302(l)(2) charges the State board with promulgating standards for infant/toddler, preschool and school-age extended care programs overseen by the Department of Education. These rules must "provide equivalent protection for the health, safety and welfare of children and shall use the same criteria for development of such protection as are used by the department of human services. . . . [T]he standards and regulations shall parallel, in a substantial manner, the child care standards and regulations promulgated by the department of human services [DHS] for child care agencies which that department licenses."

Because DHS revised its rules in October, 2008, the State Board rules must be revised to comply with state law.

The Child Care Advisory Council, as defined in T.C.A. § 49-1-302(l)(4)(A), was convened to review and revise the rules for presentation to the State Board of Education. The Council reviewed Chapter 1240-4-3 and education laws, specifically addressing programs administered by public and/or private schools and/or administered by the Department of Education.

Chapter 0520-12-01 was revised to parallel Chapter 1240-4-3 except for sections of the rules specifically addressed in Title 49 of state law: school bus transportation, criminal history background reports/ fingerprinting process, and restraint of children with special needs. Chapter 0520-12-01 was revised in accordance with T.C.A. §§ 49-6-2101-2107, (Transportation), T.C.A. § 49-5-413 (Criminal History Background Reports), and T.C.A. §§ 49-10-1301-1305 (Restraint of Children). A new section was added to adequately address the adolescents participating in the Lottery Afterschool Education Programs (LEAPS), T.C.A. § 49-6-707.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

T.C.A. §§ 49-1-302(l)(2); 49-5-413; 49-6-707; 49-6-2101-2107; 49-10-1301-1305; DHS Rules 1240-04-03.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

State Department of Education, operators of infant/toddler, preschool and school-age extended care programs overseen by the Department of Education.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

None.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

Minimal.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Rich Haglund  
State Board of Education  
9<sup>th</sup> Floor, 710 James Robertson Pkwy  
Nashville TN 37243

(615) 741-2966

Jan Bushing  
State Department of Education  
9<sup>th</sup> Floor, 710 James Robertson Pkwy  
Nashville TN 37243  
(615) 741-0345

- (G)** Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Jan Bushing  
State Department of Education

- (H)** Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Jan Bushing  
State Department of Education  
9<sup>th</sup> Floor, 710 James Robertson Pkwy  
Nashville TN 37243  
(615) 741-0345  
jan.bushing@tn.gov

- (I)** Any additional information relevant to the rule proposed for continuation that the committee requests.

REDLINE  
2/8/10

RULES  
OF  
THE STATE BOARD OF EDUCATION  
OFFICE OF THE COMMISSIONER

CHAPTER 0520-12-1  
STANDARDS FOR CHILD CARE CENTERS AND SCHOOL-AGE CHILD CARE PROGRAMS

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**0520-12-1-.01 INTRODUCTION.**

- (1) Scope of Rules. These rules are applicable to: public, school-administered infant/toddler, pre-kindergarten, and/or school-age care programs, programs administered by approved Montessori schools and private church-related schools, as defined in T.C.A. § 49-50-801, programs operated by private schools as defined by T.C.A. § 49-6-3001(c)(3)(A)(iii), Lottery Education Afterschool Programs as mandated by the T.C.A. § 49-6-707, programs providing early intervention services through Tennessee Early Intervention Services ~~Title I preschools, school-age care,~~ school-administered head start, and even start, monitored by the Department of Education pursuant to T.C.A. § 49-1-302(l), providing child care services to children ages six (6) weeks through minority.
- (2) Purpose of Child Care Certification of Approval. The primary purpose of school-administered child care certification of approval is the protection of children. These minimum requirements seek to maintain adequate health, safety, and supervision of children while in a group setting. The secondary purpose of certification is to promote developmentally appropriate care. ~~child care. Developmental child care provides educational experiences and guidance, health services, and social services to children and their families.~~
- (3) ~~Child Care Services may be offered by family child care homes, group child care homes, child care or child development centers, nursery schools, day nurseries, kindergartens, public schools, and recreational organizations (e.g., YMCA or Boys Club), among others.~~
- (4) ~~Legal Basis For Inspection and Certification of Approval Process. T.C.A. § 49-1-302(l) and T.C.A. §§ 49-1-1101 through 49-1-1109 provide for the defining, inspection, certifying, and regulation of school administered care programs. The Tennessee Department of Education regulates child care provided by schools pursuant to T.C.A. § 49-2-203 (b)(11)(A) and by church-related schools as defined in T.C.A. § 49-50-801.~~

**Authority:** T.C.A. §§ 4-5-201 et seq., 49-1-201(c)(24), 49-1-302(l), 49-1-1101 through 49-1-1109, 49-2-203(b)(11), 49-5-413, and 49-6-707. **Administrative History:** Original rule filed September 26, 1990; effective December 29, 1990. Amendment filed April 30, 2002; effective July 14, 2002.

**0520-12-1-.02 DEFINITIONS.**

For purposes of this chapter, the following definitions are applicable:

- (1) Administrative Hearing. A hearing that is held under the Administrative Procedures Act rather than a court of law. The purpose of the hearing is to allow an agency the opportunity to challenge enforcement actions taken by the Department.
- (2) Adolescence. The period of physical and psychological development from the onset of puberty to maturity.
- (3) Approval. A preschool, school-age care or child care program is in accordance with the provisions of the law and the requirements (rules) of the State Board of Education. Approval is not transferable from one location to another or from one agency to another. The approval may be revoked at any time upon ninety (90) days notice to the agency; or if the health, safety, or welfare of the children in care imperatively requires it, may be suspended immediately.
- (4) Approved capacity. The designated maximum number of children permitted in a facility as determined by the department based upon available space, age of children, adult:child ratios, and group size. Capacity shall be designated on the certificate.
- (5) Auxiliary staff. Full and part-time employees of the center who provide non-caregiving services.
- ~~(4) B.S.N. Bachelor of Science in Nursing.~~
- (6) Caregiver or Care Provider. The person, persons, entity or entities directly responsible for providing for the supervision protection and basic needs of the child.~~The entity or person(s) responsible for meeting the supervision, protection, and basic needs of the child, including the primary caregiver.~~
- ~~(6) Central Operator. The individual(s), or the corporation, partnership, cooperative, or other private or public entity of any kind, who or which, through their authorized representative(s), in addition to other activities, if any, owns, administers, or operates a child care system. The central operator shall have ultimate responsibility for the administration/operation of any or all child care homes and child care centers in the system and shall sign the application for a certificate of approval for each center.~~
- (7) Certificate of Approval. A written form of approval issued by the Department of Education to agencies providing care to children. Issuance of a Certificate of Approval is not an endorsement of child care methods or of the agency's operational philosophy. A Certificate of Approval is not transferable from one location to another or from one school and /or system to another.
- (8) Certified Childcare Professional (C.C.P.). An early childhood educational credential granted by the National Child Care Association
- (9) Chemical restraint. A medication that is prescribed to restrict a student's freedom of movement for the control of extreme violent physical behavior . Chemical restraints are medications used in addition to, or in replacement of, a student's regular drug regimen to control extreme violent physical behavior.
- (10) Child. A person or persons under eighteen (18) years of age.
- (11) Child's Age. The age of child on September 30 of any given year except for infants/toddlers, whose age is based on calendar year.

- (12) Child Development Associate (C.D.A.). An early childhood education credential granted by the National Council for Professional Recognition
- ~~(8) Child or Children. A person or persons under eighteen (18) years of age.~~
- (13) Child Care. ~~As defined by T.C.A. § 71-3-501(a)(3),~~ The provision of supervision, protection, and ~~meeting,~~ at a minimum, the basic needs of a child or children for more than three (3) hours a day, but less than twenty-four (24) hours a day.
- (14) Child Care Advisory Council. A director of a local school system, a representative of private, church-related school organization as defined by T.C.A. § 49-50-801, a representative from an institution of higher education, a parent of a child in a child care program, a coordinator of child care programs, a representative of the Department of Education, a representative of the Child Care Services of Department of Human Services and four other members appointed by the State Board of Education to advise in the establishment of child care standards and regulations and to act as a hearing tribunal for appeals from actions of the State Department of Education regarding the certificate of approval issued to child care programs.
- (15) Child Care Center. Any place or facility operated by any entity or person who provides child care for thirteen (13) or more children.
- (16) Child care program. Any place or facility operated by any public or private school which provides care for children in a before or after school-based program operated by a local board of education pursuant to T.C.A. § 49-2-203(b)(11), a public school administered early childhood education program, a church affiliated program operated pursuant to T.C.A. § 49-50-801, or federally funded early childhood education program such as a Title I program, a school-administered head start, or an even start program, state-approved Montessori school programs, programs operated by a private school as defined by T.C.A. § 49-6-3001, a LEAPS (Lottery Education Afterschool Program) as mandated by T.C.A. § 49-6-707 or an early intervention services program funded through the Tennessee Early Intervention Services.
- (17) Child Care System. The existence of two (2) or more facilities used for child care purposes which facilities are under the ownership, administration, or control of any individual(s), corporation, partnership, cooperative, or other public or private entity of any kind.
- ~~(13) C.N.A. Certified Nursing Assistant.~~
- ~~(14) Child Welfare Agency. Includes "child abuse agency," "child caring institution," "child placing agency," "child care center," "family boarding home or foster home," "family child care home," "group care home," "group child care home," "maternity home," "prescribed child care center," and "temporary holding resources" as defined in T.C.A. § 71-3-501(b).~~
- (18) Commissioner. The executive head of the Department of Education, appointed by the Governor.
- (19) Conventional Care. Child care services provided between the hours of 6:00 a.m. and 6:00 p.m., Monday through Friday.
- (20) Day Care. Synonymous with definition of child care, above.
- (21) Department (SDE). The Tennessee Department of Education and its representatives.
- (22) Developmentally Appropriate. Practices which use the knowledge of child development to identify the range of appropriate behaviors, activities, and materials for specific age groups. This knowledge is used in conjunction with an understanding about children's growth patterns,

strengths, interests, and experiences to design the most appropriate learning environment. A developmentally appropriate curriculum provides for all areas of a child's development, physical, emotional, social, and cognitive, through an integrated approach. For children birth to five years of age the Tennessee Early Learning Development Standards is adopted by the State Board of Education for guidance in appropriate learning expectations. ~~As defined by the National Association for the Education of Young Children, developmentally appropriate practice is the use of child development knowledge to identify the range of appropriate behaviors, activities, and materials for a specific age group. This knowledge is used in conjunction with understanding about individual children's growth patterns, strengths, interests, and experiences to design the most appropriate learning environment.~~

- (23) Director. The person with overall responsibility for the child care program.
- (24) Emergency situation. A child's behavior places the child or others at risk of violence or injury if no intervention occurs.
- (25) Extended isolation. Isolation which lasts longer than one (1) minute per year of the child's age.
- (26) Extended restraint. Physical holding restraint lasting longer than five (5) minutes
- (27) Field Trip. A trip that is not part of the regular curriculum which is off the general premises and beyond reasonable walking distance.
  - (a) In order to meet the requirement that the trip not be part of the regular curriculum, the trip must be an occasional activity that does not represent a regular, ongoing service or program of the agency.
  - (b) Regularly-scheduled trips (for example, weekly trips) do not meet the definition of a field trip, regardless of whether the regularly-scheduled trips are to different locations.
- (28) Group. A specific number of children comprising an age range, assigned to specific staff in an assigned space, which is divided from the space of other groups by a recognizable barrier. ~~define limits and to reduce distraction.~~
- (29) Group Child Care. Any place or facility operated by any person or entity that provides child care for three (3) or more hours per day for at least eight (8) children who are not related to the primary caregiver; provided, however, that the maximum number of children present in a group child care, including those related to the primary caregiver, shall not exceed twelve (12) children, with the exception that, if the group child care is operated in the occupied residence of the primary caregiver, children related to the primary caregiver nine(9) years of age or older will not be counted in determining the maximum number of children permitted to be present in a group child care, if those children are provided a separate space from that occupied by the group child care; and provided, further, that up to three (3) additional school-age children, related or unrelated to the primary caregiver, may be received for child care before and after school, on school holidays, on school snow days and during summer vacation. The Department may permit children in the separate space to interact with the children in the group child care in such manner as it may determine appropriate
- (30) Home School. The provision of full-time educational services, as recognized by the Department of Education, to a child by the child's parent in the child's primary residence

~~School Diploma. As used in the context of caregivers' qualifications, refers to a document recognizing graduation from a legally approved institution, public or private, based on the issuing state's required number of academic credits, including passing a GED test. As used in~~

~~this Chapter, a certificate or statement of attendance or similar document, or correspondence or video courses, do not qualify as or for a high school diploma.~~

- (31) Infant. A child who is six (6) weeks through ~~twelve (12)~~ fifteen (15) months of age.
- (32) Isolation room. A space designed to isolate a child that is unlocked, cannot be locked from the inside, without structural barriers to exit, free of any condition that could be a danger to the child, well ventilated, sufficiently lighted, and where school personnel are in direct visual contact with the child at all times. Such spaces must comply with all applicable state and local fire codes.
- (33) Kindergarten. For approval purposes, the definition of a child care center excludes kindergarten programs for five-year-old children operated on essentially the same time schedule as public school kindergartens. A kindergarten may be part of a public or private school system or may be operated independently. If the agency serves children under five years of age or exceeds the time schedule normally observed by public kindergartens, it shall be subject to the approval process for compliance with child care rules.
- (34) Law. Statutory or regulatory provisions affecting the operation of a child welfare agency including, but not limited to, the law as contained in T.C.A. § 49-1-302(l) and T.C.A. §§ 49-1-1101 through 49-1-1109, Chapter 0520-12-1, and these rules.
- (35) Meal. Meat or meat substitute, vegetable and/or fruit, bread or bread product, and fluid milk
- (36) Mechanical restraint. The application of a mechanical device, material, or equipment attached or adjacent to the student's body, including ambulatory restraints, which the student cannot easily remove and that restrict freedom of movement or normal access to the student's body. Mechanical restraint does not include the use of restraints for medical immobilization, adaptive support, or medical protection.
- (37) Noxious substance. A substance released in proximity to the child's face or sensitive area of the body for the purpose of limiting a child's freedom of movement or action, including but not limited to Mace and other defense sprays.
- (38) Off-site Activity. Any activity which occurs away from the general premises of the child care program's facility and beyond reasonable walking distance.
- (39) Owner. The individual(s), corporation, partnership, cooperative, or other private or public entity of any kind, or any combination thereof, who or which, through their authorized representative(s), assumes or is legally required to assume, ultimate responsibility for the control of a child care ~~agency~~ program.
- (40) Parent. A biological, legal, or adoptive parent, guardian, or legal or physical custodian who has primary responsibility for a child.
- (41) Physical holding restraint. The use of body contact by school personnel with a student to restrict freedom of movement or normal access to the student's body.
  - (a) The term "safe-hold" includes any technique through which an adult attempts to immobilize a violent child by wrapping their limbs around the child. The term does not include holds administered for the sole purpose of providing comfort or security to a distressed child.

- (b) The term "serious self-inflicted injury" includes, but is not limited to, violent outbursts in which a child throws himself/herself against a wall, is hitting or cutting himself/herself, etc.
- (42) Pre-kindergarten. A developmental learning program that addresses the cognitive, physical, emotional, social and communication areas of child development for children, three (3) and/or four (4) years of age taught by a licensed teacher certified in early childhood education.
- (43) Preschool Child. A child who is six (6) weeks through five (5) years of age and not in kindergarten, including children who are more specifically defined under this subchapter as an "infant" or a "toddler".
- (44) Program. A public or private school-administered infant/toddler, pre-kindergarten/preschool and/or school-age care program; infant/toddler, pre-kindergarten/preschool and/or school-age care program administered by private, church-related schools as defined in T.C.A. § 49-50-801, a federally funded early childhood program such as Title I, a school-administered head start or even start program, state-approved Montessori school program, a LEAPS grant funded program as defined in T.C.A. § 49-6-707, or an early intervention services program funded through the Tennessee Early Intervention Services.
- (45) Related. Any children of the following relationships by marriage, blood, or adoption: children, step-children, grandchildren, siblings, step-siblings, nieces, and nephews of the primary caregiver. The term related includes any "grand" or "great" relationship (e.g. great niece, great grandchild, etc.) within the relationships indicated.
- ~~(29) R.N. Registered Nurse~~
- (46) School-age Child. A child who is five (5) years of age and enrolled in kindergarten ~~or older (generally through grade six)~~ through seventeen (17) years of age. A five (5) year-old may be classified as a school-age child in the summer immediately preceding the child's fall entry into kindergarten.
- (47) Snack. A fluid drink and two (2) of the following components, provided, however, that a fluid drink shall not be required if a fluid drink is chosen as one of these components:
  - (a) Vegetables or fruits
  - (b) Bread or Bread Alternative
  - (c) Meat or meat alternates, or
  - (d) Fluid Milk
- (48) Staff. Full and part-time caregivers, ~~and other employees of the center~~, employees, or unpaid volunteers of the program.
- (49) Substitute. ~~Defined by Rule 0520-1-2-.04 (6)~~. Paid or unpaid persons who are replacements for regular staff.
- (50) Supervision. For the purposes of this Chapter, when children are not within the direct sight and sound of an adult, the term "supervision" means the following requirements:
  - (a) Children six (6) weeks of age through age two (2) years of age: the adult must be able to hear the child at all times, must be able to see the child with a quick glance, and must be able to physically respond immediately

- (b) Children three (3) years of age to five (5) years of age shall be safely protected by an adult in close proximity and not distracted by other tasks.
- (c) Children six (6) weeks of age to five (5) years of age during mealtime: An adult must be in the direct sight and sound of child/children while the child/children are eating.
- (d) Children who are in kindergarten five (5) years of age through nine (9) years of age: shall be protected by an adult who adjusts restrictions appropriately for different age groups and abilities.
- (e) Children ten (10) years of age through thirteen (13) years of age: The adult shall know the whereabouts and activities of the children at all times and must be able to physically respond immediately.
- (f) Children fourteen (14) years of age to eighteen (18) years of age: The adults shall know the whereabouts and activities of the children, provide age appropriate guidance and must be able to physically respond immediately.
- (g) Mixed Age Groups. When children ages ten (10) years or above are grouped with children under ten (10) years of age, the minimum supervision requirements must be in accordance with the supervision required for the age group of the youngest child in the group.
- (h) Helper devices such as mirrors, electronic sound monitors, etc. may be used as appropriate to meet these requirements.

~~Children six weeks of age through two (2) years of age shall be within sight and sound of an adult at all times. Children three (3) years through five (5) years of age shall be safely protected by an adult in close proximity and not distracted by other tasks. Children six (6) years through nine (9) years of age shall be protected by an adult who adjusts restrictions appropriately for different ages and abilities. Children ten (10) years of age and older shall have an adult who is responsible for knowing the whereabouts and activities of the children at all times.~~

- (51) ~~Temporary Approval. A permit issued by the Department to a new child welfare agency or to a new child care system central operator, permitting and authorizing begin child care operations to begin. It is valid, unless suspended, for one hundred and twenty (120) days or until the application for an annual certificate of approval is finally determined, and it is issued upon application by the operator only if the staff and facility do not present any apparent hazards to the children that may be in care and only if the facility has received fire safety and environmental sanitation approval. If, at the end of the one hundred and twenty (120) day period, evidence is provided by the applicant that such child welfare agency is suitable and properly managed and that the agency is in compliance with these rules, the Department will issue an annual certificate of approval to the child welfare agency.~~ care program allowing and authorizing the program to begin child care operations while the program attempts to attain full compliance with all applicable regulations. The temporary approval is valid, unless suspended, for one hundred twenty (120) days or until the Department grants or denies the application for annual certificate of approval.
- (52) Toddler. A child who is twelve (12) months through thirty (30) months of age.
- (53) Volunteer. A person who provides services for a child care center without payment and who is used to supplement the regular staff or substitutes. The volunteer shall not be used to meet classroom adult:child ratios. The names, addresses, telephone numbers and dates of

service for all volunteers shall be recorded in the staff personnel records of the center-  
program.

(54) Youth. A person who is ten (10) years of age through seventeen (17) years of age.

**Authority:** T.C.A. §§ 4-5-201 et seq., 49-1-201(c)(24), 49-2-203(b)(11)(B), 49-1-302(l), and 49-1-1102.  
49-6-101, 49-6-707

**Administrative History:** Original rule filed September 26, 1990; effective December 29, 1990.  
Amendment filed April 30, 2002; effective July 14, 2002. Rules expanded with original rule 0520-1-12-.14  
filed March 1, 2005; effective July 29, 2005

### 0520-12-1-.03 BASIS FOR CERTIFICATION OF APPROVAL.

- (1) Annual Certification of Approval: Tennessee law requires that all child care programs, as defined in T.C.A. §§ 49-1-302(l) and 49-6-707, shall be reviewed annually by the Department of Education.
- (2) The inspection/approval process is based on rules developed and published in accordance with T.C.A. § 49-1-302(l)(1)(B) and based upon the following criteria:
  - (a) The safety, welfare and best interests of the children in the care of the agency program;
  - (b) The capability, training and character of the persons providing or supervising the care to the children and the use of such judgment by a caregiver in the performance of any of the caregiver's duties as would be reasonably necessary to prevent injury, harm or the threat of harm to any child in care;
  - (c) The quality of the methods of care and instruction provided for the children;
  - (d) The suitability of the facilities provided for the care of the children; and
  - (e) The adequacy of the methods of administration and the management of the child care agency, the agency's program, the program's personnel policies, and the financing of the agency program.
- (3) The must be maintained in compliance with the certification criteria listed in paragraph (2) above and any other certification criteria throughout the year.
- (4) Falsification of Records/Information. Includes but is not limited to falsified or forged records documents, and/or concealment of services or children from monitoring by the Department. Falsification of any information required for Certification of Approval shall be grounds for suspension, denial, or revocation of the Certificate of Approval.
  - (a) ~~Falsification of any information, records or other documents required for approval shall be grounds for denial, suspension, or revocation of a certificate of approval.~~
- (3) Specifications of the Certificate of Approval
  - (a) All programs shall be operated within ~~licensed~~ approved capacity, the hours of operation, specific age ranges, services offered, and at the address designated on the certificate; and
  - (b) All programs shall operate within the restrictions stated on the certificate.

**Authority:** T.C.A. §§ 4-5-201 et seq., 49-1-201(c)(24), 49-1-302 et seq., 49-1-1101 through 49-1-1109, 49-2-203(b)(11), 49-6-707. **Administrative History:** Original rule filed September 26, 1990; effective December 29, 1990. Amendment filed April 30, 2002; effective July 14, 2002.

**0520-12-1-.04 LEGAL REFERENCES:**

- (1) Issuance of Certificate of Approval. The provisions of T.C.A. § 49-1-1101, are applicable.
- (2) Inspection of Agencies. The provisions of T.C.A. § 49-1-1106 are applicable.
- (3) Penalty for and Injunctions Against Unapproved Operation. The provisions of T.C.A. § 49-1-1104 are applicable.
- (4) Denial, Suspension and/or Revocation of Certificate of Approval. The provisions of T.C.A. § 49-1-1105 are applicable.
- (5) Violations of certificate regulations, probation, civil penalties, suspension, denial, and revocation, appeal procedures. The provisions of T.C.A. § 49-1-1107 and Chapter 0520-12-1-.14 are applicable.
- (6) Annual Reports. The provisions of T.C.A. § 49-1-1108 are applicable.
- (7) Collaboration with Department of Human Services. The provisions of T.C.A. § 49-1-1109 are applicable.
- (8) Investigation of Applicants for Pre-kindergarten in accordance with Chapter 0530-1-3-.05(5) and Child Care Positions. The provisions of T.C.A. § 49-5-413 are applicable.

**Authority:** T.C.A. §§ 4-5-201 et seq., 49-1-201(c)(24), 49-1-302(l), 49-1-1101 through 49-1-1109, 49-2-203(b)(11), and 49-5-413. **Administrative History:** Original rule filed September 26, 1990; effective December 29, 1990. Amendment filed April 30, 2002; effective July 14, 2002.

**0520-12-1-.04 PROCEDURES FOR OBTAINING A CERTIFICATE OF APPROVAL.**

- (1) The Department of Education offers consultation and instruction sessions to before and after school child care, as described in T.C.A. § 49-2-203(b)(11), school-administered early childhood education programs, pre-kindergarten programs, school-administered Head Start and Even Start programs, approved Montessori programs, infant/toddler, preschool or school age programs administered by private schools, private, church related schools, as defined in ~~T.C.A. § 49-1-302(1)(1)~~ and T.C.A. § 49-50-801, Lottery Education Afterschool Programs (LEAPS), and Tennessee Early Intervention System programs. A ~~consultant~~ child care program evaluator is available to serve schools in each major region of the state, east, middle and west.
- (2) The department will offer instruction in the certification process ~~application training~~ to schools announcing interest in developing infant/toddler, pre-kindergarten and/or school-age child care programs.
- (3) When a public or private school is planning to offer an infant/toddler, pre-kindergarten, and/or school-age care program, the Office of School-based Support Services of the Department of Education or a child care program evaluator assigned to the regional Department of Education Field Service Center must be contacted to start the certification process
- (4) Upon satisfaction of the following minimum requirements, a temporary approval may be issued if:
  - (a) Verification director's qualifications meet the requirements. See Rule 0520-12-1-.07(4)(a);
  - (b) Verification of three (3) satisfactory references for the director. ~~are verified;~~
  - (c) Verification that physical facilities have received fire safety and environmental approval;
  - (d) Verification that the on-site director/coordinator has successfully completed a criminal history background check and has a negative criminal history as required by T.C.A § 49-5-413;
  - (e) Verification the personnel who will care for the children are capable in all substantial respects to care for the children; and
  - (f) Verification by the Department, after appropriate on-site inspection, the site is suitable for child care activities and does not endanger the welfare or safety of children
  - ~~(d) Proof that the applicant and the personnel who will care for the children are capable in all substantial respects to care for the children and that the applicant has the ability and intent to comply with the licensing law and regulations, and the Department has determined after appropriate inspection that the site is suitable for child care activities and does not endanger the welfare or safety of children.~~
- (5) Denial or Restriction of Temporary Certificate of Approval.
  - (a) The temporary certificate of approval shall remain in effect, unless suspended, for a period of one hundred (120) days, or until such time as the Department grants or denies the annual certificate of approval, whichever is later.
  - (b) During the temporary certificate of approval period, the program must attain and maintain compliance with all applicable regulations. The failure to obtain and maintain compliance during this period may result in the denial of the certificate of approval.

- ~~(4) Receipt of an application begins the evaluation process, which is completed with the issuance or denial of an annual certificate of approval. This process includes:~~
- ~~(a) At least two visits to the child care center, one of which may be unannounced;~~
  - ~~(b) Observation of caregivers' interaction with children;~~
  - ~~(c) Review of agency records; and~~
  - ~~(d) Request for information related to certificate of approval requirements.~~
- (6) Evaluation Process for Annual Certificate of Approval
- (a) The temporary certificate of approval is issued to authorize the program to begin infant/toddler, pre-kindergarten or preschool and/or school-age care operations while the program attempts to attain full compliance with all other applicable regulations.
  - (b) The Department shall perform a minimum of two (2) visits to the program during the temporary certificate of approval period, at least one (1) of which shall be unannounced.
  - (c) The Department shall perform at least one (1) observation of the caregivers' interaction with children during the temporary certificate of approval period.
  - (d) During the temporary certificate of approval period, the program must provide verification, including any required supporting documentation as directed by the Department, of compliance with all applicable regulations and further, that the applicant otherwise meets, or has continued to meet, all the requirements set forth in paragraph (4) above.
  - (e) During the temporary certificate of approval period, the Department shall determine whether an annual or restricted certificate of approval shall be issued to the program.
  - (f) If the Department determines that any of the requirements set forth in this Chapter has not been, or cannot be, satisfactorily met then it may deny the issuance of a certificate of approval.
  - (g) If the Department determines that the conditions of the program's facility, the methods of care or other circumstances warrant, it may issue a restricted temporary license that permits operation of the program, but limits the program's authority in one (1) or more areas of operation.
  - (h) Issuance of a Certificate of Approval. The Department shall issue a Certificate of Approval if the Department determines that the program:
    - 1. Has fully complied with all laws and regulations governing the specific program;  
and
    - 2. Has demonstrated a reasonable probability that the program can maintain compliance with all regulations during the certification of approval period.
    - 3. Upon issuance of the annual Certificate of Approval, the program must maintain compliance with all applicable regulations and restrictions on the Certificate of Approval, if any, throughout the certification period.

~~(5) Upon issuance of a certificate of approval, the child care program is expected to maintain compliance with requirements throughout the year.~~

(7) Renewal And Re-Evaluation.

(a) ~~Application for renewal must be made annually prior to the expiration of the existing certificate of approval.~~ Programs currently certified as approved by the Department must submit an updated annual report prior to the expiration of the existing Certificate of Approval.

(b) Certified program must demonstrate compliance with requirements set forth in paragraphs (4) and (6).

(c) Upon demonstration of compliance with all laws and regulations governing the program and if the program has demonstrated a reasonable probability that the program can maintain compliance with all laws and regulations during the Certification period, the Department shall issue a new annual Certificate of Approval.

(d) If the Department determines that any of the requirements set forth in Chapter 0520-12-1 has not been, or cannot be, satisfactorily met, then it may deny the issuance of the new annual Certificate of Approval.

(e) If the Department determines that the conditions of the applicant's facility, its methods of care or other circumstances warrant, it may issue a restricted annual Certificate of Approval that permits operation of a program, but limits the program's authority in one (1) or more areas of operation.

~~(7) Certification Action and Appeal Rights.~~

~~(a) Procedures for applications, suspensions, denials, revocations of certificate of approval and appeal rights are governed by T.C.A. §§ 49-1-1103 and 49-1-1107.~~

(8) Throughout the temporary certification period and during the annual re-evaluation period, immediate access to all areas of the child care facility shall be granted to all Department representatives and other inspection authorities (i.e., fire safety, sanitation, health, Department of Children's Service, etc.) during operating hours.

(9) If the Department determines, as a result of its inspections or investigations or those of other local, state or federal agencies or officials, or through any other means, that a plan is necessary to insure the safety of the children in the care of the program the Department may require the program to implement such a safety plan.

**Authority:** T.C.A. §§ 4-5-201 et seq., 49-1-302(l), and 49-1-1101 et seq. **Administrative History:** Original rule filed September 26, 1990; effective December 29, 1990. Amendment filed April 30, 2002; effective July 14, 2002.

**0520-12-1-.05 OWNERSHIP, ORGANIZATION, AND ADMINISTRATION.**

(1) Statement of Purpose and Need.

- (a) An applicant for approval to operate ~~a child care agency~~ a school-administered infant/toddler, pre-kindergarten/preschool, school-age care, TEIS early intervention, or school-administered or community organization administered LEAPS program shall submit a written statement to the Department of Education governing the following areas:
  - 1. A description of the services to be offered to children and parents and reasons these services are needed at the proposed location;
  - 2. Ages of children to be served;
  - 3. Hours of operation;
  - 4. A Description of meal provision or preparation;
  - 5. Admission requirements and enrollment procedures; and
  - 6. Provision for emergency medical care.
- (b) If, after being approved, a child care provider wishes to change the scope or type of service offered to children and families, an amended statement shall be filed with the Department for approval prior to implementation.

(2) Organizational Structure.

- (a) The organization of every ~~child care center~~ program shall be such that legal and administrative responsibility is clearly defined in writing and must accompany the ~~application for a license~~ and available upon request.
- (b) Every ~~child care center~~ program shall have an on-site director. ~~See Rule 0520-12-1-.07 Staff.~~
- (c) Following the issuance of an initial approval, a ~~child care center~~ program may operate without an on-site director for a period of no more than sixty (60) days total within the annual approval year. A qualified person, as determined by the Department, shall be in charge in the interim.

(3) Finances.

- (a) In order to ensure the appropriate continuity of care for children the program management must provide a reasonable plan with a proposed budget for the financial support of the program. ~~An applicant must~~ The proposal must demonstrate a reasonable plan for the financial support of ~~a center~~ the program which would assure adequate staffing, equipment and safe operation. Adequate financing of the center's operation shall be maintained throughout the year.
- (b) Proposed budgets and other relevant financial records shall be available to the ~~appropriate~~ Department of Education personnel (~~child care consultant or auditor~~) upon request.

- (c) If any program is the subject of any bankruptcy or receivership petition or order, or any other action that may affect the financial status or operational status of the program, including but not limited to foreclosure notices, liens, etc. or if any program is the subject of any local, state or federal regulatory action, such as but not limited to, the fire safety, health, environmental zoning or local, state or federal grant compliance status or tax enforcement proceedings, the program's management shall immediately notify the Department and shall provide current documentation of the status of the program, including copies of necessary administrative and/or court legal documents applicable to that status.
- (4) Insurance.
- (a) General liability, automobile liability and medical payment insurance coverage shall be maintained on the operations of the program's facilities and on the vehicles owned, operated or leased by the program and as follows:
    - (b) ~~Liability and Medical Payment Insurance Coverage.~~
      - 1. ~~General liability, automobile liability and medical payment insurance coverage shall be maintained on the vehicles owned, operated or leased by the child care agency and on the operations of the child care agency's facilities.~~ Coverage on the operations of the program's facilities shall be maintained in a minimum amount of five hundred thousand dollars (\$500,000) per occurrence and five hundred thousand dollars (\$500,000) general aggregate coverage.
      - 2. Medical payment coverage shall be maintained in the minimum amount of five thousand dollars (\$5,000) for injuries to children resulting from the operation of the program.
      - 3. Automobile coverage for programs that transport children:
        - (i) Automobile liability coverage shall be maintained in a minimum amount of five hundred thousand dollars (\$500,000) combined single limit of liability. ~~The requirement of this part only applies to child care programs that transport children.~~
        - (ii) Medical payment coverage shall be maintained in the minimum amount of five thousand dollars (\$5,000) for injuries to children being transported in vehicles owned, operated or leased by the program
      - 3. ~~General liability coverage on the operations of the child care agency facilities shall be maintained in a minimum amount of Five Hundred Thousand Dollars (\$500,000) per occurrence and Five Hundred Thousand Dollars (\$500,000) general aggregate coverage.~~
      - 4. ~~Medical payment coverage as the primary coverage shall be maintained in the minimum amount of Five Thousand Dollars (\$5,000) for injuries to children being transported in vehicles owned, operated or leased by the child care agency under part 2 of Rule 0520-12-1-.06(3)(b) and in the minimum amount of Five Thousand Dollars (\$5,000) for injuries to children resulting from the operation of the child care agency under part 3 of Rule 0520-12-1-.06(3)(b).~~
    - (b) The requirements of this subparagraph shall not apply to ~~an agency~~ a program that is under the direct management of a self-insured administrative department of the state, a county or a municipality or any combination of those three (3) or that has, or whose

parent entity has, a self-insurance program that provides, as determined by the Department, the coverages and the liability limits required by these rules.

- (c) Documentation that the necessary insurance is in effect, or that the administrative department or other entity is self-insured, shall be maintained in the records of the ~~child care agency~~ program and shall be available for review by the Department's ~~child care consultants~~.

(5) Enrollment Restrictions.

- (a) Enrollment of children under six (6) weeks of age is prohibited.
- (b) Children shall not be in care for more than twelve (12) hours in a twenty-four (24) hour period except in special circumstances (e.g., acute illness of or injury to parents, severe weather conditions, natural disaster, and unusual work hours). In such cases every effort shall be made to minimize the amount of time spent in the program by exploring and documenting alternatives (i.e., part time care, care with a relative, etc.)
- (c) Individualized plans for the care of a child in excess of twelve (12) hours due to special circumstances shall be signed by the parent and the director/administrator and must be approved by the Department. Plans shall be updated annually.
- (d) The program shall not admit a child into care until the parent has supplied the program with a completed application, immunizations record (for children over two (2) months of age), and a health history.
- (e) All children physically present in the program's facility or the program's assigned area within the facility shall be counted in the adult:child ratio and group size, and shall have all required records on file before care is provided.
- (f) The program shall maintain documentation that the parent was offered an on-site visit of the program to review the facility and the parent had an opportunity to review the program's policies and procedures prior to the child being enrolled into the program.

~~(4) Records and Reports~~

(6) Requirements for Communication with Parents.

- (a) ~~Admission of Children and Communication with Parents.~~ A copy of the program's policies, procedures, and the Department's Summary of Certification requirements shall be supplied to the parent upon admission of the child. The program's policies shall include:
  - 1. ~~At the time of admission written policies and procedures of the child care center shall be provided to parents or other applicants. Policies shall also include~~ Criteria for the dis-enrollment of children.
  - 2. Specific criteria concerning the release of children to anyone whose behavior may place the children at immediate risk.
- (b) The program shall require the parent to sign for receipt of the policies and Summary of Certification Requirement, and the signed receipt shall be maintained by the program in the child's file.  
~~Parents/guardians shall receive a signed copy of policies and a signed receipt shall be kept in the child's file.~~

- ~~2. A pre-enrollment visit to the center by the parents, legal custodian or guardian is required and shall be documented.~~
- ~~3. Upon enrollment of a child, the parents shall receive the Department's summary of the Department's licensing requirements; receipt shall be documented by parent's/guardian's signature.~~
- (c) Parents shall be permitted to see the professional credential(s) of staff upon request.
- (d) Each center shall implement a plan for regular and ongoing communication with parents. This plan shall include but not be limited to communication concerning curriculum, changes in personnel, or planned changes affecting children's routine care. Documentation shall be maintained for the most recent quarter.
- (e) During operating hours, parents shall be permitted access to their children, and ready access to all areas of the child care facility shall be granted SDE representatives and inspection authorities (i.e., fire safety, sanitation, and health).
  1. The program shall grant access to noncustodial parents if the noncustodial parent provides the program with a valid court order granting the noncustodial parent access to the child during program operating hours; provided, however, that such access is not otherwise prohibited by an Order of Protection or other legal document.
  2. The custodial parent may not prohibit or restrict, or require the program to prohibit or restrict, the noncustodial parent's access to the child while in the care of the program if the noncustodial parent meets the provisions of part (e)1 above
  3. The program may place reasonable restrictions on access by any parent as needed to limit disruption of the children's routines, e.g., limiting the number of days each week the parent may visit, the duration of the visit, etc. Any such limitations or restrictions must be clearly stated in the program's policy provided to the parent upon enrollment of the child, or at any subsequent time if the program's policy is changed.
- (f) Parents shall give written permission in advance of the child's removal from the premises, including ~~each individual field trip~~ prior notification and consent for each off-site activity, except ~~Exceptions shall be~~ in cases of emergencies or investigative procedures conducted pursuant to the child abuse laws. ~~[See also: 0520-12-1-10(5)(d).]~~ protective services laws or other applicable laws.
- ~~8. Children shall not be in care for more than twelve (12) hours in a twenty-four (24) hour period except in special circumstances (e.g., acute illness of or injury to parents, natural disaster, unusual work hours). In such cases every effort shall be made to minimize the amount of time spent in the center. Individualized plans for extended care in special circumstances shall be signed by parent and director, and approved by the licensing counselor after alternatives have been explored and documented. (i.e., part time care or a break with a relative, etc.).~~
- (g) ~~Upon reaching the center all~~ Children shall be signed in and out of the program by the custodial parent or attendance recorded by the appropriate staff person. Program staff shall verify parental authorization and the identity of any person to whom a child is released.

- (h) An abuse prevention awareness program for parents shall be offered at least once a year. The program shall include a child abuse prevention component, approved by the Department of Education, with information on the detection, reporting, and prevention of child abuse in child care centers and in the home.
  - ~~11. Pre-school: A child shall be at least six weeks old before being accepted in a center.~~
  - ~~12. Prior to admission of the child, the parent shall supply the center with a completed application, immunizations' record, and health history. See Rule 0520-12-1-.06(b)(1) Children's Records and Rule 0520-12-1-.01(1) Children's Health Records.~~
  - ~~13. "Drop-in" children shall be counted in the ratio and group size and shall have required records on file before care is provided.~~
- (i) Notifying Parents of Violations
  - 1. Within the Certification year, after issuing two (2) formal notices of violations in compliance with rules, a notice of Probation, or after issuing any type of legal enforcement order, the Department may, in its discretion, require the program to notify parents and funding sources of the circumstances. Such notification shall be a letter prepared by the Department to be provided to each parent or posted in the program with parents' signatures indicating they have seen the letter.
  - ~~2. When a decision to revoke, or deny a license is heard by the Child Care Advisory Council to the State Board of Education, the agency shall immediately notify parents and funding sources of the decision of the Board.~~ The Department may, at its discretion, notify parents and funding sources of any decision affecting the program rendered by the State Board of Education Child Care Advisory Council serving in the role of Hearing Board for appeals or by any court.
- (7) General Record Requirements.
  - (a) All records required by this Chapter shall be maintained in an organized manner on-site at the program and shall be immediately available to the Department upon request.
  - (b) A child's records shall be kept for one (1) year following the child's leaving the agency; provided, however, that the health record shall be returned to the child's parent upon request when the child leaves the agency. Records of children enrolled in pre-kindergarten programs the child's records may be made part of the child cumulative file.
  - (c) Staff records shall be maintained for at least one (1) year following the separation of the staff from the program.
- (8) Children's Records.
  - ~~1. The following records shall be maintained in an organized manner at the center and made available to the Department upon request. The following information shall be maintained for each child:~~
  - (a) General Requirements for Children's Records shall include:
    - 1. A current information form, which shall be updated annually and as changes occur, and which shall includes:
      - (i) The child's name and date of birth;

- (ii) Name of parent(s);
  - (iii) Child's and parents' home addresses and phone numbers
  - (iv) Parents' business addresses, phone numbers, and work hours;
  - (v) Any special needs or relevant history of the child or the child's family, and
  - (vi) ~~social history, and~~ The name and address (home and business or school) of a responsible person to contact in an emergency if parent(s) cannot be located promptly. ~~This information shall be updated annually, or as changes occur.~~
2. Name, address, and telephone number of a physician to call in case of an emergency.
  3. Written consent of parent(s) regarding emergency medical care.
  4. A child ~~release~~ written plan stating to whom the child shall be released. ~~and a clear policy concerning the release of child(ren) to anyone whose behavior may place the child(ren) in immediate risk.~~
  5. Written transportation agreement between parent and ~~center~~ the program regarding daily transportation between home and ~~center~~ the program and ~~center~~ the program and school. If parents have a third party transportation arrangement, verification and details of the arrangement shall be maintained in the child's file.
  6. A copy of the child's health ~~record~~ history provided by the child's parent or other caretaker, which need not be signed or certified by a health care provider, shall be on file in the program and shall be available to appropriate staff ~~as directed under Section 0520-12-1-.10 Health and Safety.~~
  7. Daily attendance records for each child to include time in and time out.
  8. Prior written permission of parent for each ~~field trip away from the premises~~ off-site activity.
  9. Immunization Record.
    - (i) The program shall maintain a written record in the child's file, as set forth in subparagraphs (b) and (c), verifying that the child has been immunized according to current Department of Health guidelines
    - (ii) Exceptions to this immunization record requirement may be made only if:
      - (I) The child's physician or the health department provides a signed and dated statement, giving a medical reason why the child should not be given a specified immunization; or
      - (II) The child's parent provides a signed written statement that such immunizations conflict with his/her religious tenets and practices.

10. Reports of Incidents, Accidents, Injuries and Fatalities.

- (i) Incidents, accidents and injuries shall be reported to the parent as soon as possible, but no later than the child's release to the parent or authorized representative.
- (ii) Incidents, accidents and injuries to children shall be documented immediately as follows:
  - (I) Date and time of occurrence;
  - (II) Description of circumstances; and
  - (III) Action(s) taken by the agency.
- (iii) Documentation of incidents, accidents and injuries to children shall be filed in the child's record no later than one (1) business day immediately following the occurrence.
- (iv) The Department shall be notified of any child fatality at the program no later than one (1) calendar day immediately following the death.

(b) Preschool Children's Record Requirements.

- 1. Additional information for infants, toddlers and all non-verbal children shall be recorded and shared with parents daily as follows: the time and amount of feeding, any incidence of excessive spitting up, toileting and/or times of diaper changes, sleep patterns, and developmental progress.
- 2. Before a child under the age of thirty (30) months of age is accepted for care, the parent shall provide proof of a physical examination within three (3) months prior to admission, signed or stamped by a physician or health care provider. This record must be kept on file at the program.
- 3. The records of any child who is five (5) years old in an agency which lacks approved kindergarten status for purposes of T.C.A. § 49-6-201 shall include a signed acknowledgment by the child's parents that recognizes that the child's attendance does not satisfy the mandatory kindergarten prerequisite for the child's enrollment in first grade. The statement of acknowledgment shall be signed by the parent and maintained in the child's file.
  - ~~(x) Pre-school: The same records shall be kept on infants/toddlers as on other children in the center. Additional information shall be recorded and shared with parent(s) daily for infants, toddlers and all non-verbal children which includes: time and amount of feeding, excessive spitting up, toilet training, times of diaper changes, sleep patterns, and developmental progress.~~
  - ~~(xi) Daily record for non-verbal children as directed under Section 0520-12-1-13 Care of Children with Special Needs.~~

(c) School-age Children's Record Requirements.

- 1. The information form for school-age children shall list the name, address, and

phone number of the school the child attends.

2. ~~A child's records shall be kept for one year following the child's leaving the agency. (The health record shall be returned upon request when the child leaves the center.)~~ If the school-age program is not located within the school in which the child is enrolled, the program shall have on file a statement from the parent (or the school) that the child's immunizations are current and that his/her health record is on file at the specified school which the child attends.
  3. The records of any child who is five (5) years old in a center which lacks approved kindergarten status for purposes of T.C.A. § 49-6-201 shall include a signed acknowledgment of the child's parents that recognizes that the child's attendance does not satisfy the mandatory kindergarten prerequisite for the child's enrollment in first (1<sup>st</sup>) grade. The statement of acknowledgment shall be signed by the parent(s) and maintained in the child's file.
- (d) Immigrant children. Schools may request information but may not deny enrollment to undocumented immigrant children regardless of their immigrant status. Plyler v. Doe 457U.S.202 (1982).
- (9) Staff Record Requirements Shall Include:
1. ~~The following information shall be secured when employing staff, contained in each employee's record, kept current, and made available to the Department upon request. The individual employment record shall be maintained for at least one year following the separation of the employee from the agency.~~
    - (a) Name, birth date, social security number, used by the employer for Federal/State tax purposes, address, and telephone number of all staff members, including volunteers, and a contact for each staff member in an emergency.
    - (b) Educational background and educational experiences, including dates and places of diplomas received, and conferences, courses, and workshops attended in the preceding year.
    - (c) Documentation, signed by the examining licensed physician, licensed psychologist, licensed clinician, Nurse Practitioner or Physician's Assistant, verifying that the staff person is physically, mentally and emotionally capable of safely and appropriately providing care for children in a group setting. The documentation shall be on file within ten (10) calendar days of employment or starting to work:
      - (iii) ~~Health records as directed under Section 0520-12-1-10 Health and Safety.~~
    - (d) An updated statement of each staff member's physical health shall be obtained every third (3<sup>rd</sup>) year, or more often if deemed necessary by the Department,
      - (iv) ~~At least three written references, with documented interviews of each reference, on each new staff member.~~
    - (e) At least three (3) references from non-relatives, either written or with documented interviews of each reference on each staff member.
    - (f) Written, verified record of employment history; ~~which has been verified.~~
    - (g) Documentation of annual performance reviews;

- (h) Date of employment and date of separation from the ~~agency~~ program;
  - (i) Daily attendance (including time in/out) of staff;
  - (j) Signed and completed criminal history disclosure form;  
~~(ix) Results of requirements as contained in Rule 0520-12-1-.07 (1) (i) and (2) through (6) shall be maintained.~~
  - (k) Verification of criminal background check results;
  - (l) Verification of Vulnerable Persons Registry results;
  - (m) Driver records shall additionally contain:
    - 1. Copy of driver's license showing proper endorsement;
    - 2. Verification of a passed drug screen; and
    - 3. Verification of Cardiopulmonary Resuscitation (CPR) and First Aid certifications; and
  - (n) Volunteer Records. Records of volunteers shall be maintained on-site at the program and must include names, addresses, telephone numbers and dates of service of all volunteers.
    - ~~2. Professional credentials of staff shall be maintained.~~
    - ~~3. All information protected as confidential under T.C.A. § 4-4-125 and 10-7-504(f), or any other applicable statute or regulation, shall be maintained as confidential and shall not be disclosed except under the criteria set out by law. The protected information includes, but is not limited to, an individual's social security number.~~
- (10) Right to Privacy/Confidentiality.
- The ~~child care operator and agency~~ program staff shall not disclose or knowingly permit the use by other persons of any information concerning a child or family except as required by law, ~~or~~ regulation or court order, or as may be necessary to be disclosed to public authorities in the performance of their duties and which may be necessary for health, safety, or welfare of any child enrolled ~~at the center~~ in the program or ~~his or her family~~ of the child's family.
- (11) Posting of Certificate of Approval and Other Required Documentation.
- (a) During the hours of operation, the current Certificate of Approval to operate a ~~child care center~~ the program shall be posted near the main entrance in a conspicuous location.
  - (b) The Department of Human Services toll-free complaint number shall be posted in a conspicuous location.
  - (c) The Department of Children's Services' child abuse number shall be posted near the main entrance in a conspicuous location and at each telephone.
  - (d) A copy of all current applicable Department Certification rules shall be maintained in a central space and available to all staff and parents.

- (e) No smoking signs shall be posted in a conspicuous manner; provided, however, that such signs are not required in programs operated within private residences.
  - (c) The ~~agency~~ program shall post any other materials as directed by the Department.
- (12) Release of Children
- (a) Children shall only be released to a responsible designated person in accordance with the child release plan in ~~Rule 0520-12-1-.06 (4)(b)(1)(iv)~~, required by these rules. The program shall verify the identity of the authorized person by requiring presentation of a photo identification.
  - (b) The person to whom the child is released must sign the child out of the program.
  - (c) Children should not be released to anyone whose behavior, as deemed by a reasonable person, may place the child(ren) in imminent risk. Immediately call 911, the local law enforcement agency, ~~local judge, having juvenile jurisdiction, and/or Department of Children's Services immediately~~, or other emergency services number prior to the release of children to a parent. If the person, displaying risky behavior, is not the parent, the program shall not release the child and the parent shall be called immediately.

**Authority:** T.C.A. §§ 4-5-201 et seq., 49-1-302(l), 49-1-1109 through 49-1-1109, 49-6-2101, 49-6-2105, 49-6-2107, 49-6-2108, 49-2-2110, 49-6-2114, 49-6-2116, 55-9-602 et seq., 55-50-301 et seq., 37-1-403(a)(8), and 55-50-401 et seq. **Administrative History:** Original rule filed September 26, 1990; effective December 29, 1990. Amendment filed April 30, 2002; effective July 14, 2002.

### 0520-12-1-.06 SUPERVISION

- (1) Supervision Procedures.
- ~~(3) Supervision and Grouping of Children.~~
  - (a) Program Responsibility for the Children's Supervision.
  - ~~(a) The management of the center shall maintain a system that allows personnel to know the whereabouts of each child in their care. This system shall include a mandatory visual inspection of all areas of the building and grounds immediately prior to closing the center for the day in order to ensure that no children have been unintentionally left.~~
  - ~~(b) Children must have adult supervision at all times.~~
    - 1. The management of the program shall maintain a system that enables all children in the program's care to receive a level of supervision of their status and activities that is appropriate to their age and their development physical and mental status so as to ensure their health and safety and that allows program personnel to know the whereabouts of each child.
    - 2. This system shall include a mandatory visual inspection of all areas of the building and grounds immediately prior to closing the program for the day in order to ensure that no children have been unintentionally left in any part of the program's facilities or in any vehicles that the program uses to transport children.

- (b) Children six (6) weeks of age through two (2) years of age: ~~shall be within sight and sound of an adult at all times~~ the adult must be able to hear the child at all times, must be able to see the child at a quick glance, and must be able to physically respond immediately.
- (c) Children three (3) years through five (5) years of age shall be safely protected by an adult in close proximity and not distracted by other tasks and must be able to physically respond immediately.
- (d) Children six (6) weeks of age to five (5) years of age during mealtime: An adult must be in the direct sight and sound of child/children while the child/children are eating.
- (e) Children ~~six (6) years~~ who are in kindergarten five (5) years of age by September 30) through nine (9) years of age shall be protected by an adult who adjusts restrictions appropriately for different ages and abilities and must be able to physically respond immediately.

~~(i) Caregivers shall not leave the room until replacements have arrived.~~

- (f) Children ten (10) years of age through thirteen (13) years of age: The adult shall know the whereabouts and activities of the child/children at all times and must be able to physically respond immediately. ~~Youth/children ten (10) years of age and older shall be supervised by an adult at all times but need not be in the adult's physical presence at all times.~~ Youth/children shall have the opportunity to develop independence.

1. Staff shall position themselves strategically for adequate supervision and quick response.
2. Staff shall be aware of the dynamics (interactions) and activities of the entire group even when dealing with only part of the group at a time.

- (g) Children fourteen (14) years of age to eighteen (18) years of age: The adult shall know the whereabouts and activities of the children, provide age appropriate guidance and must be able to physically respond as needed.
- (h) Mixed-age Groups. When children ages ten (10) and above are grouped with children under ten (10) years of age, the minimum supervision requirements for must be in accordance with the supervision required for the age group of the youngest child in the group.
- (i) Helper devices such as mirrors, electronic sound monitors, etc. may be used as appropriate to meet these requirements.
- (j) Caregivers shall monitor children's toileting and be aware of their activities while respecting the privacy needs of the child.
- (k) When more than twelve (12) children are present on the premises, but a second adult (2<sup>nd</sup>) adult is not required by the adult:child ratio rules, contained in this Chapter, a second (2<sup>nd</sup>) adult shall be physically available on the premises.
- (l) The center program shall maintain a plan, approved by the ~~child care consultant~~ the Department's child care program evaluator, that enables a caregiver in an emergency situation to call a second (2<sup>nd</sup>) adult who can respond quickly while maintaining as much supervision of the children in care as is possible under the circumstances.

- (m) All children for whom care is provided at any one time shall be included in the program's enrollment, square footage allowance, and approved capacity.
- (n) Auxiliary staff may be used as emergency substitutes if their qualifications permit, but not while performing auxiliary duties.
- (o) If meals are served, any person responsible for preparing meals and washing the dishes shall not be included in the adult:child ratio while preparing meals or washing dishes.
- (p) When more than twelve (12) school-age children in first (1<sup>st</sup>) grade and above are present, a separate group, a separate space, and a separate program type shall be provided for them.

~~(e) Age Categories, Group Sizes, Adult:Child Ratios, and Implementation Dates.~~

~~1. Groups shall comply with the definitions in 0520-12-1-.02.~~

(2) Assignment of Children to Groups

- (a) Each child must be on roll in a defined group and assigned to that group with a specific teacher and/or caregiver.
- (b) Maximum group size requirements shall be maintained at all times when children are indoors with the exceptions of meals served in common dining rooms, napping in common nap rooms, or outdoors on the playground.
- (c) When infants are cared for in a center with older children, they shall not be grouped with children older than thirty (30) months of age ~~three years of age and over~~, and a separate area shall be provided for them.
- (e) In order to assure the continuity of care for children thirty (30) months of age to five (5) years of age and their caregivers, the children shall be kept with the same group throughout the day and shall not be moved, shuffled, or promoted to a new group until required based upon the developmental needs of the child; provided however, that:
  - 1. For children, Groups, excluding infants and toddlers, may be combined for short periods for a special activity, e.g. special assembly, visiting performers, or community helpers, etc., of no more than thirty (30) minutes duration per day as long as adult:child ratios are met.
  - 2. Groups, excluding infants and toddlers, may be combined, for up to one (1) hour at the beginning of the day and for up to one (1) hour at the end of the day as set forth in the Adult:Child Ratio Chart 3.
- (f) Each group must have a "home base" with enough space for the entire group.

(3) Required Adult:Child Ratios.

- (a) ~~The adult:child ratios in this subparagraph are required to be provided~~ shall be maintained by the ~~child care agency~~ program while the children are indoors and on the playground.
- (b) Adult:child ratios and group sizes may exceed the required limit by up to ten percent (10%) rounded to the nearest whole number, for no more frequently than three (3) days

per week; provided however:

1. Infant and toddler groups may never exceed the required ratios and group sizes;
  2. The pre-kindergarten classes implemented in accordance with State Board of Education rule 0520-1-3-.5-.05 may never exceed twenty (20) children; and
  3. The approved capacity of the classroom, based on square footage, may not be exceeded.
- (c) Any number of children in excess of the adult:child ratios requires a second qualified adult caregiver; provided however, that the maximum group size shall not be exceeded.
- (d) Adult:Child Ratio Charts

(7) ~~Adult:Child Ratio Charts~~—Effective July 1, 2003:

1. Chart 1 - Single Age Grouping and Adult:Child Ratio Chart

Maximum Group Size and Adult Child Ratios							
Single-Age Grouping	8	12	14	16	18	20	No Max
Infants: 6 wks. – 15 mos.	1:4						
Toddlers (12 mos. – 30 mos.)		1:6					
2 years (24 mos. – 35 mos.)			1:7				
3 years					1:9		
4 years						1:13	
5 years						1:16	
School-Age (K and 12 years)							1:20
13 to 18 years							1:30

2. Chart 2 - Multi-Age Grouping and Adult:Child Ratio Chart

Maximum Group Size and Adult:Child Ratio										
Multi-Age Grouping	8	10	12	14	16	18	20	22	24	No Max
Infants/Toddlers: 6 wks. – 30 mos.	1:5									
2-4 years					1:8					
2.5 - 3 years (30 – 47 mos.)						1:9				
2.5 - 5 years							1:11			
2.5 – 12 years	1:10									
3 – 5 years (includes 3 – 4 years)								1:13		
4 - 5 years									1:16	
5 - 12 years										1:20
13 to 18 years										1:30

(a) ~~Combined grouping—first / last hour of each day only~~

1. ~~Groups excluding infants and toddlers may be combined, for up to one hour at the beginning and for up to one hour at the end of the day as set forth in the following chart.~~

3. Chart 3 – Allowable Combined Group & Adult:Child Ratio Chart for first/last hour of each day only:

	MAXIMUM GROUP SIZE AND ADULT CHILD RATIO							
	10	15	20					
2 – 12 years	1:10							
3 – 12 years		1:15						
4 – 12 years			1:20					

- (i) ~~Any number of children in excess of the adult:child ratios requires a second adult.~~
- (ii) ~~Section 504 of the Rehabilitation Act of 1973 and ADA guidelines shall be consulted for care of children with disabilities relative to the number of caregivers which a reasonable accommodation of a child's disability may require.~~
- (4) Naptime Supervision (Requirements for Naptime and Nighttime Care).
- (a) At naptime and during nighttime care, after the children have settled down, adult:child ratios may be relaxed so long as the children are adequately protected and all of the following requirements are met:
1. ~~If there are sleeping or resting children, there shall be~~ At least one (1) adult shall be awake and supervising the children in each nap room/sleeping area;
  2. Infant/toddler ratios shall be maintained; and
  3. The adult:child ratio for children ages thirty-one (31) months and above can be fifty percent (50%) of the required ratio if there are enough adults on the premises so that the adult:child ratio required for children when they are awake shall be met immediately in an emergency. ~~Exception: Infant/toddler ratios shall be maintained.~~
- (b) Maximum group size limits do not apply as long as the appropriate adult:child ratio is met at the fifty percent (50%) level.
4. ~~Infant/toddler ratios and group sizes shall be maintained.~~
- (c) Sudden Infant Death Syndrome: Because of the possibility of Sudden Death Syndrome, the following requirements shall be met:
1. ~~Infants under six (6) months of age shall be positioned on their backs or sides when placed in a crib for sleeping.~~
  2. ~~In order to avoid the risk of smothering, soft bedding shall be avoided for infants under six months of age is prohibited.~~
  3. ~~Infants under six (6) months of age should~~ shall not be wrapped tightly or swaddled in blankets for sleeping.
  4. ~~Infants under six (6) months of age shall be checked~~ touched by a caregiver every ~~thirty (30)~~ fifteen (15) minutes ~~by touching them~~ in order to check breathing and body temperature.

5. Pillows shall be prohibited for infants ~~under six (6) months of age~~.
  6. If a child appears not to be breathing, the program must immediately begin CPR and call for emergency medical assistance.
  7. Before any caregiver can assume caregiving duties of any type in an infant room they shall be oriented in the foregoing SIDS procedures.
- (d) Naproom Lighting. The areas where infants sleep shall be lit in a manner which allows the caregiver to quickly, at a glance, verify that the child's head is uncovered, that the child is breathing, and otherwise visually verify the child's condition.
- (5) Playground Supervision.
- (a) The same adult:child ratios are applicable for the playground as in the classrooms.
  - (b) A playground supervision plan shall be written and implemented which includes:
    1. Arrival and departure procedures;
    2. Supervision assignments of staff to assure that all areas of the playground can be seen so that all children can remain within sight of the caregivers;
    3. Identification of which staff will merely supervise in their assigned zone while other caregivers, if any, interact with children as play facilitators;
    4. Emergency plans specific to a variety of circumstances, such as, child injury, weather evacuation, toileting and other personal care needs of children or staff, etc.; and
    5. A communication link among playground supervisors and a designated staff person, if available, inside the program's facility.
- (6) Supervision During Off-Site Activities.
- (a) Preschool Children. The number of adults displayed in adult:child ratio in charts 1 and 2 must be doubled during off-site visits.
  - (b) School-age Children (Kindergarten - 13 years of age).
    1. The number of trained caregivers required to be present on off-site activities shall be at a minimum, equivalent to the number that would be required in the classroom; additional adults to meet the following off-site ratios in chart 4 may be caregivers, volunteers and/or unpaid staff.
    2. Chart 4 – Off Site Activities for School-age Children

Number of Children On Activity	Trained Caregivers	Additional Adults	Total Adults Required
1 - 20	1	1	2
21 - 30	2	1	3
31 - 40	2	2	4
41 - 50	3	2	5

- (c) School-age Children (14 to 18 years of age). The number of trained caregivers

required to be present on off-site activities shall yield an adult:child ratio of 1:20. additional adults to meet this ratio may be caregivers, volunteers and/or unpaid staff

- (d) A minimum of two (2) adults is required for any off-site activity.
  - (e) The program must maintain a system utilizing an off-site attendance roll which tracks the whereabouts of each child while off the premises.
- (7) Supervision While Swimming. When children are swimming, the adult:child ratios in Chart 5 and the following requirements shall be met:
- (a) Chart 5 – Swimming Adult:Child Ratio Chart

AGE GROUP	RATIO
Infants (6wks-12 months)	1:1
Toddlers/Twos (13 -35 months)	1:2
Three Year Olds	1:4
Four Year Olds	1:6
Five Year Olds	1:8
School-Age (K -13 years)	1:10
14 to 18 years	1:20

- (b) Although group swimming for infants and toddlers is not prohibited, it is ~~infants and toddlers/twos group swimming~~ is not recommended.
  - (c) At least one (1) adult present shall have a current certificate in advanced aquatic lifesaving skills. This person must supervise from above the level of the swimmers, preferably from an elevated lifeguard chair or otherwise from the pool deck. ~~if non-enrolled children are also monitored by the lifeguard, he/she may not be included in the required staff:child ratio.~~
  - (d) The lifeguard may not be included in the required adult:child ratio while performing lifeguard duties.
  - (e) Remaining caregivers should supervise both in and out of the water.
- (8) Transportation Supervision. Supervision for transportation of children shall comply with rules in 0520-12-1-.13(2).
- (c) ~~Children for whom care is provided by the center at any one time shall be included in the agency's enrollment, square footage allowance, and approved capacity. They shall have the security of stable classroom space at the center.~~
  - (d) ~~Groups may, excluding infants and toddlers, may be combined for short periods for a regularly scheduled activity of no more than sixty (60) minutes duration per day as long as adult:child ratios are met.~~
  - (e) ~~Children shall be greeted, as they enter the center, by the staff person to whom they are assigned. This staff person shall inform the child of their availability as a specific contact person should the child need assistance, and shall be the responsible person during the time that the child is in the center.~~
  - (f) ~~If one room has enough floor space based on requirements, it can be divided and used for more than one group. However, each group shall have the security of a stable~~

~~classroom space. For school-age child care programs, which change classroom space, the Director shall provide a secure, stable routine.~~

- ~~(g) The auxiliary staff shall not be included in the adult:child ratio but can be used as emergency substitutes if their duties and qualifications permit.~~
- ~~(h) If meals are served, the person who is responsible for preparing meals and washing the dishes shall not be included in the adult:child ratio while preparing these meals.~~
- ~~(i) When centers, caring for multiple ages, ranging from infancy to age twelve (12), provide school-age care, separate space and a separate program shall be provided for them.~~

**Authority:** T.C.A. §§ 4-5-201 et seq., 49-1-302(l), 49-1-1101 through 49-1-1109, 49-5-413, 49-6-3001 and 71-3-507 (g) & (h). **Administrative History:** Original rule filed September 26, 1990; effective December 29, 1990. Amendment filed April 30, 2002; effective July 14, 2002.

#### 0520-12-1-.07 STAFF

##### (1) Responsibility for Staff.

- (a) The board, owner, applicant, or other designated agent of the ~~child care center~~ program shall be responsible for selecting individuals qualified and of suitable character to work with children.
- (b) The director, with the guidance of the board or owner of the ~~center~~ program, shall be responsible for staff and program and the day-to-day operation of the ~~center~~ program.
- (c) Each location where children are kept shall have an on-site director.
- (d) To be designated as such, the on-site director of a ~~child care center~~ program in operation up to twelve (12) hours a day shall be physically present in the ~~center~~ program's facilities daily at least half of the total hours of operation. If a program operates more than one (1) shift, the on-site director shall be physically present at least one (1) shift.
- (e) To be designated as the director or person in charge (on a daily basis) of a multi-site ~~child care program~~ program, he/she shall ~~not have any non-child care director/administrator responsibilities during the hours of operation.~~ be employed full-time in that capacity.
- (f) ~~A staff member at the center shall be designated to be in charge in the absence of the director. Staff members shall be notified of this designee. This person shall be at least eighteen (18) years of age, and shall have a high school diploma, one year of experience in child care, be familiar with agency policy and procedures, and meet the same training requirements as caregivers.~~ An assistant director or other staff member shall be designated to be in charge in the absence of the director and all staff shall be notified of this designation.
- (g) ~~The behavior of staff shall reflect knowledge and understanding of the special needs, growth and developmental patterns of young children and understanding of appropriate activities, as reflected in staff's performance evaluations.~~ Management shall evaluate all staff in the performance of their duties. Caregivers shall be evaluated for knowledge and understanding of growth and development patterns of children and understanding of appropriate activities for children as well as those with special needs. Pre-

kindergarten teachers (certified in early childhood education) shall be evaluated in accordance with the Tennessee Frameworks for Evaluation

~~(h) School age: An adult shall be designated as the person responsible for administration of the school age program. This person can be a director or a teacher.~~

(2) General Staff Qualifications.

(a) Every staff person, including auxiliary staff, substitutes, volunteers, and practicum students, shall be physically, mentally, and emotionally capable of using the appropriate judgment for the care of children, and otherwise performing his/her duties satisfactorily.

(b) A person who has a physical, mental, or emotional condition which is in any way potentially harmful to children shall not be present with the children.

~~(c) Caregivers shall be of suitable character to work with young children.~~

(c) Every staff person, both paid and unpaid, who are under the age of eighteen (18) years must be supervised by an adult while in the presence of children.

(d) At least one (1) adult available on the premises at all times during program operating hours must be able to read and write English.

(e) Prior to assuming duties, each new employee shall receive orientation in, and be able to explain:

1. Program philosophy;
2. Job description;
3. Emergency procedures;
4. Policies regarding discipline of children;
5. Policies regarding the reporting of child abuse; and
6. Policies for receiving and dismissing children.

(f) Within the first two (2) weeks on the job, each employee (including auxiliary staff, such as bus driver, cook, etc.) shall receive instruction in:

1. Child abuse detection, reporting, and prevention;
2. Parent-center communication;
3. Disease control and health promotion;
4. An overview of certificate of approval requirements; and
5. Information on risks of infection to female employees of childbearing age.

(g) All ~~Such~~ training shall be documented in the ~~agency's~~ program's records and be available for review by the Department's staff at any time.

- ~~(e) Each new employee must be provided a written summary of current child care approval rules. In addition, the agency must maintain written documentation that each employee has read the full set of applicable child care certificate of approval rules.~~
- ~~(f) A copy of all current child care certificate of approval rules shall be maintained in a central space and available to all staff and parents.~~
- (h) The program must maintain written documentation that each employee has read the full set of all applicable rules. In addition, a copy of the rules (0520-12-1) shall be maintained in an area that is readily accessible to all staff.

(3) Multi-Site Personnel

- (a) Multi-Site Coordinator. The multi-site coordinator must meet the same requirements listed below for a single site ~~child care center~~ program director.
- (b) Qualifications of On-Site Director Under a Multi-site Coordinator
  1. ~~The on-site director shall have~~ At least two (2) years of college training or a department-recognized credential in addition, ~~the on-site director shall have~~ to at least one (1) year of full-time documented work experience with young children in a group setting; or
  2. ~~The on-site director shall have earned~~ A high school diploma or its equivalent educational credential recognized by the Department in addition to at least two (2) years of full-time (paid or unpaid) documented work experience with young children in a group setting.

(4) Qualifications for Director of a Single Site ~~Child Care Center~~ Program

- (a) The director shall meet at least one (1) of the minimum qualifications listed in the chart below:

If Minimum Education Is:	The Minimum Group Care Experience Required Is:
Graduation from an accredited four-year (4-year) college	One (1) year of full-time (paid or un-paid) experience in a group setting
Sixty (60) semester hours (two [2] years) of college training, with at least thirty (30) hours of which shall be in business or management, child or youth development, early childhood education or related field	Two (2) years of full-time (paid or un-paid) experience in a group setting
High School Diploma (or Department recognized equivalent), and Tennessee Early Childhood Training Alliance (TECTA) certificate for completing thirty (30) clock hours of orientation training, or the equivalent as recognized by the Department	Four (4) years of full-time (paid or un-paid) experience in a group setting
Has been continuously employed as an on-site program director or child care agency owner since July 1, 2000	Not Applicable

- ~~1. The director shall have graduated from an accredited four-year college and have completed one year of full-time documented work experience with young children in a group setting; or~~
- ~~2. The director shall have sixty (60) semester hours (two (2) years) of college training. At least thirty (30) hours shall be in business or management, child or youth development, early childhood education or related field. In addition, the director (in this category) shall have two years of full-time documented work experience with young children in a group setting; or~~
- ~~3. The director shall have earned a high school diploma or its equivalent and have four years of full-time documented work experience with young children in a group setting.~~

(b) Training Requirements:

1. Prior to issuance of the first annual certificate of approval, ~~owners and~~ directors shall complete an orientation on rules implementation provided ~~sponsored by the Department of Education child care program evaluator.~~
2. During the first year of employment a new director shall:
  - (i) Complete an orientation course within three (3) months of assuming the position; provided, however, that this course shall not be required if the director has:
    - (I) Received specific training meeting the requirements of this part within three (3) years prior to employment; or
    - (II) Earned a Bachelors degree, an Associates degree in child development or early childhood education, a CDE credential, or a CCP credential;
  - (ii) Have evidence of receiving at least thirty-six (36) clock hours of Department recognized, competency-based training ~~or one-to-one consulting sessions~~, at least six (6) hours of which must be in administration, management or supervisory training; or
  - (iii) Earn credit during the year in one (1) academic course in administration, child development, early childhood education, health/safety, inclusion of children with special needs, or other related field. ~~At least six (6) hours shall be in administration, management or supervisory training. This rule applies to new hire situations where the person has not been employed in child care for the last three years. Persons with at least an Associates degree in child development or early childhood education are exempted from this rule.~~
3. After the first (1) year of employment, the director shall:
  - (i) Earn credit during the year in one (1) academic course in administration, child development, early childhood education, health/safety or other related field; or
  - (ii) ~~The director shall~~ Have evidence of receiving at least eighteen (18) clock

hours annually in workshops, competency-based training, or one-to-one consulting sessions:

- ~~(I) or shall earn credit during the year in one academic course in administration, child development, early childhood education, health/safety, inclusion of children with special needs, or other related field. At least Six (6) hours shall be in administration, management or supervisory training; and. After the first year, no more than two (2) hours shall be credited for Child and Adult Care Food Program (CACFP) training.~~
- (II) Up to Four (4) hours credit of the required eighteen (18) hours may be earned by conducting training.

~~(i) Director of Child Care Center~~

1. The director shall:

- ~~(i) have graduated from an accredited four-year college and have completed one year of full-time documented work experience with young children in a group setting; or~~
- ~~(ii) have sixty (60) semester hours (two (2) years) of college training. At least thirty (30) hours shall be in business or management, child or youth development, early childhood education or a related field. In addition, the director (in this category) shall have two (2) years of full-time documented work experience with young children in a group setting; or~~
- ~~(iii) have earned a high school diploma or its equivalent and have four (4) years of full-time documented work experience with young children in a group setting.~~
- ~~(iv) The director shall complete any mandatory training that may be offered by the Department.~~
- ~~(v) No child care agency issued a certificate of approval under these rules shall receive a certificate of approval unless the child care agency director shall have, at a minimum:~~
  - ~~(I) received a Tennessee Early Childhood Training Alliance (TECTA) certificate for completing thirty (30) clock hours of orientation training; or~~
  - ~~(II) received comparable training recognized by the Department, has a high school diploma and has four (4) years of full-time work experience with young children in a group setting; or~~
  - ~~(III) meets the requirements of parts 1. (i), 1. (ii), or 1. (iii); or~~
  - ~~(IV) was employed as an on-site child care director or a child care agency owner as of July 1, 2000.~~

2. Prior to issuance of the first annual certificate of approval:

- ~~(i) owners and directors shall complete a child care orientation with the Department of Education.~~

- (ii) ~~new directors of child care agencies currently certified shall complete the child care orientation within three (3) months of assuming their position.~~
3. ~~During the first year of employment, a new director:~~
- (i) ~~shall have evidence of receiving at least thirty-six (36) hours in workshops, training, or one-to-one consulting sessions. (At least six (6) hours of the required training shall be in administration, management or supervisory training.); or~~
  - (ii) ~~shall earn credit for the year in one academic course in administration, child development, early childhood education, health/safety or other related field.~~
4. ~~The requirements of part 3 of Rule 0520-12-1-.07(2)(i) apply to new hire situations where the person has not been employed in child care during the last three (3) years. Persons with at least an Associates degree in child development or early childhood education are exempted from this rule.~~
5. ~~After the first year of employment, the director shall:~~
- (i) ~~have evidence of receiving at least eighteen (18) clock hours annually in workshops, training, or one-to-one consulting sessions; or~~
  - (ii) ~~shall earn credit during the year in one academic course in administration, child development, early childhood education, health/safety or other related field.~~
6. ~~At least six (6) hours of the training required in part 5 of Rule 0520-12-1-.07(2)(i) shall be in administration, management or supervisory training. After the first year, no more than two (2) hours for required training, such as Child and Adult Care Food Program (CACFP) shall be included. Up to four (4) hours credit may be earned by conducting training.~~
- (c) If the Principal of a school serves as Director of the program The Principal qualifications and training are in accordance with T.C.A. § 49-2-203.
- (5) Assistant Director Qualifications.
- (a) The on-site assistant director shall have at least two (2) years of college training or a Department recognized credential and one (1) year of full-time (paid or un-paid) documented work experience in a group setting; or
  - (b) The on-site assistant director shall have earned a high school diploma or equivalent educational credential recognized by the Department and two (2) years of full-time (paid or un-paid) documented work experience in a group setting.
- (6) Caregiver Qualifications.
- (a) Each caregiver shall be at least eighteen (18) years of age. ~~At least one (1) caregiver who is present in each group must be able to read and write English.~~ Exception, sixteen (16) and seventeen (17) year old students currently enrolled in Department recognized career and technical early child development/~~a vocational~~ child care program may be counted in the adult-child ratio; provided, however, that they shall always be under the direct supervision of an adult and shall not be left alone with a group of children.

or (b) Each group shall have at least one (1) caregiver present who has a high school diploma  
its equivalent educational credential as recognized by the Department. ~~a department-  
recognized credential, or a diploma from a state area vocational school.~~

(c) Training for Caregivers During the First (1<sup>st</sup>) Year of Employment.

1. New caregivers shall complete, within the first (1<sup>st</sup>) thirty (30) days of employment with the program, two (2) clock hours of pre-service orientation training offered or recognized by the Department. Pending completion of the orientation training, the caregiver's employment status as a caregiver with the program is conditional.
2. New caregivers shall additionally complete sixteen (16) hours of Department-recognized, competency-based training within the first (1<sup>st</sup>) year of employment, six (6) hours of which must be completed within the first six (6) months of employment.
3. ~~During the first year new caregivers shall have evidence of receiving at least eighteen (18) clock hours in workshops, training, or one-to-one consulting sessions, or shall earn credit during the year in one academic course in administration, child development, early childhood education, health/safety, inclusion of children with special needs, or other related field. This rule applies to new hire situations where the person has not been employed in child care during the last three years. Persons with at least an Associates degree in child development-early childhood education are exempted from this rule.~~
3. Failure of the caregiver to complete the required two (2) hours of pre-service orientation and/or failure to complete the required six (6) hours of training within the first (1<sup>st</sup>) six (6) months of employment shall require that the employee be removed from caregiver duties until completion of the training.
4. Exception. Caregivers who have been employed in early childhood education programs or child care programs during the last three (3) years, hold a Bachelors or Associates degree in child development or a related field, or who hold a Child Development Associate (CDA) credential or Child Care Professional (CCP) credential as recognized by the Department shall instead comply with the training requirements for experienced caregivers required in subparagraph (d) below.

(d) Training for Caregivers After First (1<sup>st</sup>) Year of Employment.

1. Experienced caregivers shall ~~have evidence of receiving~~ complete at least twelve (12) clock hours annually of Department recognized, competency-based training. ~~in workshops or in service training in child development, early childhood education, health/safety, inclusion of children with special needs, or other related field. After the first year, no more than~~
2. A maximum of two (2) hours training credit may be ~~shall be~~ credited for Child and Adult Care Food Program (CACFP) training or USDA Free and Reduced Price Meal Program training.
3. At least six (6) hours of the required training shall be obtained outside of program.
4. Up to four (4) hours of training credit annually may be earned by conducting training.

5. ~~Credit for Tennessee Early Childhood Training Alliance Orientation Training Completion If a new caregiver elects to complete the~~ of a thirty (30) hour orientation class through the TECTA system ~~during their first year, these hours will~~ shall satisfy the caregiver's minimum annual training requirements for two (2) ~~years of employment.~~
6. ~~New caregivers shall complete two (2) clock hours of pre-service orientation training approved by the Department and shall complete an additional six (6) hours of the required training within the first six (6) months of employment. For purposes of this rule, "pre-service" orientation shall mean that such orientation occurs within the first thirty (30) days of employment with the agency. Pending completion of the orientation training, the caregiver's status is conditional. Failure of the caregiver to complete the required two (2) hours of pre-service orientation and/or failure to complete the required six (6) hours of training within the first six (6) months of employment shall require that the employee be removed from caregiver duties for children until completion of the training.~~
7. ~~The remaining ten (10) hours of the required training for new caregivers must be completed before the end of the first year of employment.~~

(7) Substitutes.

- (a) The names, addresses, telephone numbers and dates of service shall be recorded for all substitutes in the staff personnel records of the program.
- (b) Substitutes shall comply with the same orientation requirements defined by these rules for all program staff.
- (c) Substitutes who have acted as caregivers for two hundred (200) or more hours in the previous calendar year shall meet the training requirements contained in the rules for caregivers.
- (d) Substitutes providing services for thirty-six (36) hours or more in a calendar year shall:
  1. Meet the criminal background check requirements contained in these rules, and
  2. Meet the same requirements as regular staff for the physical examination required by these rules.
- (e) Practicum Students. Persons serving temporarily as caregivers in field service placements as part of an educational course of study or other curriculum requirement shall not be considered as substitutes for purposes of this paragraph.

(8) Volunteers.

- (a) Volunteers may be used to provide services and supplement the required caregivers or substitutes without payment, but are not counted to meet the adult:child ratios. If counted in the adult:child ratio, or provide services for more than twenty (20) hours per calendar week, volunteers shall meet the qualifications for substitutes as set forth in paragraph 0520-12-1-.0 7(7) above.
- (b) Management shall be responsible for and supervise the activities of volunteers to assure safety of the children.
- (c) Records for volunteers shall be maintained as required in 0520-12-1- 05

(9) Criminal Background and Vulnerable Persons Registry Review Requirements.

~~(a) Criminal history and abuse registry background checks; exclusions; appeals; exemptions.~~ Individuals Requiring a Fingerprint Criminal Background Review and Abuse (Vulnerable Persons) Registry Check:

- ~~1. Each person:~~ Any individual applying to work ~~with children~~ as a paid employee, a director, or manager of a ~~child care agency~~; program in a position that will require or allow the individual to have contact with children at any time;
2. Any individual applying to work as a new substitute and who is expected to offer, or who provides, at least thirty ~~–six (36)~~ hours of substitute services to the program in any calendar year ~~in a child care agency~~;
3. Any individual applying for a certificate of approval ~~Who applies for a license for, or who otherwise seeks to operate (an “operator”) a child care agency~~ a program as defined in T.C.A. § ~~71-3-504~~ 49-1-1102 et seq. and who has significant contact with children in the course of the role of operator. For purposes of this subparagraph, an “operator” shall be an individual who is an owner or administrator of an school-administered infant/toddler, preschool and/or school-age care program, pre-kindergarten, school-administered Head Start or Even Start, approved Montessori, Lottery Afterschool Education Program, TEIS early intervention program.

(b) Individuals applying to work as a paid employee of a program, administered by a local education agency (LEA) or the State Department of Education, shall have their name, address and social security number submitted to the Department of Children’s Services Background Check and the Sex Offender Registry to verify that the person does not appear on any of these registries as required by T.C.A. § 49-10-608.

~~(iv) Fifteen (15) years of age or older who resides in a child care agency facility or who moves into a child care agency following initial certification of approval shall:~~

~~(I) Agree to the release of all investigative records to the local Board of Education or child care program, as defined in T.C.A. § 49-1-1102, shall require any person applying for a position as a teacher and any person applying for any other position requiring proximity to school children or to children in a child care program.~~

~~(II) Supply a fingerprint sample and submit to a criminal history records check to be conducted by the Tennessee Bureau of Investigation.~~

~~(III) Complete the criminal history records check as defined by T.C.A. § 49-5-413. Be responsible for any reasonable costs incurred by the Tennessee Bureau of Investigation in conducting such investigation of an applicant. The costs shall be paid by the applicant the first time such applicant applies for a position with a local Board of Education or child care program. The applicant shall be provided a copy of all criminal history records check documentation provided to the local Board of Education or child care program to which the applicant first applies. In lieu of additional criminal history records checks for subsequent applications, the applicant may submit copies of the applicant's initial criminal history records check documentation and shall not be required to pay any additional costs. Any Board of~~

~~Education or child care program may establish a policy authorizing payments for investigations of an applicant who provides school maintenance, clean up, administrative or teaching functions or duties. A local Board of Education or child care program may pay for an investigation of such applicant regardless of whether the applicant accepts an offer for employment with such Board of Education or child care program.~~

- (c) Pending outcome of the criminal background check as described in this paragraph, the outcome of the review of the individual's status on the Department of Health's Vulnerable Persons Registry; and, for LEA and State Department of Education applicants, the outcome of the Department of Children's Services Background Check and the Sex Offender Registry, the applicant for employment or a substitute or volunteer position, or for a director/owner, seeking to be certified to operate a program, shall be conditional and shall be dependent upon the results of these background checks.
- (d) Requirements for Submission of a Fingerprint Sample.
1. Programs shall utilize an established user agreement between the Tennessee Bureau of Investigation and the local education agency, private school, or community based organization for the processing of applicant fingerprints.
  2. Fingerprint Sample. The program shall be responsible for obtaining and submitting the fingerprint sample of any person required by the Chapter in the form and manner directed by the Tennessee Bureau of Investigation
  - ~~2. The entity that is seeking to employ the person or use the person as a substitute, or which has the person residing in the agency, or the administrator or operator of a child care agency, shall be responsible for obtaining, and submitting the fingerprint sample and any information necessary to process the criminal history review, in such manner as may be required by the Department, to the Tennessee Bureau of Investigation within ten (10) days of the first day of beginning employment or substitute status, or within ten (10) days of the application for a certificate of approval or seeking operator status, or, within ten (10) days of the application for an initial license for a facility in which the person resides or within ten (10) days after the resident moves into the child care facility.~~
    - (i) Within ten (10) calendar days of the first day of beginning employment or substitute status;
    - (ii) Within ten (10) calendar days of the new program application for Certificate of Approval;
  3. Vulnerable Persons Registry. The program shall be responsible for determining, within the same time periods as set forth in part (d)2 above, the status on the Department of Health's Vulnerable Persons Registry of any individual who is required by subparagraph (a) above to undergo a criminal history background check. Verification of status check shall be maintained in the employee's record pursuant to the requirements set forth in 0520-12-1-.05.
  - ~~3. Pending outcome of the fingerprint background check and the Department of Health's vulnerable person's registry the applicant for employment, for a certificate of approval or for operator or for a substitute position shall be conditional and shall be dependent upon the background check. No person whose criminal history disclosure form describes a criminal history or other~~

~~activities within the prohibitions of part 7 of Rule 0520-12-1-.07(1)(d) shall be permitted to be employed as a caregiver, a substitute, director, nor may such person be allowed to hold a certificate of approval, or be an operator who has significant contact with the children in the agency's care, nor shall such person be permitted to reside in or otherwise have access to children in the child care facility while children are present.~~

~~4. A copy of the disclosure form and the results of the criminal history check and the results of the inquiry to the Department of Health's vulnerable person's registry shall be maintained in the child care agency's records for review by the Department of Education.~~

4. Department of Children's Services Background Check and the Sex Offender Registry. The LEA or State Department of Education administered program shall be responsible for determining, within the same time periods as set forth in part (c)2 above, the status on the Department of Children's Services Background Check and the Sex Offender Registry of any individual who is required by T.C.A. § 49-10-608 to undergo a criminal history background check. Verification of such status check shall be maintained in the employee's record pursuant to the requirements set forth in 0520-12-1-.05.

(10) ~~Exclusions from access to children based upon criminal history or other status.~~ Of Persons from Contact with Children.

(a) Prohibited Criminal or Abuse or Neglect History.

~~1. No person shall be employed, or otherwise act, as a caregiver or as a substitute caregiver for children in a child care agency, nor shall any person be an administrator, director, or be an operator who has significant contact with children in a child care agency, nor shall a person who is a resident in a child care agency have access to or contact with children in a child care agency, nor shall any other person have any access to children in a child care agency whatsoever, who:~~

individual with a prohibited criminal history as defined below, regardless of whether such individual is required by these rules to undergo a criminal background check, may work, substitute or volunteer in a program, or be resident, owner, director or manager of a program who has access to children, or be an operator who has significant contact with children or otherwise have unrestricted access to children in any manner whatsoever.

2. An individual shall be immediately and automatically excluded from a program or any contact whatsoever with children, as described above, if the individual's criminal history includes:

(i) A criminal conviction or a no-contest or guilty plea; or any pending criminal action, including individuals subject to any pending warrant, indictment or presentment, etc.; or placement in a pretrial diversion; or,

~~(ii) has been convicted, pled guilty to or pled no contest to any crime or charge, or~~

(ii) ~~has any~~ A pending juvenile proceeding action or previous juvenile finding adjudication, which, if an adult, would result constitute in any crime or charge, involving a criminal offense; and

- (iii) Any of the circumstances in subparts (i) or (ii) above involves any of the following criminal offenses:
    - (I) ~~Any crime, offense (including a lesser included offense) derived from any crime~~ involving the physical, sexual or emotional abuse or gross neglect of a child or ~~any other crimes~~ involving a threat to the health, safety or welfare of a child; or
    - (II) Any ~~crime~~ offense (including a lesser included offense) involving of violence, ~~including a lesser included offense derived from a crime~~ or the threat of violence against another person; and/or
    - (III) Any ~~crime~~ offense (including a lesser included offense) involving, or ~~lesser included offenses derived from any crime~~ involving the manufacture, sale, distribution or possession of any drug.
4. An individual shall also be immediately and automatically excluded from the program or from access in any manner whatsoever to the children in the care of the program, if the individual:
- (i) Reveals a prohibited or potentially prohibited criminal history on the criminal history disclosure form; or
  - (ii) Is listed on ~~the abuse registry maintained by the Department of Health pursuant to Title 68, Chapter 11, Part 10 of the Tennessee Code Annotated; or~~ the Department of Health's Vulnerable Persons Registry.
  - (iii) Is known to the management of a ~~child care agency~~ program as a perpetrator of child abuse or child sexual abuse or to have a prohibited criminal record, who is identified to the ~~child care agency's~~ program's management or licensee by the Department of Education, Department of Human Services or by the Department of Children's Services as a validated or indicated perpetrator of abuse of a child based upon an investigation conducted by the Department of Children's Services or by the child protective services agency of any other state; or, who at anytime is identified by any person or entity to the program's management and is confirmed by the Department as having a prohibited criminal history.
    - I. who is associated in providing care or ancillary services in any manner within a child care agency; or
    - II. ~~who is a family member or other person residing at the child care agency's facility(ies) or adjacent residence of the caregiver; or~~
    - III. ~~who has unrestricted access to children in the child care agency as determined by the Department of Education.~~
4. Exclusions from driving duties. An individual with a prohibited history as set forth below shall be immediately and automatically excluded from providing driving duties on behalf of the program if the individual:
- (i) Has a pending criminal action (including warrants, indictments, presentments, etc.) is completing pretrial diversion, or has been convicted of or pled guilty to any offense involving the use of a motor vehicle while under the influence of any intoxicant, which constitutes a violation of T.C.A.

§§ 39-13-213; 55-10-101; 55-10-102 or 55-10-401; or

- (ii) Has been convicted of or pled guilty to any felony involving use of a motor vehicle while under the influence of any intoxicant. In such case, the individual shall not be employed or otherwise serve as a driver for a program for ~~Such persons under this subitem may not~~ for a period of five (5) years from the date of the conviction or guilty plea. ~~be employed as or serve as a driver transporting children for a child care agency.~~

5. Exclusions for Child Neglect. An ~~employee or volunteer~~ individual who has been identified by the Department of Children's Services as having neglected a child based on an investigation conducted by the Department of Children's Services, or any child protective services agency of any state, and who has not been criminally charged or convicted or pled guilty as stated above, shall be supervised by another adult while providing care for children.

- (b) ~~The child care agency~~ program shall immediately review the report of the background check received from ~~the Department and the~~ Tennessee Bureau of Investigation, and shall immediately consult with the Department to resolve any questions relative to the person's status. Upon determination that the person's status prohibits the person from having access to children as described in part 7 of Rule 0520-12-1-.07(10)(a), ~~the child care agency~~ program shall immediately exclude such person from access to children. Failure to exclude the person under this part will result in immediate suspension of the ~~child care agency's~~ program's certificate of approval.

- (c) Failure to exclude individuals with a criminal history or abuse or neglect finding.

Failure to immediately exclude any individual subject to exclusion or supervision pursuant to this subchapter may result in immediate suspension, denial or revocation of the program's certificate of approval.

(11) Waivers from Exclusions Due to Criminal or Abuse or Neglect History.

~~7. Appeals of exclusions.~~

- (a) Any person who is excluded or whose certificate of approval or operator status is denied based upon the results of the criminal history background review or based upon any other determination may ~~appeal~~ request in writing ~~the exclusion or denial~~ to the Department within ten (10) calendar days of ~~the mailing date of the~~ receiving notice of such exclusion or denial ~~to the subject person.~~, a waiver from these automatic exclusion requirements.
- (b) Excluded individuals may also make a written request for a waiver by letter or directly on the criminal history disclosure form.
- (c) Requests for a waiver shall state the basis for the request, including any extenuating or mitigating circumstances that would, in the person's opinion, clearly warrant an exemption from the exclusion. Any documentary evidence may also be submitted with the request.
- (d) Requests for waivers shall be heard by an advisory committee, composed, at a minimum, of law enforcement personnel, persons experienced in child protective services, persons experienced in child development issues and child care providers issued a certificate of approval by the Department and reviewed by the Department.

- (e) Any person who is excluded from providing care or services to children under any provisions of this subchapter shall remain excluded pending the outcome of any exemption review and appeals.

(12) Supplemental Background Checks.

- (a) The Department may, at anytime, request that the criminal background or status on the Department of Health's Vulnerable Persons Registry of any individuals having access to children under any of the circumstances set forth in this subchapter be reviewed using the processes described above. All other provisions applicable to any pre-employment, residential or access status of any individual shall apply to any background review conducted pursuant to this paragraph (12)
- (b) The employment status of persons for whom a post-employment criminal background check was conducted, or the status of existing program owners or operators substitutes or volunteers of a program for whom a criminal background check was conducted after issuance of a certificate of approval or after employment or assuming duties as a volunteer or substitute, and who were not otherwise subject to a pre-status applicant background check and to the exclusionary provisions provided in this subchapter, shall be governed by the provisions of this subchapter.

~~(ii) If timely appealed, the Department shall provide an administrative hearing pursuant to Title 4, Chapter 5, Part 3 of the Tennessee Code Annotated in which the appellant may challenge the accuracy of the report, and may challenge the failure to grant an exception to the exclusion or denial required by this subsection if a rule for such purpose has been promulgated by the Department pursuant to part 8 of Rule 0520-12-1-.07(1)(i).~~

~~(iii) The appellant may not collaterally attack the factual basis of an underlying conviction except to show that he/she is not the person identified on the record. Further, except to show that he/she is not the person identified in the record, the appellant may not collaterally attack or litigate the facts which are the basis of a reported pending criminal or juvenile charge except to show that such charge was, or since the report was generated, has been dismissed, nolleed or has resulted in an acquittal.~~

~~8 Exemptions from exclusions.~~

~~(i) The Department will consider the granting of exemptions from the prohibitions under part 6 of Rule 0520-12-1-.07(1)(i).~~

~~(ii) The person seeking the exemption may indicate the request on the disclosure form, or may seek the exemption by written request to the Commissioner at any time. The request shall state the basis for the request, including any extenuating or mitigating circumstances that would, in the person's opinion, justify an exemption from the exclusion. Any documentary evidence may also be submitted with the request.~~

~~(iii) Advisory group to review exemption requests.~~

~~(i) The Department will establish an advisory group composed, at a minimum, of law enforcement personnel, persons experienced in child protective services, persons experienced in child development issues and child care providers issued a certificate of approval by the~~

~~Department to review the requested exemption and advise the Department as to whether such request is warranted.~~

~~(II) At the Department's request, the advisory group shall review the written request and any other evidence in any other form which it determines necessary to determine the status of the exemption request.~~

~~(III) Based upon the recommendation of the advisory group, the Department shall make the final determination regarding an exemption. The exemption shall only be granted if the circumstances, as reviewed and determined by the advisory group and the Department, clearly warrant the exemption. The decision will be filed with the child care agency and shall be maintained in the Department's record concerning the agency and shall be open to public inspection.~~

~~(iv) Appeal of exemption decision.~~

~~(I) The Department shall notify in writing the person making the request for exemption of the decision regarding the exemption request and the basis for the decision. A person aggrieved by the Department's determination may appeal the decision by filing a written request with the Commissioner within ten (10) days of the mailing date of the decision as shown by the date of the notice. If timely appealed, the person shall be granted an administrative hearing under the provisions of T.C.A. §§ 4-5-301 et seq.~~

~~(II) The appellant may not collaterally attack the factual basis of an underlying conviction except to show that he/she is not the person identified on the record. Further, except to show that he/she is not the person identified on the record, the appellant may not collaterally attack or litigate the facts which are the basis of a reported, pending criminal or juvenile charge except to show that such charge was, or since the criminal background history report was generated, has been dismissed, nolleed or has resulted in an acquittal.~~

~~9. Alternate and Supplementary Criminal Background Checks.~~

~~(i) The Department of Education may, at its own expense, utilize background checks pursuant to the provisions of T.C.A. § 49-5-413 and T.C.A. § 71-3-507 (g) or (h) to determine the criminal history or other status on the Department of Health's abuse registry of persons applying to work or who are current employees, operators or volunteers or current residents of child care agencies or persons working with contractors of the Department who are not otherwise required by the provisions of this subparagraph or any other provisions of law to undergo a criminal history background check. The Department may also utilize the abuse registry of the Department of Health under Title 68, Chapter 11, Part 10 of the Tennessee Code Annotated, for such persons.~~

~~(ii) The Department may require such individuals to complete a disclosure form as required by part 1 of Rule 0520-12-1-.07(1)(i) and to undergo a fingerprint sample. The Department will submit the form and the fingerprints to the Tennessee Bureau of Investigation for review.~~

~~(iii) Status Pending Background Check.~~

~~(I) Pending the outcome of the background check, if required, the applicant for employment operator status or for a substitute or volunteer position, shall be in a conditional status with the child care agency or the Department contractor, and such status shall be dependent upon the outcome of the background check.~~

~~(II) The employment status of persons for whom a post-employment criminal background check was conducted, or the status of existing certified programs or operators, substitutes, volunteers or residents of a child care agency for whom a criminal background check was conducted after issuance of certificate of approval, and who were not otherwise subject to a pre-status applicant background check and to the exclusionary provisions provided in this subparagraph, shall be governed by any regulations which may govern their status in a regulated entity or by applicable employment law.~~

~~(iv) Names Searches.~~

~~(I) As a further supplemental method of criminal background history review for any applicants for employment, license or operator status, or for substitute or volunteer status with child care agencies, or with the Department or its contractors, as listed in subdivision T.C.A. §§ 71-3-501(g)(1) and T.C.A. § 49-5-413 or with the entities which the Department may regulate, or for residents of new child care agencies, or for current employees, operators, substitutes or volunteers of child care agencies or for current residents of child care agencies, the Department may require such persons to submit a disclosure form as set forth in part 1, a copy of which shall be maintained with the Department and shall be filed with the entity with whom such person is associated, and may require such person to agree to release all records involving the person relating the criminal history of such person.~~

~~(II) The Department may, by agreement with the Tennessee Bureau of Investigation, access the Bureau's criminal history computer database using only the name of the person and such other information as may be available. If the Department determines it to be necessary, then the Department may require fingerprint verification pursuant to subparts (i) and (ii).~~

~~(v) All provisions of part 6 of Rule 0520-12-1-.07(1)(i) including, but not limited to, the exclusion of individuals from providing care, from being licensed for the care of children or having access to children upon determination of the criminal background or perpetrator of such individual, the suspension of operations of regulated, certified or approved entities that fail to exclude persons with a criminal background, and the exemptions from the exclusionary provisions shall be applicable to persons having criminal backgrounds or perpetrator status as determined by the processes established by this part.~~

~~(vi) Any person disqualified from care for or access to children based upon the results of the criminal history background review or the determination of perpetrator status under this part may appeal that determination to the Department as provided in part 8 of Rule 0520-12-1-.07(1)(i).~~

~~(vii) Nothing in subparagraph, Rule 0520-12-1-.07(1)(i), shall be construed to prevent the exclusion of any individual from providing care for, from being issued a certificate of approval for the care of children pursuant to this part or from having access to a child in a child caring situation if a criminal or juvenile proceeding background or perpetrator status is discovered and verified in any other manner other than through a procedure established pursuant to this chapter. All procedures, rules, and appeal processes established pursuant to this subparagraph, Rule 0520-12-1-.07(1)(i), for the protection of children and the due process rights of excluded individuals shall also be applicable to such individuals.~~

~~10. Nothing in subparagraph, Rule 0520-12-1-.07(1)(i), shall be construed to mean that any other law which mandates that criminal background checks be conducted on applicants for employment, operator status, for substitute or volunteer positions or for resident status is made voluntary, repealed or superseded in any manner by the provisions of this subparagraph, and the provisions of part 9 of Rule 0520-12-1-.07(1)(i) are supplementary to, and are not in lieu of any mandatory provisions for such other statutorily required criminal background checks.~~

**Authority:** T.C.A. §§ 4-5-201 et seq., 49-1-302(l), 49-1-1101 through 49-1-1109, 49-2-203, 49-5-413, 49-6-300, and 49-10-608. **Administrative History:** Original rule filed September 26, 1990; effective December 29, 1990. Amendment filed April 30, 2002; effective July 14, 2002.

#### 0520-12-1-.08 EQUIPMENT FOR CHILDREN.

(1) General.

- (a) Manufacturer's safety instructions shall be followed for the use and/or installation of all indoor and outdoor equipment and appliances. Such instructions shall be retained and communicated to all appropriate staff.
- (b) All indoor and outdoor equipment shall be well made and safe. There shall be no dangerous angles, no sharp edges, splinters, nails sticking out, no open S-hooks or pinch points within children's reach.
- (c) Electrical cords on equipment for children shall be inaccessible to the children.
- (d) Damaged equipment shall be repaired or removed from the room or playground immediately.
- (e) Equipment shall be kept clean by washing frequently with soap and water.
- (f) There shall be developmentally-appropriate equipment and furnishings for each age group in attendance.
- (g) Individual lockers, separate hooks and shelves or other containers, placed at children's reaching level, shall be provided for the belongings of each child, ages infant - preschool.
- (h) In infant/toddler rooms, equipment and space shall be provided for climbing, crawling, and pulling without the restraint of playpens or cribs.

- (i) A place shall be provided for each school-age child's belongings.
- (2) Indoor Play Equipment.
- (a) Pieces of equipment, such as television sets, bookcases, and appliances, shall be secured or supported so that they will not fall or tip over.
  - (b) Sufficient indoor equipment, materials, and toys shall be available to:
    - 1. Meet active and quiet play needs of all children enrolled;
    - 2. Provide a variety of developmentally appropriate activities so that each child has at least three (3) choices during play time; and
    - 3. Adequately provide for all the activities required in Section 0520-12-1-.09 Program.
  - (c) Toys, educational, and play materials shall be organized and displayed within children's reach so that they can select and return items independently.
  - (d) Toys or teaching aids that are small or that have small parts that can be inhaled or swallowed shall be inaccessible to infants and toddlers.
- (3) Outdoor Play Equipment.
- (a) There shall be developmentally appropriate outdoor play equipment for children who are in care more than three (3) daylight hours.
  - (b) All outdoor play equipment and materials shall be sufficient in amount and variety so that children have an opportunity to participate in a minimum of at least three (3) different types of play using either stationary equipment and/or portable play materials.
  - (c) All outdoor play equipment shall be placed to avoid injury:
    - 1. Fall zones shall extend six (6) feet away from the perimeter of climbing equipment and away from retainer structures, fences, and other equipment and out of children's traffic paths.
    - 2. Agencies with a playground continually certified as approved since prior to January 1, 2002 shall be permitted to maintain fall zones of at least four (4) feet, provided, however, that any expansion or addition shall comply with the six (6) feet fall zone required by part 1 above.
  - (d) Anchorage of Equipment.
    - 1. Supports for climbers, swings, and other heavy equipment that could cause injury if toppled shall be securely anchored to the ground, even if the equipment is designed to be portable.
    - 2. Portable equipment shall otherwise be anchored to the ground if the height and weight of the equipment exceeds the height and weight of the smallest child who will use the equipment.
  - (e) An acceptable resilient surfacing material, as recognized by the Department, shall cover fall zones in accordance with the following chart:

Resilient Surfacing Material	Minimum Acceptable Depth
Wood chips or Mulch	Six (6) inches
Double Shredded Bark	Six (6) inches
Pea Gravel	Six (6) inches
Medium Gravel	Eight (8) inches
Fine Sand	Eight (8) inches
Course Sand	Eight (8) inches
Artificial (Manufactured) Surface	As recommended by Manufacturer

- ~~(c) The Consumer Products Safety Commission's "Handbook on Public Playground Safety" shall be used for guidance on playground construction and maintenance.~~
- ~~(d) Resilient surfacing material shall cover fall zones at a recognized acceptable depth in accordance with CPSC guidelines.~~
- ~~(e) All outdoor play equipment shall be placed to avoid injury. Fall zones shall extend six (6) feet away from the perimeter of equipment and away from retainer structures, fences, and other equipment and out of children's traffic paths. Centers with playgrounds in existence prior to January 1, 2002 shall be permitted to maintain fall zones of at least four (4) feet. Compliance with six (6) feet fall zone must be met on any expansion or addition.~~
- ~~(f) Supports for climbers, swings, and other heavy equipment that could cause injury if toppled shall be securely anchored to the ground, even if the equipment is designed to be portable.~~

(4) Naptime and Sleeping Equipment.

- (a) There shall be equipment for napping or sleeping for each preschool child who is in care for six (6) hours or more.
- (b) A quiet rest area and cots or mats shall be available for children who want to rest or nap. However, no child shall be forced to nap.
- (c) No child shall be forced to stay on a cot on on a mat for an extended period of time.
- (c) All nap/sleep equipment shall be in good condition and comply with the following requirements:
  1. Individual cots or two-inch (2") mats shall be provided for ~~mature toddlers and~~ children ages twelve (12) months through age five (5) years. ~~and labeled with each child's name.~~
  2. Individual beds or cots shall be provided for children sleeping for extended periods of more than two and one half (2-1/2) hours, such as during nighttime care.
  3. Each ~~infant~~ child under twelve (12) months shall have an individual, free-standing, crib at least twenty-two inches (22") x thirty-six inches (36") with an open top.
  4. Mattresses and foam pads shall be covered with safe, waterproof material.
  5. A clean sheet or towel shall be used to cover whatever the child sleeps on.

6. A clean coverlet shall be available to each child.
7. Soiled sheets and coverlets shall be replaced immediately.
8. For health and safety reasons each crib, cot, bed or mat shall be labeled to assure that each child naps on his own bedding.

**Authority:** T.C.A. §§ 4-5-201 et seq., 49-1-201(c)(24), 49-1-302(l), 49-1-1101 through 49-1-1109, 49-2-203(b)(11), and Executive Order No. 24 (November 11, 1988). **Administrative History:** Original rule filed September 26, 1990; effective December 29, 1990. Amendment filed April 30, 2002; effective July 14, 2002.

**0520-12-1-.09 PROGRAM.**

- (1) Schedule and Routines.
  - (a) Routines such as snacks, meals, and rest shall occur at approximately the same time each day.
  - (b) There shall be a balance between child's choice and adult-directed activities
  - (c) There shall be alternating periods of vigorous activity and quiet play or rest throughout the day.
  - (d) Special consideration shall be given to providing early morning and late afternoon activities that will help children cope with possible unhappiness over separation from parents and end-of-day fatigue.
  - (e) Each caregiver shall be responsible for providing consistent care for a specific infant(s)/toddler(s). "Consistent care" includes, but is not limited to, planning, record-keeping for the child, communication, general interaction with and routine care of the child.
  - (f) ~~Time shall be provided for an adult to~~ The caregiver(s) shall give individual attention to each child, in addition to the time devoted to diapering and feeding. ~~Children shall also have opportunities to interact with one another.~~
  - (g) Children shall not be left in restraining devices such as swings, car seats, or high chairs (in excess of thirty (30) minutes). Stimulation shall be provided to children in those settings.
  - (h) Opportunities shall be provided for children to interact with one another
  - (i) Opportunities shall be provided for children to be by themselves to play alone or do homework, if they choose, in a small quiet area away from other activities.
  - (j) Youth ten (10) years and older shall be encouraged to participate in the planning of their schedules and activities.
  - (k) Extended Care. Children shall be given the same opportunities for developmentally appropriate activities during extended care hours as during conventional care hours
- (2) Television, Radio, Videos, And Computers:

- ~~1. If television, video tapes, games, and movies are used, they shall be limited to two hours per day, or the length of a movie if more than two (2) hours in the case of school-agers, and to programs designed for children's education and/or enjoyment. Programs/movies with violent or adult content (including "soap operas") shall not be permitted in children's presence. Programs/movies shall be developmentally appropriate for the viewers. Parents shall be informed of movie showings and ratings. Videos and movies must be previewed by staff for content. An opportunity for discussion is to be provided following the viewing to facilitate communication and comprehension skills. Other activities shall be available to children during television/movie viewing or computer use.~~
  - (a) Programs, movies, computer games, and music with violent or adult content (including "soap operas") shall not be permitted in children's presence.
  - (b) Programs/movies/computer games shall be developmentally appropriate for the viewers.
  - (c) Parents shall be informed of movie showings and video/computer games and their ratings.
  - (d) Videos, movies, and video/computer games must be previewed by staff for content.
  - (e) If television, video tapes/DVDs, video/computer games, and/or movies are used, they shall be limited to:
    1. Two (2) hours per day, or the length of a movie if more than two (2) hours in case of school-age children.
    2. Extended Care. Television viewing by children during night care between 6 p.m. and 6 a.m. shall be limited to one (1) hour.
  - (f) All programs shall be designed for children's education and/or enjoyment.
  - (g) Up to one (1) additional hour per day, but not more than three (3) days per week, can be added to viewing time for computer use.
  - (h) School-age children and adolescents may use computers for completion of homework or for test prep with no limits on viewing time.
- ~~2. When computers are used, programs should be developmentally (or age) appropriate. Programs and games containing violent themes shall not be permitted. Up to one additional hour per day, but not more than three (3) days per week, can be added to viewing time for computer use. Computer use must be monitored by staff. School-agers may use computers for completion of homework with no time limitations.~~
- ~~3. The use of electronic toys shall be limited in order to encourage the development of children's imagination.~~
  - (i) Computers, if used, shall be located in view of a caregiver for monitoring purposes.
  - (j) Computers which allow internet access by the children shall be equipped with monitoring or filtering software, or an analogous software protection, which limits children's access to inappropriate web sites, e-mail, and instant messages.
  - (k) Other activity choices shall be available to children during television/movie viewing or computer use.

- (3) Outdoor Play and Playground Routines.
- (a) An opportunity for outdoor play shall be extended to children of all ages who are in care more than three (3) daylight hours: provided, however, for programs **Exception: For centers where outdoor play is prohibitive or dangerous**, as determined in the discretion of the Department, unoccupied indoor space providing fifty (50) square feet per child is acceptable.
  - (b) ~~Preferably, Children should shall be to allowed experience a variety of weather conditions, so long as children are properly dressed and the length of time outside is adjusted according to the conditions and the age of the children. The minimum expectation is that children go outside when the temperatures (adjusted for wind chill and heat index) are between thirty-two (32) degrees and ninety-five (95) degrees and not raining. Outdoors, staff shall interact with children in a manner that will ensure adequate supervision of activities and will facilitate the development of age appropriate physical and social skills. Care givers shall be alert for signs of dehydration, heat stroke, frost bite, etc., dependent upon the season. In warm weather water shall be readily available. Children shall be allowed to experience a variety of weather conditions:~~
    - 1. Children shall be provided an opportunity for outdoor play when the temperature range, after adjustment for wind chill and heat index, is between thirty-two (32) degrees and ninety-five (95) degrees Fahrenheit and not raining;
    - 2. Children shall be properly dressed and the length of time outside adjusted according to the conditions and the age of the children
  - (c) Caregivers shall be alert for signs of dehydration, heat stroke, frostbite, etc. dependent upon the season.
  - (d) Each agency shall develop a set of age appropriate playground rules that uses positive language. Rules shall be posted in each play area.
- (4) Reclining Rest Period:
- (a) A reclining rest period of at least one (1) hour shall be provided for all preschool children in care for six (6) hours or more.
  - (b) Each child shall be allowed to form his own patterns of sleep.
  - (c) A child shall not be left in a crib or on a cot for an unreasonable length of time.
- (5) Behavior Management and Guidance.
- (a) Attention spans and skills of children shall be considered so that caregivers do not require children to engage in developmentally inappropriate behavior.
  - (b) Discipline shall be reasonable, appropriate, and in terms the children can understand.
  - (c) Discipline **Punishment** that is shaming, humiliating, frightening, verbally abusive, or injurious to children shall not be used.
  - (d) Discipline **Punishment** shall not be related to food, rest, or toileting.

- (e) Spanking or any other type of corporal punishment is prohibited. ("Corporal punishment" is the infliction of bodily pain as a penalty for behavior of which the punisher disapproves.)
  - (f) Caregivers shall not focus solely upon unacceptable behavior.
  - (g) Praise and encouragement of good behavior shall be used.
  - (h) Efforts shall be made to help ~~infants and toddlers~~ children develop a feeling of self-worth beginning in infancy and continuing throughout the school-age years. ~~A desirable activity shall be substituted for one that is undesirable, or the child's attention shall be distracted from the undesirable activity.~~
  - (i) When a child is engaging in unacceptable behavior the caregiver ~~should~~ shall, prior to disciplining the child, first distract the child's attention and substitute a desirable activity.
  - (j) Time out shall be reasonable and developmentally appropriate.
    - 1. Time out shall take place in an appropriate location based upon the development of the child.
    - 2. The length of each time out session shall be based on the age of the child and shall not exceed one (1) minute per each year of age of the child; provided, however, that in no event shall any child below the age of thirty-six (36) months be placed in time-out for more than three (3) minutes, and no child between thirty-six (36) months and sixty (60) months of age shall be place in time-out for longer than five (5) minutes.
- (6) Physical Care - Toilet Training.
- (a) Toilet training shall never be started until a child has been in the ~~day-care home~~ program long enough to feel comfortable.
  - (b) Toilet training shall not be started until a child is able to understand, to do what is asked of them, and to ~~let~~ communicate their need to use the bathroom ~~be known~~.
  - (c) Children shall not be made to sit on the potty or toilet for more than five (5) minutes.
  - (d) Children shall be diapered or cleaned immediately in a safe, sanitary manner.
- (7) Educational Activities.
- (a) Activities shall be based on developmentally appropriate educational practices.
  - (b) A daily program shall provide opportunities for learning, self-expression, and participation in a variety of creative activities such as art, music, literature, dramatic play, science, and health.
  - (c) Staff shall plan ahead for developmentally appropriate activities; written lesson plans shall be provided for children of each age group.
  - (d) Indoor physical activities, requiring children to use both large and small muscles, shall be provided for children of each age group.
  - (e) For infants/toddlers, a portion of the day shall include floor time for activities that develop physical, social, language and cognitive skills.

- (f) Because of the importance of language development and communication skills, infants and toddlers shall have language experiences with adults on a daily basis.
- (g) Personal Safety Curriculum:
  - 1. For ages three (3) through school-age, the curriculum shall include instruction in personal safety as needed but at least once a year.
  - 2. The personal safety curriculum shall include a Department-recognized component on the prevention of child abuse, ~~component, recognized by the Department of Education,~~ based upon Department curriculum guidelines. The program may choose terminology and instructional methods for this curriculum with a goal of providing clear, effective and appropriate instruction to the children in personal safety, including the prevention of child abuse.
  - 3. The personal safety curriculum used by the program shall be made available to the parents and legal guardians for review.
  - 4. The record of each enrolled child shall include a copy of the signed notification form acknowledging that parents/legal guardians have been provided an opportunity to review the agency's personal safety curriculum, and have been notified of the sexual abuse/personal safety curriculum for their child.
  - 5. If parents/legal guardians have questions regarding the personal safety component of the curriculum a representative of the program shall meet with the parent/legal guardian to discuss the personal safety component of the curriculum.
  - 6. For school-age children, the personal safety curriculum is integrated in the Health and Wellness curriculum during the school day for K-12 students. The school-age children enrolled in the program information on reporting physical, verbal or sexual abuse shall be provided to the students.
- (j) Children, enrolled in a school-administered pre-kindergarten program shall participate in an educational curriculum, correlated with the Tennessee Early Learning Developmental Standards (TN-ELDS) as required by T.C.A. § 49-6-104(b)(5).
- ~~(f) For school-age children the curriculum shall include instruction on reporting physical, verbal or sexual abuse.~~
- ~~(g) Activities for infants/toddlers shall provide experiences for the development of the following skills:
  - 1. language;
  - 2. gross motor;
  - 3. fine motor;
  - 4. social/personal; and
  - 5. cognitive.~~
- ~~(h) A portion of the day shall include floor time for these activities. Examples of such activities include:~~

1. ~~music;~~
  2. ~~dramatic play;~~
  3. ~~storytime;~~
  4. ~~free activity periods;~~
  5. ~~outdoor play; and~~
  6. ~~the opportunity to explore many materials, situations, and roles.~~
- (i) ~~Children shall not be left to amuse themselves for extended periods (in excess of thirty (30) minutes), in restraining devices such as swings, car seats, or high chairs. Care shall be given to provide stimulation to children in those settings.~~
- (j) ~~Because of the importance of language development and communication skills, to infants and toddlers shall experience the following language experiences on a daily basis:~~
1. ~~talked to;~~
  2. ~~listened to;~~
  3. ~~read to; and~~
  4. ~~sung to.~~
- (k) ~~In addition to the activities outlined in the previous item, infants and toddlers shall also experience language activities such as:~~
1. ~~finger plays;~~
  2. ~~patty cake; and~~
  3. ~~flannelboard stories.~~
- (8) ~~Nighttime Care. Extended Care.~~ Agencies providing nighttime care shall meet the following additional requirements:
- (a) Calming activities preceding bedtime shall be provided, including such things as listening to a story or soft music. In addition, individual/adult attention shall be provided as needed.
  - (b) Routine personal hygiene shall be encouraged and supervised. A plan shall be made with parents for brushing teeth, baths, bed dress, etc.

**Authority:** T.C.A. §§ 4-5-201 et seq., 37-1-403, 37-1-601, 37-1-603, 49-1-302 (l), 49-1-1101 through 49-1-1109, 49-6-104. **Administrative History:** Original rule filed September 26, 1990; effective December 29, 1990. Amendment filed April 30, 2002; effective July 14, 2002.

**0520-12-1-.10 HEALTH AND SAFETY.**

- (1) Children's health records shall be maintained as directed under subchapter 0520-12-1-.05.
- (2) Each child shall be immunized according to the current Department of Health guidelines unless exempted pursuant to subchapter 0520-12-1-.05(8). Programs serving non-school-age children shall maintain written policies for dis-enrollment of children who fail to comply with Department of Health immunization guidelines in a timely manner.
  - ~~(a) Before an infant or toddler is accepted for care, the parent shall have proof of the child's physical examination within three (3) months prior to admission, signed or stamped by a physician or health care provider. Each infant/toddler shall have on file an official health record of the initial medical checkup and health history prior to entering the program.~~
  - ~~(c) A copy of each preschool child's immunization record, signed or stamped by a certified health care provider, shall be on file in the child care center and shall be available to the appropriate staff.~~
  - ~~(d) A copy of the child's health history provided by the child's parent or other caretaker, which need not be signed or certified by a health care provider, shall also be on file in the center and shall be available to appropriate staff. The immunization record and health history shall be returned to the child's parents, or other caretaker when the child is removed from enrollment at the center.~~
  - ~~(e) Before a school-age child is accepted for care, the center shall have on file a statement from the parent (or school) that the child's immunizations are current and that his/her health record is on file at the specified school which the child attends.~~
  - ~~(f) Exceptions to requirements in subparagraphs (a) and (b) of this paragraph may be made only if:
    1. The child's physician or the health department provides a signed and dated statement, giving a medical reason why the child should not be given a specified immunization; or
    2. The child's parent provides a signed written statement that such immunizations conflict with his/her religious tenets and practices.~~
  - ~~(g) If children with mental, physical, or other impairment, or with a medical disorder, are enrolled and special care is needed, their health records shall include a physician's statement which identifies the condition and which gives the physician's or other appropriate care professional's special instructions for the child's care. An update must be provided as needed, but at least yearly.~~
- (3) Children shall be checked upon arrival and observed for signs of communicable disease during the day.
- (4) ~~Use of oral and rectal thermometers is prohibited.~~ A child's temperature should be taken using a non-invasive method unless otherwise prescribed by a physician.
- (5) Symptomatic children shall be removed from the group until parents are contacted and health issues are resolved. ~~Every sign of illness shall be reported to the parent as soon as possible but no later than the end of the day in which it occurred.~~

- (6) Universal precautions, as defined by the Department of Health and required by 0520-01-03-.08(2)(g)4., shall be followed when handling or cleaning bodily fluids. ~~(e) Universal precautions shall be followed when handling or cleaning bodily fluids.~~
- (7) First Aid.
- (a) A standard first aid kit (for example, one approved by the American Red Cross) shall be available to all staff, and all staff shall be familiar with its contents and use. ~~A standard first aid kit (such as one approved by the American Red Cross) shall be available to the staff.~~
- (b) At least one staff member who has current certification or equivalent in first aid from a certifying organization recognized by the Department shall be on duty at all times. The course shall be a minimum of three (3) hours and shall be taught by a certified first aid instructor. Extended Care: All staff shall have certification or equivalent in first aid from a certifying organization recognized by the Department. ~~At least one staff member who has current certification or equivalent in infant/child first aid shall be on duty at all times. The course shall be a minimum of three hours and shall be taught by a certified first aid instructor.~~
- (c) Current and comprehensive first aid information shall be available to all staff who interact with children and the agency shall provide periodic training and updates on basic first aid and the use of the first aid kit. ~~Current and comprehensive first aid information shall be available to all staff who interact with children and they shall be familiar with such information.~~
- (8) Emergency Treatment.
- (a) Cardiopulmonary Resuscitation (CPR) Requirements.
1. At least one staff member on duty shall hold current certification in Infant/Pediatric Cardiopulmonary Resuscitation (CPR) from the American Red Cross, the American Heart Association, or other certifying organization, as recognized by the Department. ~~(a) At least one staff member who has current certification or equivalent in infant/child CPR shall be on duty at all times. The initial course shall be a minimum of four hours and shall be taught by a currently certified CPR instructor.~~
2. Extended Care. All staff shall be certified in Infant/Pediatric Cardiopulmonary Resuscitation (CPR) from a certifying organization recognized by the Department.
- (b) The initial CPR course shall be a minimum of four (4) hours and shall be taught by an individual currently certified, as recognized by the Department, to provide CPR instruction.
- (c) When school-age children are present, and/or in a school-age only program, at least one staff member shall hold current certification, pursuant to the requirements listed in subparagraphs (a) and (b) above, in Adult CPR. Extended Care: All staff shall be certified pursuant to the requirements listed in subparagraphs (a) and (b) above, in adult CPR. ~~When school-age children are present at least one staff member who has current certification or equivalent in adult CPR shall be on duty at all times. The initial course shall be a minimum of four hours and shall be taught by a currently certified CPR instructor.~~

(9) Preparation for Emergencies.

- (a) The program, in consultation with appropriate local authorities, shall develop a written plan to protect children in the event of disaster such as, but not limited to, fire, tornado, earthquake, chemical spills, floods, etc. and shall inform parents of the plan. ~~The center, in consultation with appropriate local authorities, shall develop a written plan to protect children in the event of disaster such as, but not limited to, fire, tornado, earthquake, chemical spills, floods, etc. and shall inform parents of the plan. The center shall implement these emergency procedures through timely practice drills to meet local regulations and shall maintain documentation of drills for one year.~~
- (b) The program shall implement these emergency procedures through timely practice drills to meet local regulations and local emergency services plans and shall maintain documentation of drills for one year. Extended Care: At least one (1) of these drills shall be conducted during extended care hours.
- (c) The following emergency telephone numbers shall be posted next to all telephones and be readily available to any staff member: ~~Emergency telephone numbers shall be posted next to the telephone and readily available to any staff member as follows: fire department, police department/sheriff, hospital, child abuse hotline, and local emergency management agency. Rescue squad, ambulance, and poison control center telephone numbers shall also be posted if available in the community. If a generic number (such as, but not limited to, 911) is operable in the community, it shall be posted in addition to the above numbers. Numbers where parents can be reached shall be readily available to staff.~~
1. Fire Department;
  2. Police Department/Sheriff;
  3. Nearest Hospital Emergency Room;
  4. Child Abuse Hotline;
  5. Local Emergency Management Agency;
  6. Ambulance or Rescue Squad; and
  7. Poison Control Center.
- (d) If 911 or a similar generic number is operable in the community, it shall be posted in addition to the above numbers.
- (e) All home/work contact numbers for parents shall be readily available to all staff.

(10) Contagious Conditions:

- (a) Impetigo and diagnosed strep shall be treated appropriately for twenty-four(24) hours prior to readmission of the child to the center. ~~Impetigo and diagnosed strep shall be treated appropriately for twenty-four (24) hours prior to readmission to the center. Children having scabies or lice shall have proof of treatment to be readmitted. The center shall provide care and/or isolation for a child with a contagious condition only if written instructions of a licensed physician or certified health care provider are obtained first.~~

- (b) Children diagnosed with scabies or lice shall have proof of treatment and be free of nits prior to re-admission.
  - (c) The program may not provide care and/or isolation for a child with contagious condition unless written instructions are obtained from a licensed physician or certified health care provider.
  - (d) Parents of every child enrolled shall be notified immediately if one of the following communicable diseases has been introduced into the program:
    - 1. Hepatitis A;
    - 2. Food borne outbreaks (food poisoning);
    - 3. Salmonella;
    - 4. Shigella;
    - 5. Measles, mumps, and/or rubella;
    - 6. Pertussis;
    - 7. Polio;
    - 8. Haemophilus influenza type B;
    - 9. Meningococcal meningitis; and
    - 10. Any other illness identified by the state or local Department of Health.
  - ~~(c) Parents of every child enrolled shall be notified immediately if one of the following communicable diseases has been introduced into the child care center: hepatitis A, foodborne outbreaks, food poisoning salmonella, shigella, measles, mumps, rubella, pertussis, polio, haemophilus influenza type B, meningococcal meningitis. (Note that this requirement does not apply in the case of HIV infection as the center may not be aware of such infection, and HIV may be present without apparent symptoms.)~~
  - (e) The program shall report the occurrence of any of the above diseases to the local health department as soon as possible, but no later than the end of the day in which it occurred.
  - ~~(f) For the protection of children and adults, when blood is to be handled (e.g., resulting from injury to a child or adult, from nosebleed, or from spillage), vinyl or latex gloves shall be used and properly disposed of following use with/by one individual. Following blood spillage, surfaces shall be cleaned and sanitized.~~
- (11) Notification to Parents of Accidents, Injuries, Illnesses.
- (a) Staff shall make every reasonable attempt to notify parents immediately when a child sustains serious injury/injuries, including but not limited to, massive bleeding, broken bones, head injuries, possible internal injury, etc., to arrange for emergency treatment.
  - (b) Staff shall make every reasonable attempt to notify parents immediately when a child shows signs of serious illness, including but not limited to, high temperature,

disorientation, coughing, vomiting or diarrhea with blood present, severe difficulty breathing, seizure, etc. to arrange for emergency treatment.

(c) Accidents, injuries, and every sign of illnesses shall be reported, or a reasonable attempt made to report, to the parent as soon as possible, but no later than the child's release to the parent or authorized representative. ~~Accidents and injuries to children shall be documented immediately following the incident, including date and time occurred, description of circumstances, and action taken by caregivers. The center shall make all reasonable attempts to report injuries to the parent as soon as possible, but no later than the end of the day in which they occurred.~~

(d) In no event shall the program delay seeking emergency treatment due to a delay in making contact with the parent.

(12) Medications.

(a) All medications, prescription and non-prescription, ~~whether requiring refrigeration or not, must~~ shall be received from the parent by a designated staff person or management level staff person.

(b) An alternate staff person shall be available to administer medication in the event the designated staff person is absent.

(c) The staff person designated in subparagraph (a) above shall document verification of the following:

1. The parent's written authorization to administer medication;
2. That medicines or drugs are in the original prescription container, are not out of date, and labeled with the child's name;
3. The specific dosage and times medication is to be administered to the child; and
4. That the parent has ~~shown the center staff person or management level staff person how to use the container to administer medication;~~ provided the program with instructions on the methods of administration.

(d) The following documentation of administration shall be maintained in the child's file and a copy provided to the parent:

~~5. Documentation of the following items: times medications administered, noticeable side effects, name of staff person administering medication to child, the fact that information was reported to parent, and the parent shall sign that the above information was received, and that unused medication was returned to the parent.~~

1. Times medications administered;
2. Noticeable side effects; and
3. Name of staff person administering medication to child.

(e) The parent shall sign documentation verifying that:

1. The administration information required by subparagraph (c) above was received, and
2. Unused medication was returned to the parent.

- (f) Medication shall not be handled by children. Exception: A physician's authorization for the current school year shall be on file for school-age children who must have self-administered medications. Assistance to school-age children self administering medication must be in accordance with Guidelines for Use of Health Care Professionals and Health Care Procedures in a School Setting, developed by the Department of Health in accordance with T.C.A § 49-5-415.
  - (g) Medication shall never be administered in bottles or infant feeders unless authorized by a physician. ~~There must be an alternate staff person or management level staff person to perform these duties in the event the designated staff person or management level staff person is out of the center.~~
  - ~~(k) Exception to item (i) above: A physician's authorization for the current school year shall be on file for school-age children who must have self-administered medication.~~
  - (h) Accessibility of Medications.
    - 1. All medicines, prescription and non-prescription, whether requiring refrigeration or not, shall be ~~made inaccessible to children by storing them~~ stored in a locked compartment or container.
    - 2. If medicine requiring refrigeration is kept in a refrigerator used for food storage, the medicine shall be put in a leak-proof locked container.
    - 3. Keys for these compartments shall be inaccessible to children. ~~No medicine shall be stored in children's classrooms.~~
    - 4. Exception for Emergency Administration. Medication requiring emergency administration, as directed by the physician, nurse practitioner or physician's assistant, e.g., "EpiPen", asthma inhaler, etc., may be kept in an unlocked container that is inaccessible to children.
  - (m) Unused medication shall be returned to the parent.
  - (n) Public school-administered programs shall follow the procedures for student medications defined in the School Health policy, adopted by the Local Education Agency in accordance with 0520-1-1-.08(1).
- (13) Prohibited Practices and Products.
- (a) Smoking.
    - 1. Smoking is not permitted in the presence of children.
    - 2. Under state law, smoking in child care centers that are not private homes is restricted within a child care facility to areas where children are not permitted access, and parents must be given notice that the facility has a smoking area.
      - (i) No smoking signs must be posted conspicuously within the facility as provided by state law.
      - (ii) Federal law prohibits smoking in any part of a child care facility that is not a private residence if the facility is constructed, operated, or maintained with Federal funds.
  - (b) Alcoholic Beverages.

1. The use of alcoholic beverages is not permitted in child care centers during the hours of operation of the center.
  2. Alcoholic beverages shall not be present in areas where children are permitted access in the child care facility.
- (c) Illegal or inappropriate activities on the premises, property, or in a vehicle on the facility property or used for transportation of children enrolled in the program or any activity that otherwise places children at risk are prohibited.
- (d) Firearms shall not be on the premises of a child care agency, in any vehicle used to transport children or in the presence of a child. Exception: In a private residence, firearms and other deadly weapons or tools on the premises shall be secured in such a way that they are inaccessible to children.
- (e) Kitchen knives and other potentially dangerous utensils or tools shall be secured so that they are not accessible to children.
- (f) Staff's personal belongings (such as, but not limited to, contents of purses, backpacks, coat pockets, diaper bags, etc.) shall be inaccessible to children at all times.
- (14) Diapering.
- (a) Children shall be diapered/changed and cleaned immediately when wet or soiled.
  - (b) For the protection of children and adults, the Centers for Disease Control guidelines for handwashing and diapering procedures shall be followed.
  - (c) The diapering area and/or toilet training area shall be located near a handwashing lavatory and shall be located in a separate area ~~not be in a~~ from the food preparation/service area.
  - (d) ~~The diapering area shall be off the floor and have a washable surface.~~  
All diapering surfaces must off the floor, nonporous and shall be sanitized after use with each child by using solutions described or otherwise permitted in subparagraph (t) below, for general cleaning and sanitizing purposes:
- ~~(t) Cleaning Solutions for General Cleaning and Sanitizing Purposes:~~
1. For general cleaning and sanitizing purposes, a fresh solution of one quarter (1/4) cup chlorine bleach to one (1) gallon of water (or one (1) tablespoon bleach to one (1) quart of water) shall be made daily.
  2. Substitutions for the bleach solution required in part 1 of Rule 0520-12-1-10(2)(t), above, that are approved for the child care setting by the Department of Health are permissible.
  3. ~~Note that~~ The solution required in part 1 of Rule 0520-12-1-10(2)(t) above is not appropriate for items associated with food preparation or for items that children frequently place in their mouths, and the Health Department requires that the bleach solution used for sanitizing utensils, food contact surfaces and in three (3) compartment sinks be fifty (50) to two hundred (200) parts per million chlorine. For items such as large mixing bowls, etc. which do not fit in the sink, the solution may be doubled to one hundred (100) to four hundred (400) parts per million chlorine. The Health Department does not permit the use of higher

concentrations than these in food preparation areas. Specific jurisdictions may have even more stringent requirements, therefore, the local environmental health department should be consulted for this reason. For reference purposes, ~~one (1) teaspoon per one (1) gallon water is approximately one hundred (100) parts per million chlorine solution.~~

(e) A tightly covered container with plastic liner shall be used for diaper disposal and shall be inaccessible to children. This container shall be emptied by closing the liner and disposing of it in an outside receptacle.

(f) Special Needs Children.

1. If ~~For~~ older children are enrolled who lack independent toileting abilities, rules regarding diapering of preschool children shall apply.

2. Children ~~, appropriate diapering area~~ shall be changed in a location designated for that purpose and which provides privacy from other children and adults. ~~private area, separated from sight of other students.~~

3. School-age children may be diapered on the floor. ~~The diapering area (whether on or off the floor) shall have a~~ on a nonporous washable, non-absorbent surface that adequately protects the floor from contamination.

4. The floor beneath the diapering surface shall be immediately cleaned after each diapering.

5. The diapering area shall be located near a handwashing lavatory. ~~with anti-bacterial soap and running water and~~ This area shall not be in a separate location from food preparation/service area.

(15) Naptime Care.

(a) In order to avoid the spread of airborne diseases children shall be positioned on mats in a face-to-feet alternating pattern.

(b) Spacing of cots, cribs, and mats shall allow sufficient space to walk between them.

(16) ~~Requirements for Tuberculosis Screening of Child Care Populations.~~

(a) Tuberculosis screening prior to on-going contact with children is recommended for any individual who:

1. Was born in a country other than the United States, Canada, Western Europe, Australia, New Zealand, and Japan;  
(i) ~~is a recent immigrant to this country.~~

(ii) ~~is HIV positive.~~

2. Has a weakened immune system (Human Immunodeficiency Virus (HIV), cancer, taking chemotherapy drugs, etc.); or

3. Has been recently exposed to tuberculosis.

(b) Any person who has had a cough for three (3) weeks or longer should be evaluated by a physician for tuberculosis.

- (c) Future screening is not required for individuals who have been treated for tuberculosis or latent tuberculosis infection unless persistent pulmonary symptoms develop or there is contact with tuberculosis.
- (d) All children born in countries other than the United States, Canada, Western Europe, Australia, New Zealand, and Japan shall present evidence of a tuberculin skin test performed in the United States at any time after twelve (12) months of age. Any child with a positive tuberculin skin test shall be referred to a physician for evaluation. After the initial evaluation, future periodic screening is not required unless the child develops persistent pulmonary symptoms or there is contact with tuberculosis.

(17) Staff Health.

- (a) ~~All staff members, within 36 hours of beginning employment, shall have on file written evidence of a physical examination within the last three years and a statement that their general physical and mental condition will permit them to direct and actively participate in the activities of a group of young children with reasonable accommodation, if necessary. The form or statement shall have the signature or stamp of a licensed physician, a certified nurse practitioner, or a certified physician's assistant. Staff health records shall be maintained as directed under subchapter 0520-12-1-.05(9).~~
- (b) ~~An updated statement of each staff member's physical health shall be obtained every third year or more often if deemed necessary by the Department. A statement of mental or emotional health shall be obtained from a psychiatrist or clinical psychologist when deemed necessary by the Department.~~ A statement of mental or emotional health shall be obtained from a psychiatrist or clinical psychologist when deemed necessary by the Department.

(18) ~~Investigations of Duty to Report Child Abuse and Neglect. Custodial Authority of Children.~~

- (a) ~~Suspected child abuse or neglect shall be reported immediately to the local department of children's services office by the staff of the child welfare agency. Any citizen is required by law to cooperate with the Department of Children's Services (DCS), law enforcement, and other investigators. Failure to do so for children in the care of an approved child care agency is, by itself, grounds for suspension, denial or revocation of the agency's license.~~
- (b) ~~A child care provider shall further cooperate by providing access to the records of children and staff and by allowing investigators to interview children and staff. (Child care providers do not have a right to be present during interviews with staff or children or to receive information or results of the interviews or investigations concerning child abuse or neglect unless directly related to efforts to enforce the child abuse or licensing laws.) Interference with a DCS investigation by the child care provider may result in criminal charges.~~
- (c) ~~A child care provider shall protect the child by requesting the investigator's identification.~~
- (d) ~~A parent shall be notified before the child leaves the premises except in emergency circumstances, or as follows: An investigator may take a child off the premises of the agency if he/she has obtained custody of the child through voluntary placement agreement with the parent, through court order, or through emergency assumption of custody under T.C.A. § 37-1-113 without parental permission, or if the child's parent or legal guardian is present and approves, or in conjunction with investigative procedures under the child abuse laws.~~

~~(e) Upon notification of a pending DCS investigation of any center staff member or resident of a home based center, the certified approved agency shall enter into a safety plan as approved by Department of Education and based upon consultation between Department of Education and DCS.~~

(a) Duty to Report.

1. Every operator, owner, director, teacher, or staff member of, or substitute staff member or volunteer in a program is individually responsible, and is required by T.C.A. §§ 37-1-403 and 37-1-605, to immediately report any reasonable suspicion of child abuse or neglect to the Department of Children's Services, local law enforcement or the judge of the juvenile court in the county of the child's residence.

2. Determining Suspicion of Abuse/Neglect.

(i) Due to both the immediate risk to children's safety, as well as to the extreme risk of destroying or losing critical evidence, the program and/or individual staff shall not delay reporting possible abuse or neglect in an attempt to conduct an investigation to verify the abuse/neglect allegations.

(ii) In determining a reasonable suspicion for purposes of reporting, the program shall limit questioning of the child and may make only the most basic inquiries necessary to determine if any reasonable possibility of abuse or neglect exists.

(iii) The program does not have to, and shall not attempt to, validate (or "prove") the allegation prior to making a report as required by this paragraph (18). A final determination of the validity of the report of abuse or neglect shall be made exclusively by the Department of Children's Services and/or by law enforcement upon the report by the program's staff.

3. Any statement from a child reasonably indicating abuse/neglect of that child or another child or any evidence of abuse/neglect observed on a child shall be immediately reported by staff to the Department of Children's Services in a manner specified by that department, to local law enforcement or to the judge of the juvenile court in the county of the child's residence.

(b) The telephone numbers of the Department of Children's Services, the local law enforcement or the juvenile judge of the county of the child's residence for staff to call to report suspected abuse and neglect shall be posted in a conspicuous location by each telephone.

(c) Prohibited Procedures for Reporting Suspected Child Abuse/Neglect/Penalties.

1. The program shall not develop or implement policy that inhibits, interferes with or otherwise affects the duty of any staff, including substitutes and volunteers, to report suspected abuse or neglect of a child as required by subparagraph (a) above and T.C.A. §§ 37-1-403 and 605, and shall not otherwise directly or indirectly require staff to report to the program management or seek the approval of program management prior to any individual staff member reporting the suspected abuse or neglect.

2. A report of suspected child abuse or neglect of a child enrolled in the program by the operator, owner, director, teacher or staff member of, or substitute staff

member or volunteer in, a program shall not be made to any other entities or persons, including, but not limited to, hospitals, physicians, or educational institutions as an alternative to or substitute for the reporting requirements to the persons or entities specifically listed in subparagraph (a) above

3. The operator, owner, director, teacher, or staff member of, or substitute staff member or volunteer in, the program shall not suggest to, advise or direct a parent or caretaker of a child enrolled in the program to make a report of suspected child abuse or neglect regarding that parent's or caretaker's own child who is enrolled in the program as a means of fulfilling the duty of the operator, owner, director, teacher or staff member of, or substitute staff member or volunteer in, the program to report child abuse or neglect as required by T.C.A. §§ 37-1-403 and 37-1-605.
4. Because the statutory requirements of T.C.A. §§ 37-1-403 and 37-1-605 do not authorize the prohibited procedures described in parts 1-3 of this subparagraph (c) to fulfill the statutory duty of any person, and especially the duty of those certified as approved by the Department of Education to care for and protect vulnerable children, to make timely and effective reports of child abuse and neglect to appropriate investigative agencies, and because the prohibited procedures described in parts 1-3 of this subparagraph (c) are completely unreliable procedures to ensure that the appropriate authorities are able to timely and satisfactorily investigate suspected child abuse or neglect, any action that does not comply in all respects with subparagraph (a) above, will not fulfill the statutory duty to report child abuse or neglect and the certification of approval requirements of this Chapter.
5. Failure to Report Property Is Grounds for Suspension, Denial or Revocation of the Program's Certificate of Approval.
  - (i) Failure to make the reports required by subparagraph (a) above or the use of the prohibited methods described in parts 1-3 of this subparagraph (c) as an attempt to fulfill the duty to report suspected child abuse or neglect, for children in the care of the program are, by themselves, grounds for suspension, denial or revocation of the program's certificate of approval.
  - (ii) If the facts establish by a preponderance of the evidence that there has not been strict compliance with the requirements of subparagraph (a) above or that the prohibited procedures described in parts 1-3 of this subparagraph (c) have been utilized as an alternative means of fulfilling the requirements of subparagraph (a) above, these circumstances shall create a rebuttable presumption for the Administrative Law Judge and the Child Care Advisory Council Review Board that the duty to report child abuse or neglect has not been fulfilled, and this ground for suspension, denial, or revocation of the program's certificate of approval by the Department of Education shall be sustained unless such presumption is rebutted by a preponderance of the evidence.
- (d) Agency Duties During Investigations of Child Abuse and Neglect: Custodial Authority of Children.
  1. Every operator, owner, director, teacher or staff member of, or substitute staff member or volunteer in, a program certified as approved by the Department of Education shall fully cooperate with all agencies involved in the investigation of child abuse or neglect.

2. The program shall provide access to records of children and staff.
  3. The program shall allow appropriate investigators to interview children and staff.
  4. The program shall not interfere with a child abuse and neglect investigation.
  5. The program shall protect the child by requesting the investigator's identification.
  6. The program shall maintain confidentiality of the investigation and shall not disclose the investigation or details of the investigation except as required to carry out procedures for the protection of children or as otherwise directed by the Department of Children's Services, law enforcement or the Department of Education.
- (e) Upon notification of a pending abuse/neglect investigation of any program staff member or resident of a home-based program, the program shall enter into a Safety Plan with the Department regarding the individual's access to the program and the children in the care of the program.
- (f) All agency staff, including non-caregiving staff, shall receive training regarding the procedures to report child abuse and neglect.
- (19) A parent shall be notified before the child leaves the premises except in emergency circumstances, except that an authorized investigator with the Department of Children's Services or local law enforcement may take a child off the premises of the program if he/she has obtained custody of the child as follows:
- (a) Voluntary placement agreement with the parent;
  - (b) Court order;
  - (c) Emergency assumption of custody under T.C.A. § 37-1-113 without parental permission;
  - (d) If the child's parent or legal guardian is present and approves; or
  - (e) In conjunction with investigative procedures under the child abuse laws.

**Authority:** T.C.A. §§ 4-5-201 et seq., 49-1-302(l), 49-1-1101 through 49-1-1109, 49-5-415, 49-6-5001 & 5002, 37-1-113, 37-1-401 et seq., 37-1-601 et seq., 37-1-605, and 20 U.S.C. §6081 **Administrative History:** Original rule filed April 30, 2002; effective July 14, 2002.

**0520-12-1-.11 FOOD.**

- (1) Nutritional Needs.
- (a) If the program provides meals, the program shall provide developmentally appropriate meals, snacks, and drinks for each child that are of sufficient proportions and nutritional value to meet each child's health needs in accordance with the following minimum requirements:  
~~\_\_\_\_\_The agency shall provide developmentally appropriate meals, snacks, and drinks, for  
\_\_\_\_\_each child, of sufficient proportions and nutritional value, to meet each child's health  
\_\_\_\_\_needs.~~
1. For children in the agency at least four (4) hours, one (1) snack (~~defined as two of  
\_\_\_\_\_these four choices~~) shall be provided, unless the four 4 hour period covers

a normal meal hour, in which case a meal shall be ~~provided~~; served; provided, however that, if the child is fed their meal at home or in school the child shall be served two (2) snacks in lieu of a meal.

1. ~~fluid cow or soy milk;~~
2. ~~meat or meat substitute;~~
3. ~~fruits, vegetables, or 100% juice; or~~
4. ~~whole grain or enriched bread.~~

2. Children in the agency care five (5) to six (6) hours shall be provided one (1) meal (~~defined as meat or meat substitute, vegetable and/or fruit, bread or bread product, and milk~~) and one (1) or two (2) snacks; ~~shall be provided~~ however that, if the child is fed their meal at home or in school the child shall be served two (2) snacks in lieu of a meal. ~~two snacks if the period is as much as seven hours.~~

3. Children in care seven (7) to ten (10) hours shall be provided one (1) meal and one(1) or two (2) snacks.

4. Children in care for ~~For those in the agency~~ longer than ten (10) hours shall be provided two (2) complete meals and one (1) or two (2) snacks. ~~shall be furnished.~~

5. A meal ~~Breakfast (defined as fruit, vegetable or 100% juice; cereal or bread product; and fluid cow or soy milk)~~ shall be offered to children who arrive before 7:00 a.m. and who have not had breakfast at home.

6. Extended Care. For children in extended night care, meal and snack service will not apply while children are asleep, but snacks will be offered if the child awakens and indicates hunger.

- (b) Appropriate foods shall be encouraged; highly inappropriate foods, e.g., foods high in sugar and/or fat content but containing low nutritional value, shall not be served.
- (c) Powdered milks shall be used only in a cooked food product.
- (d) All special needs diets shall be prepared as prescribed by a physician or by the written instructions of the parent.
- (e) ~~The week's menus shall be planned and posted by the first day of each week and remain posted until the following week, so that parents can be aware of the food their children are receiving. These menus shall be followed, although reasonable substitutions are permissible, if the substituted food contains the same nutrients. The change shall be documented in advance of the meal. (Information on menu planning is available upon request.)~~ In order for parents to be aware of the food their children are receiving, the week's menus shall be planned and posted by the first day of each week and remain posted throughout the week.
  1. These menus shall be followed, although reasonable substitutions are permissible, if the substituted food contains the same nutrients
  2. Any change shall be documented in advance of the meal.
- (f) Food shall not be forced on or withheld from children.

- (g) Food as Behavior Management.
  - 1. Foods served as part of the meal/supplement pattern shall not be used as reward; nor shall food be used or withheld as ~~punishment~~ as a form of discipline.
  - 2. Desserts and sweets must not be used as rewards or ~~punishment~~ a form of discipline.
- (h) New foods shall be introduced to infants and toddlers one at a time over a five (5) to seven (7) day period with parent's approval.
- (i) The feeding schedule for infants shall be in accordance with the child's need rather than according to the hour. (~~Infants fed breast milk may require more frequent feedings than formula-fed babies.~~)
- (j) Staff shall support parent's decision to continue breast feeding.
- (k) Parents and caregivers shall work together when weaning an infant to insure consistency in the weaning process. Weaning shall be delayed until after an infant adjusts to group care.
- (l) Children shall not be permitted to carry a bottle with them throughout the day.
- (2) Meal Service.
  - (a) Caregivers and children shall wash their hands ~~according to prescribed handwashing techniques~~ with soap and water.
  - (b) High chairs and tables on which food is prepared and served shall be washed with soap and water and sanitized prior to and after snacks and meals.
  - (c) Floors under tables and high chairs on which food is served shall be swept and/or vacuumed after each meal and cleaned as needed.
  - (d) Dishes and Utensils.
    - 1. Napkins, individual forks and/or spoons shall be provided for children who feed themselves.
    - 2. Individual dishes as necessary for the type of feeding shall be provided.
    - 3. Routine food service dishes, utensils, and bottles shall be break-resistant.
  - (e) Due to the extreme risk of choking, solid foods (including cereal) shall not be given in bottles or with infant feeders to children with normal eating abilities unless authorized by a physician. Violation of this rule may result in suspension, revocation or denial of the agency's ability under its certificate of approval to provide infant care.
  - (f) To avoid choking, foods shall be appropriate size for the eating and chewing abilities of children. Special attention should be given when serving raw fruits and vegetables and prepackaged meats and cheeses, such as hotdogs, pepperonis, and cheese cubes.
  - (g) At mealtime, children shall be seated at appropriately sized tables and chairs, and adults shall sit with them.

- (h) Formula and Food Brought from Home:
  - 1. All formulas and food brought from home shall be labeled with the child's name.
  - 2. Milk shall be placed immediately in the refrigerator.
  - 3. Once milk has been warmed, it shall not be re-warmed or returned to the refrigerator.
  - 4. For optimum digestion, formula is to be served at body temperature.
  - 5. Frozen breast milk shall be dated when expressed.
  - 6. All formulas remaining in bottles after feeding shall be discarded.
- (i) Microwaves, Bottle Warmers, and Crock Pots. In order to prevent scald and splash burns:
  - 1. Microwave ovens, bottle warming devices, and crock pots, including cords shall not be accessible to preschool children.
  - 2. School-age children shall use microwaves only under direct supervision.
  - 3. Children shall never be held while removing a bottle from a crock pot or warming device.
  - 4. The "splash zone" area immediately surrounding microwaves, crock pots and warming devices shall be kept inaccessible to children at all times.
  - 5. All crock pots, bottle warmers and other warming devices shall be maintained at the device's lowest available temperature setting.
  - 6. Crock pots and bottle warming devices shall be secured in such a manner as to prevent them from tipping over, splashing and spilling.
  - 7. Bottled breast milk, infant bottles, and formula shall not be heated in a microwave oven. ~~Other bottle warming devices shall be used safely, according to directions, and shall not be accessible to children.~~
  - 8. To prevent scalding, liquid and solid foods heated in ~~extreme caution shall be taken when a microwave oven is used to heat food.~~ shall be checked for "hot spots" prior to serving.
- (j) Previously opened baby food jars shall not be accepted in the center. If food is fed directly from the jar by the caregiver, the jar shall be used for only one feeding.
- (k) Infants shall be held while being fed as long as they are unable to sit in a high chair, an infant seat, or at the table.
- (l) To avoid the risk of serious injury or choking, children shall always be restrained in the high chair manufacturer's restraint device while sitting in a high chair. Children who are too small or are too large to be restrained using the manufacturer's restraint device shall not be placed in a high chair.
- (m) Bottles shall not be propped, and a child shall not be given a bottle while lying flat.

- (n) When children are capable of using a high chair, they shall be allowed to do so and to experiment with food, with feeding themselves, and to eat with fingers or spoon.
  - (o) Children shall ~~not~~ never be left ~~unattended~~ without adult supervision while eating.
- (3) Food Storage.
- (a) Potentially hazardous foods requiring cold storage shall be maintained at forty-five (45) degrees F or below, and accurate thermometers for measurement of the food temperature shall be kept in the refrigerators where such food is stored.
  - (b) Potentially hazardous food requiring hot storage shall be maintained at an internal temperature of one hundred forty (140) degrees F or above.
  - (c) Frozen foods shall be maintained at a temperature of zero (0) degrees F or below.
  - (d) Thermometers shall be placed in all freezers and all other cold storage equipment.
  - (e) All dry food supplies shall be stored in closed containers. These foods shall be stored in a manner to prevent possible contamination and to allow for proper cleaning of the storage area. Containers of food shall be stored a minimum of six (6) inches above the floor or on movable dollies.
  - (f) All food shall be protected from contamination during storage, preparation, transportation, and serving.
  - (g) No poisonous or toxic materials except those required for sanitization purposes may be used or stored in a food-service area of a facility.
- (4) Food Sanitation.
- (a) Home canned food and raw milk are prohibited.
  - (b) Raw fruits and vegetables shall be washed before use.
  - (c) All eating and drinking utensils shall be thoroughly cleaned and sanitized after each use with the exception of single-service utensils which shall be discarded following use.
  - (d) Single-service articles shall be made from non-toxic materials and shall be stored, handled, and dispensed in a sanitary manner.
  - (e) All utensils and food-contact surfaces or equipment used in the preparation, transportation, service, display, or storage of potentially hazardous food shall be thoroughly cleaned and sanitized prior to and after each use.
  - (f) Milk and food shall not be placed on the table longer than fifteen (15) minutes prior to the beginning of the meal to avoid contamination and spoilage.

**Authority:** T.C.A. §§ 4-5-201 et seq., 49-1-302(l), and 49-1-1101 through 49-1-1109. **Administrative History:** Original rule filed April 30, 2002; effective July 14, 2002.

#### **0520-12-1-.12 PHYSICAL FACILITIES.**

- (1) Inspections and Compliance with Fire, Health and Safety Standards.

- (a) All facilities shall annually pass an inspection verifying compliance with all applicable state and local fire and environmental requirements.
- (b) The following facilities, in addition to meeting the requirements set forth in subparagraph (a) above, shall pass inspection by the State Fire Marshal's Division of the Tennessee Department of Commerce and Insurance and the Food and General Sanitation Division of the Tennessee Department of Health:
  - 1. Facilities that have never been awarded a certificate of approval or a DHS child care license;
  - 2. Facilities that have not previously been approved by the State Fire Marshal;
  - 3. Facilities that have relocated; and/or
  - 4. Existing facilities with renovations, new construction, additions to, and/or changes in occupancy.

~~Facilities that have been certified as approved, relocated, and/or renovated, and new construction, major renovations, additions to existing facilities, and /or changes in occupancy shall:~~

- ~~(a) comply with the standards of the fire prevention division of the Tennessee Department of Commerce & Insurance; and~~
  - ~~(b) comply with the standards of the division of food and general sanitation of the Tennessee Department of Health.~~
- (2) ~~Fire safety requirements and environmental standards shall be met before a certificate of approval can be issued.~~ Neither a temporary nor an annual license shall be issued unless all of the following requirements are met:
    - (a) The physical facility meets all requirements set forth in paragraph (1) above.
    - (b) The physical facility (indoor and outdoor) present no apparent hazards; and
    - (c) The physical facilities are otherwise deemed appropriate by the Department for the safe care of children.
  - (3) Requests for inspections are made by the Department's child care consultant program evaluator, but it is the responsibility of the applicant to obtain verification of the inspections and the approvals.
  - (4) Building Plans: Plans for new construction must be drawn by a registered architect or engineer and submitted to the fire prevention division of the Department of Commerce & Insurance and to the local health department when required by such departments and in accordance with the respective departments' procedures.
  - (5) Continuing compliance. Physical facilities shall ~~meet all requirements and codes~~ maintain compliance with all applicable codes ~~child care as set forth in paragraph (1) above,~~ throughout the certification year and shall additionally comply with any updated standards issued by the fire safety section of the Department of Commerce and Insurance and the food and general sanitation section of the Department of Health, ~~as well as any updated fire safety or environmental standards for child care adopted by these departments. See Rule 0520-1-4-.04.~~

- (6) Annual inspection. All facilities shall be inspected and approved annually by either state codes enforcement officers or authorized local fire safety inspectors and by environmentalists. Exception: Public and private schools are inspected based on a schedule established by the fire marshal and/or fire officials of partnering jurisdictions. ~~See Rule 0520-1-4-.01.~~
- (7) The ~~center~~ program shall not be located in a building used for purposes which would be hazardous to the children or would prohibit outdoor play. ~~Exception: Inner city centers may not have outdoor play space. See Rule No. 0520-12-1-.09(1)(e).~~ unless the program is an inner city program which has requested and has been granted an exception from the Department pursuant to the requirements for "Outdoor Play" found in paragraph 0520-12-1-.09 of this Chapter.
- (8) Telephones and Other Communication Devices.
  - (a) Due to the potential unreliability of cellular phones and the potential failure of cordless phones during power outages and other emergencies at least one (1) working, landline telephone shall be present in the facility. ~~There shall be a working telephone in the center.~~
  - (b) If answering machines/voice mail must be used, they shall be monitored at thirty (30) minute intervals (except when staff and children are off premises) so that emergency messages can be received.
  - (c) Parents shall be informed that answering machines/voice mail are used.
- (9) Licensed Capacity of Physical Space.
  - (a) The maximum number of children who may be present inside a physical space (e.g., the program's "certificated capacity") shall be determined in accordance with the minimum square footages set forth in this paragraph; provided, however, the Department may, in its discretion as determined reasonably necessary to maintain the health and safety of the children in care, restrict the program's certificated capacity below the maximum which is set forth in these rules.
  - (b) A minimum of ~~Facilities shall provide at least~~ thirty (30) square feet of usable indoor play space shall be provided for each child. ~~not including restrooms, halls, kitchen, or office space and space taken by cribs or large pieces of furniture.~~
  - (c) Each naproom ~~must also~~ shall contain a minimum of thirty (30) square feet of floor space per child.
  - (d) Teen parenting ~~vocational~~ career and technical classes (formerly known as "vocational" classes) shall have separate space for the group of young children with thirty (30) square feet of usable play space per child apart from the classroom space for the students.
  - (e) Occupational/career and technical child care classes shall have separate space for the group of young children, with thirty (30) square feet per child of usable space, apart from the classroom space for students. The designated separate space may be located in the same room and divided by movable barriers less than four (4) feet in height.
  - (f) For the purposes of calculating square footage requirements, any area used as restrooms, halls, kitchen, or office space, and any space used by cribs or large pieces of furniture, shall not be considered "usable play space" and shall not be counted toward the program's certificated space.

- (g) Rooms with sufficient floor space, as defined by the requirements set forth in these rules, may be divided and used for more than one (1) group: provided, however, that each area is adequately equipped and arranged and that each group shall have the security of a stable classroom space.

(10) Outdoor Play Area.

- (a) Outdoor play areas shall contain a minimum of fifty (50) square feet of usable play space for each child using the area at one time.
- (b) ~~For initial certificate of approval~~ Agencies Initially Certificated After January 1, 2002. The outdoor play area must be enclosed by a fence or barricade at least four (4) feet in height. Provided, however, the Department may in at its discretion grant a waiver from this provision when the Department determines that the lack of such fence or barricade poses no apparent or potential risk to children.
- (c) The areas where children play or are cared for shall be properly maintained:
  - 1. A written playground maintenance plan shall be prepared by the program to address routine, remedial, and preventive maintenance and to designate who is responsible for e
  - 2. A pre-play/care inspection of the outdoor play area shall be completed by the program before children play outdoors.
  - 3. The play/care areas shall be free of hazardous items or materials unless adequately protected by storage, inaccessibility, proper supervision, or other safety procedures.
  - 4. These areas shall present no conditions which are hazardous to children.
  - 5. All such areas shall be free of all animal wastes.

(11) Equipment Hazards.

- (a) Cords on window blinds shall be inaccessible to children.
- (b) Electrical cords on equipment shall be inaccessible to children
- (c) All indoor and outdoor areas shall be kept safe by the absence of, or the immediate removal or repair of, any object, fixture, equipment, or substance in the facility or grounds that could potentially cause injury to a child.

(12) General Sanitation and Safety of Building and Grounds.

- (a) Water Supply.
  - 1. The drinking water supply serving child care facilities shall be from a source approved by the health authority having jurisdiction.
  - 2. Drinking water from individual single service cups or an approved drinking fountain shall be provided in all occupied rooms.
- (b) Sewage and Waste Disposal
  - 1. Connection to a public storage disposal system shall be made where possible.

The use of a private sewage disposal system shall have the approval of the local health department and it shall be operating satisfactorily.

2. All garbage shall be removed from the building daily.
  3. All garbage storage receptacles shall be outside and kept closed with tight-fitting lids.
  4. The area surrounding the garbage containers shall be kept clean.
- (c) Building, Grounds and Pools.
1. The building shall be kept clean and maintained in good repair, without unsafe cracks, leaks or unsatisfactory plumbing.
  2. Adequate natural and/or artificial lighting shall be provided throughout the facility.
  3. All rooms used by children shall be maintained at a temperature of between sixty-eight (68) degrees to seventy-eight (78) degrees F by means of heating, cooling or ventilation sources approved for use.
  4. Stoves, hot radiators, steam and hot water pipes, fans, or other shall be adequately protected by screens, guards, insulation, or suitable measures that will protect children from coming in contact with them.
  5. Broken glass, trash and debris shall be kept removed from the building and grounds.
  6. Building and grounds shall be kept free of unprotected ponds, wells, cisterns, refrigerator or similar hazards.
  7. Swimming pools shall be fenced to prevent entry of children without adult supervision.
  9. Swimming pools and/or wading pools shall not be used without prior approval by the Health Department.
  9. Grounds, tire swings and containers shall have adequate drainage to prevent standing water that can breed mosquitoes and other insects.
  10. If animals or birds are kept in classrooms as pets, they shall be caged away from the food storage and preparation or service area, and cages kept clean.
  11. Turtles shall not be kept as pets due to the risk of salmonella.

**Authority:** T.C.A. §§ 4-5-201 et seq., 49-1-202, 49-1-302(l), and 49-1-1101 through 49-1-1109.  
**Administrative History:** Original rule filed April 30, 2002; effective July 14, 2002. Amendment filed September 6, 2007; effective January 28, 2008.

#### 0520-12-1-.13 TRANSPORTATION.

- (1) Management Responsibility.

- (a) If a ~~center~~ program provides transportation or contracts for transportation, the ~~center's~~ program's management shall be fully responsible for all transportation of children, including ~~between home and center program (if different facility from school), to and from school, and on field trips.~~
- (b) Program management is responsible for operating transportation services in compliance with:
  - 1. All State laws, regarding school transportation, T.C.A. §§ 49-6-2102 through 49-6-2115 & 49-6-2117 through 49-6-2118. ~~Transportation provided by the center or under center auspices shall comply with state law.~~
  - 2. All rules and regulations, promulgated by State Board of Education Chapter 0520-1-5 regarding school transportation and school buses. ~~Public school transportation for school-age shall meet the rules and regulations T.C.A. § 49-6-2102.~~
- (c) ~~Vehicles used to transport children and which are owned or operated by, contracted for or which are otherwise under the direction or control of the program, shall carry automobile liability insurance coverage for each vehicle used for that purpose in the minimum amounts required by T.C.A. § 49-6-2111 and defined in State Board of Education Pupil Transportation rules 0520-1-5-.01(2). Vehicles used to transport children and which are owned or operated by, contracted by or which are otherwise under the direction and control of the child care agency, shall carry automobile liability insurance coverage for each vehicle used for that purpose in the minimum amounts required by Rule 0520-12-1-.06(4). Verification of liability insurance must be made available to the licensing counselor.~~
- (d) Vehicles used to transport children must be in compliance with the Federal Motor Vehicle Safety Standards as defined by Title 49 part 571 of the Code of Federal Regulations and the *Tennessee Minimum School Bus Standards*, adopted by the State Board of Education as required by Rule 0520-1-5-.02.
  - 1. Unless the certification label states the fifteen (15) passenger van is a "school bus", the National Traffic and Motor Vehicle Safety Act, 49 U.S.C. § 30112, prohibits the use of a fifteen (15) passenger van to transport students to and from school or a school-related activity. The fifteen (15) passenger van is defined as any vehicle that seats ten (10) to fifteen (15) passengers, not including the driver.
  - 2. Children may be transported in passenger vehicles, however, children of all ages but must be in compliance with passenger restraint laws, T. C. A. § 55-9-602 at all times in passenger vehicles (vehicles weighing less than 10 000 pounds).
    - (i) Any child under one (1) year of age or any child weighing less than twenty (20) pounds or less shall be properly secured in a child passenger restraint system in a rear facing position.
    - (ii) Any child, one (1) through three (3) years of age weighing greater than twenty (20) pounds shall be properly secured in a child passenger restraint system in a forward facing position.
    - (iii) Any child, ~~between four (4) and through eight (8) years of age who weighs less than forty (40) pounds~~ and measuring less than four feet, nine inches (4'9") in height shall be properly secured in a passenger motor vehicle using a separate carrier, an integrated child seat or a belt-positioning booster seat.

- (iv) Any child, nine (9) through twelve (12) years of age, measuring four feet, nine inches (4'9") or more in height, shall be properly secured in a passenger motor vehicle using a seat belt system in the rear seat of the vehicle.
  - (v) Any child, thirteen (13) through fifteen (15) years of age, shall be properly secured in a passenger motor vehicle using a seat belt system.
- (e) Federally approved child care restraint systems must be provided and utilized during the transport of any child three (3) years of age and under on a school bus.
- (f) No child shall be allowed to ride on the floor of a vehicle, and no child shall be placed with another child in the same restraint device.
- (g) All school buses shall be inspected in compliance with the *Rules and Regulations for School Bus Inspection*, Chapter 1340-3-3, promulgated by and regulated by the Tennessee Department of Safety.
- (h) All persons hired for the position of "school bus driver" shall:
1. Be issued a commercial driver's license (CDL) by the Tennessee Department of Safety;
  2. Knows and understands the school system's or private school's policies and procedures concerning transportation and to bus driver's responsibilities and duties;
  3. Has no criminal offense or criminal record of a violation of any of the following:
    - (i) Driving under the influence of an intoxicant as prohibited by T.C.A. § 55-10-401;
    - (ii) Vehicular assault as prohibited by T.C.A. § 39-13-106;
    - (iii) Vehicular homicide as prohibited by T.C.A. § 39-13-213(a)(2);
    - (iv) Aggravated vehicular homicide as prohibited by T.C.A. § 39-13-218; or
    - (v) Manufacture, delivery, sale or possession of a controlled substance as prohibited by T.C. A. § 39-17-417;
  4. Completed the annual physical and mental examinations of school bus drivers as required by T.C.A. § 49-6-2108;
  5. Complete the annual training for school bus drivers presented by the Tennessee Department of Safety.
- ~~1. The driver shall comply with the same health requirements as other staff members. (Not applicable for contracted services or occasional field trips.) For preschool and school-age programs transporting children in school buses, certification of school bus drivers and equipment must be in compliance with T.C.A. §§ 49-6-2107 and 49-6-2108.~~

- (i) Drivers of any passenger vehicle, used to transport children, shall possess a current, valid driver's license and endorsement required ~~for the transportation of the number of passengers transported and the vehicle size and weight as required by state law~~, by the Tennessee Department of Safety for transporting children in the applicable type of vehicle.
- (j) Seating capacity on a school bus shall be in compliance with T.C.A. § 49-6-2110 (a) requiring a minimum of thirteen linear inches of seat space for each student.
- (k) Vehicles used for transporting children shall have a clearly visible identifying sign.
  - 1. Exceptions to vehicle identification, i.e. signage:
    - (i) Vehicles used exclusively for the occasional field trip.
    - (ii) Vehicles used exclusively for the limited provision of emergency transportation, e.g., vehicle used when regular vehicle has a mechanical breakdown..
    - (iii) The Department may waive the vehicle identification requirements for programs under the direction or control of a public agency.
  - (l) Develop transportation routes (school bus routes) in compliance with T.C.A. § 49-6-2105 to ensure no child is on a school bus more than one and one-half (1½) hours in the morning and one and one-half (1½) hours in the afternoon.
  - (m) A vehicle used to transport children shall have fire extinguishers, emergency reflective triangles, a first aid kit, and a blood-borne pathogenic clean-up kit, and an adult familiar with the use of this equipment on board. Emergency exiting procedures shall be practiced by all staff responsible for transporting children on a regular basis. (Not applicable to occasional transportation by volunteers).
  - (n) Firearms are prohibited in vehicles used to transport children.
- (2) Supervision of Children During Transportation.
  - (a) An adult must be in the vehicle whenever a child is in the vehicle.
  - (b) An adult must be seated behind the steering wheel if the motor is running and children are being loaded and/or are on board.
  - (c) Transportation of children with special needs shall be in compliance with the Individual Education Plan (IEP) for each child. Bus drivers who do not return to a central depot shall stipulate that all buses will be checked at the end of every run to make sure that no person remains on the bus as defined in T.C.A. § 49-6-2114.
  - (d) Adult Monitor Requirements.
    - 1. An adult monitor, in addition to the driver, is required on the vehicle for the transportation of four (4) or more children ages six (6) week to four (4) years of age.
    - 2. An adult monitor, in addition to the driver, is required on the vehicle for all routes exceeding thirty (30) minutes for children ages six (6) weeks to four (4) years of age, regardless of the total number of children being transported.

3. An adult monitor, in addition to the driver, is required on the vehicle for the transportation of four (4) or more non-ambulatory children (permanently or temporarily non-ambulatory) of any age.
  4. An adult monitor, in addition to the driver, is required if more than ten (10) pre-kindergarten students four (4) years of age are transported on the same bus.
  5. An adult monitor shall not be seated in the front passenger seat, but shall be seated in the vehicle in a position which will allow:
    - (i) Each child to be seen with a quick glance;
    - (ii) Each child to be heard at all times;
    - (iii) Each child's activities to be observed; and
    - (iv) The monitor to respond immediately should there be an emergency.
- (3) Responsibility for Loading, Unloading and Tracking Each Child.
- (a) Passenger Log:
    1. A passenger log shall be used to track each child during transportation.
    2. The first and last name of each child received for transport shall be recorded on the passenger log. A sibling group shall not be listed as a single group entry, for example, "Smith children".
    3. The driver of the vehicle or the monitor shall be designated by management as the person responsible for completing the log.
  - (b) Loading Procedures:
    1. As each child is loaded onto the vehicle the time the child was placed on the vehicle shall be recorded on the passenger log.
    2. If the child was loaded from home, the parent or other authorized person will additionally sign the log indicating the child was placed on the vehicle.
  - (c) Unloading Procedures:
    1. The individual designated by the program as responsible for the log shall update it immediately upon the child being released from the vehicle. The designated staff member shall update the log by:
      - (i) Recording the time the child was released; and
      - (ii) Initialing next to the time of release.
    2. When the child is released to a parent or other authorized person, that person must sign the log indicating that the child was released to them.
    3. When Pre-Kindergarten children are transported, on the return route the school bus driver must not leave a Pre-K child at the child's home or bus stop unless the

parent or other authorized person is present. If the parent or other authorized person is not present, the Pre-K student is not to exit the bus and the school bus driver is to follow the process/policy developed by the school system in collaboration with the Department of Children's Services and/or the police or sheriff's office.

(d) Confirming that Every Child is Off the Vehicle

1. Driver Responsibilities. Immediately upon unloading the last child and to ensure that all children have been unloaded the driver shall:
  - (i) Physically walk through the vehicle;
  - (ii) Inspect all seat surfaces, under all seats and in all compartments or recesses in the vehicle's interior.
  - (iii) Sign the log, with the driver's full name, indicating the children are all unloaded.

- (e) If a child is expected for transport (based on the roster) but is not present at the location, the driver may not leave the location without checking with a designated member of staff and the center. If the designated member of staff is not present in the loading area and there is not an additional adult on the vehicle, all children will accompany the driver into the facility to verify the whereabouts of the child.

~~(b) Transportation Laws, Vehicle Safety and Suitability~~

- ~~1. All children and the driver shall be properly secured in individual passenger restraint devices at all times during transportation by the center or under center auspices. Exception: Children four (4) years of age and older transported by a school bus or public transportation are not required to be restrained because these vehicles are not required to be equipped with restraint devices.~~
- ~~4. The driver of a vehicle designed to carry more than fifteen (15) passengers (including the driver) is required to have a commercial driver's license.~~
- ~~7. Vehicles used to transport children shall be maintained in safe working condition, in accordance with State Board of Education Rule 0520-1-5-.01(4).~~
- ~~8. Regularly scheduled vehicle inspections shall be completed as defined in Department of Safety Rules 1340-3-3-.03 (Not applicable to occasional transportation by volunteers.)~~
- ~~9. Pre-school: Seats must provide enough space for required safety seats to be installed properly;~~
- ~~10. Pre-school: Children ages 4 and above must have a minimum of ten (10) inches seat space;~~
- ~~11. School-age: Children must have a minimum of eleven (11) inches seat space per child in the vehicle.~~

~~(c) Verification Procedures When Transporting Children~~

1. ~~Local education agency (LEA), private school or approved Montessori school, or other covered child care program shall develop a transportation plan in accordance with the transportation policy adopted by the State Board of Education and Department of Education, T.C.A. § 49-6-2102. The plan must describe provisions to guarantee the safety of children transported. The plan shall address child safety on entering the vehicle, child safety during transport, supervision during transport, time in transit and child safety on exiting the bus. The plan shall detail the process to be implemented to guarantee no child is left unattended in the vehicle.~~
2. ~~An adult attendant in addition to the driver is required on the vehicle for the transportation of three (3) or more children ages six (6) weeks to four (4) years of age.~~
3.
4. ~~The transportation plans must be submitted to the Department of Education.~~

~~(d) Release of Transported Children~~

1. ~~Children shall be directly released only to a custodial parent or other responsible authorized person at the designated place in accordance with section 0520-12-1-.06 (4)(b)(v) and (7).~~
2. ~~School age: When children are transported to school they shall be released in accordance with the procedures established by the school to include:
 
  - (i) ~~unloading children at the location designated by the school;~~
  - (ii) ~~provider/driver watches children walk through the entrance door indicated for use by the school; and~~
  - (iii) ~~children are delivered during the time the school is open to receive children.~~~~

~~(e) Supervision of Children During Field Trips~~

1. ~~On field trips, the number of adults at the destination shall be double the requirement for classroom supervision shown on the chart in Section 0520-12-1-.07 (4) Staff. Notwithstanding the provisions of 0520-12-1-.02(27), volunteers may be counted as the additional required adult in these circumstances.~~
2. ~~An adult attendant in addition to the driver is required on the vehicle for the transportation of three (3) or more children ages six (6) weeks to four (4) years of age. Children with special needs require transportation in compliance with the Individual Education Plan (IEP). Notwithstanding the provisions of 0520-12-1-.02(33), volunteers may be counted as the additional required adult in these circumstances.~~

~~Field Trip Chart~~

<del>Field Trips</del>	<del>The Number Of Adults At The Destination Shall Be Double The Requirement For Classroom Supervision Shown On The Ratio Charts</del>
<del>Transportation For 3 Or More Children Ages 6</del>	<del>Requires An Adult Attendant In Addition To The Driver</del>

Wks To 4 Years	
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~~(f) Staff Training for Transporting~~

- ~~1. All staff responsible for transporting children shall receive adequate training in the transportation plan and the transportation rules contained in this section, as well as any other agency procedures which are not in conflict with these rules, prior to first performing those duties, as defined in the Department of Safety Rules and Regulations for School Bus Inspection Procedures Chapter 1340-3-3-.07 and T.C.A. § 49-6-2102.~~
- ~~2. All staff responsible for transportation shall complete in-service training as defined in Chapter 1340-3-3-.07, promulgated by the Department of Safety.~~
- ~~3. Completion of such training shall be documented in the staff's records.~~

~~(g) Limits on Time Children Are Transported/Transportation Waivers:~~

- ~~1. Children shall not spend more than sixty (60) minutes traveling one way; provided, however, this provision is not applicable for occasional field trips.
  - ~~(i) School bus transit, no pupil shall be allowed to remain in transit to or from school on a school bus more than one and one-half (1 1/2) hours in the morning and one and one-half hours (1 1/2) hours in the afternoon T.C.A. § 49-6-2105.~~~~
- ~~2. If extended transportation beyond the limits in part (g)(1) is necessary in special circumstances, or as may be required by geographic factors, an individualized plan shall be established and signed by the parent(s) and director and approved by the appropriate Department staff after alternatives have been explored with the child care agency and documented by child care consultant staff.~~

~~Children shall not be transported on field trips without parents' written permission prior to each trip.~~

- ~~4. The center shall maintain a written plan that makes provisions for addressing situations in which children, who are scheduled to be picked up, are not at the designated place at the designated time.~~

**Authority:** T.C.A. §§ 4-5-201 et seq., 49-1-302(l), 49-6-2101 through 2117, 55-9-602, 55-10-401.

**Administrative History:** Original Rule filed September 26, 1990; effective December 29, 1990.

Amendment filed April 30, 2002; effective July 14, 2002.

**0520-12-1.14 CARE OF CHILDREN WITH SPECIAL NEEDS.**

In addition to the preceding rules, if children with special needs are cared for in the center, the following rules shall be met:

- (1) When children with special needs are enrolled, all reasonable and appropriate efforts shall be made to provide those children equal opportunity to participate in the same program activities as their peers.

- (2) Parents or other appropriate individual identified by the parent shall ~~should be encouraged to provide~~ provide information and, as appropriate, training to care givers regarding special needs/techniques/emergency measures, as utilized in the child's home to ensure the child's well-being.
- (3) Adaptations to the environment shall be directed toward normalizing the lifestyle of the child with a disability by helping him/her become independent and develop self-help skills.
- (4) Behavior management techniques or program activities which would tend to demean or isolate the child are prohibited.
- (5) The program shall inform parents of any specialized services available from the program, and if the program is aware of any specialized services available through third parties, shall additionally inform the parent of such services.
- (6) Efforts to provide specialized service (e.g., speech/hearing therapy, physical therapy, psychological evaluation, or services for mentally retarded) either directly or by referral, shall be conducted only with written permission by the parent and documented in the child's record. Any information exchange regarding these services that is shared with or received from third parties shall also be documented.
- (7) Emergency Plans.
  - (a) The program shall have written individualized emergency plans, ~~which have been approved by the child care consultant and are practiced monthly~~, for every child with a disability ~~enrolled~~ who requires more assistance in emergencies than other children of the same age or in the same group.
  - (b) The program shall maintain documentation that the Emergency Plan is practiced monthly.
- (8) Each non-verbal child's daily activities, including, as applicable to the individual child, the time and amount of feeding, elimination, times of diaper changes, sleep patterns, and developmental progress, shall be recorded and shared with the parent(s) ~~or other caretaker(s)~~ daily.
- (9) Diapering of School-age Children with special needs shall be completed as required by Rule 0520-12-1-.10(14).
- (10) Physical Restraint shall be in accordance with T.C.A. §§ 49-10-1301 through 1305 and rules promulgated by State Board of Education in accordance with T.C.A. § 49-10-1306.
  - (a) A student receiving special education services, as defined by T.C.A. § 49-10-102(4), maybe restrained or isolated, only if such restraint or isolation is provided for in the student's individual education program, except that such student may be restrained or isolated in emergency situations, if necessary to assure the physical safety of the student or others nearby.
  - (b) If school personnel impose restraints or isolation in an emergency situation, the school shall immediately contact the school principal or the principal's designee. The principal or principal's designee shall see and evaluate the student's condition within a reasonable time after the intervention and the student's parent or guardian shall be notified, orally or by written or printed communication, the same day the isolation or restraint was used.

- (c) If the student's individualized education program does not provide for the use of isolation or restraint for the behavior precipitating such action or if school personnel are required to use isolation or restraint longer than five (5) minutes, then an individual education program meeting shall be convened within ten (10) days following the use of such isolation or restraint. If the behavior precipitating such action also warrants a change of placement, the child will have all rights provided under applicable state and federal law.
- (d) School personnel who must isolate or restrain a student receiving special education services, as defined by T.C.A. § 49-10-102(4), whether or not such isolation or restraint was in an emergency situation or provided for in the student's individual education program, shall report the incident to the school principal or the principal's designee who shall record the use of such isolation or restraint and the facts surrounding such use. A copy of such record shall be made available at individual education program meetings and upon the request of the student's parent or legal guardian.
  - (i) If the school principal or principal's designee or any person having knowledge of the isolation or restraint have reason to believe that such isolation or restraint was unreasonable, unsafe, or unwarranted, and such isolation or restraint caused injury to the student, the incident shall be reported pursuant to T.C.A. § 37-1-403.
  - (ii) School personnel shall remain in the physical presence of any restrained student and shall continuously observe a student who is in isolation or being restrained to monitor the health and well-being of such student.
- (e) Administering a chemical restraint to a student receiving special education services, as defined by § 49-10-102(4), is prohibited, provided that nothing in this subsection shall prohibit the administration of a chemical restraint when administered for therapeutic purposes under the direction of a physician and with the child's parent or guardian's consent to administer such chemical restraint.
- (f) Administering a noxious substance to a student receiving special education services, as defined by T.C.A. § 49-10-102(4), is prohibited.
- (g) Use of any mechanical restraint on any student receiving special education services, as defined by T.C.A. § 49-10-102(4), is prohibited.
- (h) Any form of life threatening restraint, including restraint that restricts the flow of air into a person's lungs, whether by chest compression or any other means, to a student receiving special education services, as defined by T.C.A. § 49-10-102(4), is prohibited.
- (i) The use of isolation or physical holding restraint as a means of coercion, punishment, convenience or retaliation on any student receiving special education services, as defined by T.C.A. § 49-10-102(4), is prohibited.
- (j) The use of physical holding restraint in the following circumstances is not prohibited:
  - (i) The brief holding by an adult in order to calm or comfort;
  - (ii) The minimum contact necessary to physically escort a student from one area to another;
  - (iii) Assisting a student in completing a task or response if the student does not resist, or resistance is minimal in intensity or duration; or

- (iv) Holding a student for a brief time in order to prevent any impulsive behavior that threatens the student's immediate safety.
- (v) The program is not required to notify the student's parent or guardian pursuant to Section 10(b) above in any of the circumstances listed in this subdivision (j).
- (k) The use of a locked door, or use of any physical structure that substantially accomplishes the intent of locking a student in a room or structure, to isolate or seclude a student, is prohibited.
- (l) Local education agencies shall develop policies and procedures, in accordance with 0520-1-9-.23, governing:
  - (i) Personnel authorized to use isolation and restraint;
  - (ii) Training requirements; and
  - (iii) Incident reporting procedures.
- (m) Notwithstanding any provision of this section, actions undertaken by school personnel to break up a fight or to take a weapon from a student are not prohibited; however, these acts shall be reported.

**Authority:** T.C.A. §§ 4-5-201 et seq., 37-1-403, 49-1-302(l), 49-1-1101 through 49-1-1109, 49-10-102, 49-10-1301 through 1306. **Administrative History:** Original rule filed April 30, 2002; effective July 14, 2002.

**0520-12-1-.15 After School Programs serving Adolescents** (youth who are in the period of physical and psychological development from the onset of puberty to maturity)

- (1) Organization and Administration.
  - (a) Program shall have an adequate budget.
  - (b) Records shall be kept on all adolescents enrolled in the program.
  - (c) Staff records shall be maintained for each employee: educational background, reference checks, TBI check, in-service training, physical exams and performance reviews.
  - (d) Program volunteers shall complete criminal history background checks and appropriate in-service training.
  - (e) The program shall post their Certificate of Approval and provide parents with a copy of the policies and procedures.
  - (f) Parents shall have access to all areas of the program when their adolescent is present.
  - (g) If the program provides transportation, the transportation shall be in accordance with 0520-12-1-.13.
- (2) Staff Qualifications.

- (a) The director is responsible for the day to day operations, including staff and program.
  - (b) A person shall be designated to serve as acting director when the director is absent.
  - (c) Staff shall be in compliance with 0520-12-1-.07 (9)-(12) Criminal Background and Vulnerable Persons Registry Review Requirements.
  - (d) Staff shall have knowledge of adolescent behavior and development.
  - (e) Staff shall be physically, mentally and emotionally stable.
  - (f) All new employees shall have orientation and child abuse prevention training before working with the adolescents.
  - (g) The director shall have at least a high school diploma and four (4) years experience working with adolescents.
  - (h) All caregivers shall be a minimum of 18 years of age and one caregiver in each group shall have a high school diploma.
  - (i) Directors shall have eighteen (18) hours in-service training each year and caregivers twelve (12) hours.
- (3) Supervision and Grouping of Children:
- (a) Each group shall have adult supervision.
  - (b) Minimum staffing requirements per group of adolescents (adult:adolescent ratio) is 1:30.
  - (c) Swimming and field trips require ratios be doubled.
- (4) Equipment
- (a) All equipment shall be in good condition and kept clean
- (5) Program, Schedule and Routines:
- (a) Snacks and meals (if full day program) shall be scheduled regularly
  - (b) Adolescents shall have time for self-directed activities, as well as, adult-directed activities.
  - (c) Adolescents shall have choices regarding activities and an opportunity to help plan activities.
  - (d) Parents shall be informed of any TV or movies or computer games to be shown.
  - (e) Staff shall monitor computer use.
  - (f) Sports and physical activity shall be offered, weather permitting.

- (6) Behavior Management and Guidance:
  - (a) Caregivers shall be knowledgeable of developmentally appropriate adolescent behavior.
  - (b) Discipline shall be in accordance with rules and policy adopted by the program to define program objectives, student expectations, behavioral code, and discipline procedures. The rules and policy shall be made available to all participants in an accessible document such as a student handbook.
  - (c) No corporal punishment is allowed.
  - (d) Good behavior shall be praised and encouraged.
- (7) Educational Activities:
  - (a) Adolescents shall have opportunities for learning, self expression, and enrichment activities each day.
  - (b) Adolescents shall receive child abuse awareness and personal safety information, such as "Safe at Last" curriculum if not made available through their school curriculum.
- (8) Health and Safety, Adolescent Health.
  - (a) Adolescents shall have immunizations in accordance with Chapter 0520-1-2-.05(8)9. and current TN law.
  - (b) Instructions for any adolescent's special health needs shall be documented.
  - (c) Parents shall be notified if their adolescent is hurt and becomes ill.
  - (d) All parents shall be notified of any communicable diseases.
  - (e) Use of medications shall be in accordance with school system's policy for the administration of medications and health care procedures as defined by T.C.A. § 49-5-415 and State Board of Education guidelines.
  - (f) There is to be no smoking.
- (9) Staff Health.
  - (a) Staff shall have documentation they are physically and mentally able work with children.
- (10) Safety.
  - (a) There shall be a staff member present at all times who has current CPR and first aid training.
  - (b) A first aid kit must be on the premises as well as a first aid chart.
  - (c) There shall be no firearms on the premises.

- (d) There shall be an Emergency Management Plan, a written plan to protect students in event of disaster, such as fire, tornado, earthquake, chemical spills, floods, etc.
- (11) Food, Nutritional Needs.
- (a) Adolescents will receive meals and snacks based on the amount of time spent in the program.
  - (b) Menus shall be posted.
  - (c) Special diets and instructions shall be provided in writing.
- (12) Physical Facilities.
- (a) Programs shall be in buildings that are not hazardous or dangerous to children.
  - (b) All facilities shall have annual fire and health inspections.
  - (c) All programs shall have a working telephone.
  - (d) Programs shall have thirty (30) square feet of usable space per adolescent.
  - (e) Outdoor recreation/sports area shall have fifty (50) square feet per student.
- (13) Care of Adolescents with Special Needs.
- (a) Programs serving adolescents with special needs shall follow the rules defined in 0520-12-1-.14.
  - (b) Adaptations shall be directed towards helping the child become independent and developing self-help skills.
  - (c) Specialized services provided shall be documented and information shared with appropriate parties.

**Authority:** T.C.A. §§ 49-1-302(i), 49-1-1101 through -49-1-1109, 49-6-707.

#### **0520-12-1-.16 CIVIL PENALTIES**

- (1) Pursuant to T.C.A. § 49-1-1107(c)(2) the following are the minimum and maximum civil penalties that may be assessed against a child care program authorized pursuant to T.C.A. § 49-1-1101, et seq.
- (2) The department shall assess the civil penalty in an order which states the reasons for the assessment of the civil penalty, the factors used to determine its assessment and the amount of the penalty. The order may not be imposed solely upon the recommendation of an agent of the department. All orders shall be reviewed by the department's legal staff before being imposed.
- (3) Prior to the department's assessment of a civil penalty, a program determined by an agent of the department to be in violation of these rules may be prescribed a plan of corrective action.

Failure to follow a plan of corrective action as prescribed by the department may result in the assessment of a civil penalty.

- (4) Definitions.
- (a) "Negligence" is the failure of a child care program, owner, staff, auxiliary staff, director or other employees to comply with the duties or standards imposed by these rules, federal, state and local laws, or the standards of care generally required of school-administered child care programs.
  - (b) "Intentional disregard" is the knowing forbearance of a child care program, owner, staff, auxiliary staff, director or other employees to comply with the duties or standards imposed by these rules, federal, state and local laws, or the standards of care generally required of school-administered child care programs.
  - (c) "Plan of corrective action" is a plan which provides a schedule for the completion of work to bring a program into compliance with these rules, federal, state and local laws, or the standards of care required of school-administered child care programs. The plan must include specific strategies to be implemented in program design during the completion of the work. The plan must ensure that children will not be placed in danger due to the program area which is not in compliance and it must ensure that children will not be placed in danger by the work being done to bring the area into compliance.
- (5) Civil Penalties Schedule.
- (a) Major Violations.
    - 1. For any violation of a law or regulation that, due to negligence or intentional disregard of a law or regulation, results in serious injury to, or death of, a child, the Department may assess a civil penalty in a range from seven hundred fifty dollars (\$750.00) up to one thousand dollars (\$1,000.00). The Department shall determine the amount of the penalty based upon the extent of the injury to the child and whether the injury or death of the child was the result of negligence or intentional disregard of the law or regulation. Consideration of the program's history of prior violations shall also be a factor in the determination of the amount of the civil penalty.
    - 2. For any violation of a law or regulation that, due to negligence or intentional disregard of a law or regulation, results in an injury to a child, the Department may assess a civil penalty in a range from three hundred dollars (\$300.00) up to five hundred dollars (\$500.00). The Department shall determine the amount of the penalty based upon the extent of the injury and whether the injury to the child was the result of negligence or intentional disregard of the regulation. Consideration of the program's history of prior violations shall also be a factor in the determination of the amount of the civil penalty.
    - 3. For violations of the following categories of regulations the Department may impose a civil penalty of two hundred dollars (\$200.00) for the first violation, three hundred dollars (\$300.00) for the second violation, and four hundred dollars (\$400.00) for the third and any subsequent such violation:
      - (i) Failure to follow any regulation related to organization, ownership and administration of a program pursuant to Section 0520-12-1-.06 of these rules;

- (ii) Failure to follow any regulation related to health and safety pursuant to Section 0520-12-1-.10 of these rules;
- (iii) Failure to follow any regulation related to food, nutritional needs and meal service pursuant to Section 0520-12-1-.11 of these rules;
- (iv) Failure to follow any regulation related to maintenance of equipment pursuant to Section 0520-12-1-.08 of these rules;
- (v) Failure to follow any regulation related to maintenance of physical facilities pursuant to Section 0520-12-1-.12 of these rules;
- (vi) Failure to follow any regulation related to adult: child ratios pursuant to Section 0520-12-1-.07 of these rules;
- (vii) Failure to follow any regulation related to supervision of children pursuant to Section 0520-12-1-.07 of these rules;
- (viii) Failure to follow any regulation related to dispensing or storing medications pursuant to Section 0520-12-1-.10 of these rules;
- (ix) Failure to follow any regulation related to care of children with special needs pursuant to Section 0520-12-1-.13 of these rules;
- (x) Failure to follow any regulation related to program staff pursuant to Section 0520-12-1-.07 of these rules;
- (xi) Failure to properly store hazardous items such as, but not limited to, cleaning products, pesticides, hazardous chemicals, or other poisonous items pursuant to Section 0520-12-1-.10 of these rules;
- (xii) Failure to properly remove or secure firearms within the physical facility and under the ownership or control of the program, or its staff or other persons permitted access to the children, or failure to prevent exposure of children in the program's care to firearms which are under the control of the program, or its staff, or other persons who have been permitted by the program to have access to the children pursuant to Section 0520-12-1-.10 of these rules; or
- (xiii) Failure to follow or failure to complete a plan of corrective action.

(b) Minor Violations.

1. A minor violation shall be any violation of a law or regulation not described as a major violation in part 1.
2. Each minor violation may subject the program to the proscription of a corrective action plan by the Department or to a civil penalty of fifty dollars (\$50.00).
3. The existence of six (6) or more minor violations of any type in any period of twelve (12) months shall constitute a major violation and may be subject to a civil penalty imposed by the Department of two hundred dollars (\$200.00) in addition to the penalty for each minor violation. Three (3) or more minor violations of the same regulation in any period of twelve (12) months shall constitute a major violation and may be subject to a civil penalty imposed by the Department of two hundred dollars (\$200.00) in addition to the penalty for each minor violation.

- (6) Upon timely notice of a request for an appeal pursuant to T.C.A. § 49-1-1107(c)(5), the Department shall appoint a hearing officer to conduct the appeal proceedings before the council. The hearing officer shall have the authority of an Administrative Law Judge of the Department of State and shall conduct the appeal process pursuant to the rules of procedure for hearing contested cases as provided in Chapter 1360-4-1 of the Rules and Regulations of the Tennessee Department of State.

**Authority:** T.C.A. § 49-1-302 and 49-1-1107(c)(2). **Administrative History:** Original rule filed March 1, 2005; effective July 29, 2005.