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Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	State Board of Education
Division:	
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Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	Elizabeth Taylor
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Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	710 James Robertson Pkwy		
Address 2:	Multipurpose Room		
City:	Nashville, TN		
Zip:	37243		
Hearing Date :	06/13/16		
Hearing Time:	10:00 a.m.	X CST/CDT ___EST/EDT	

Additional Hearing Information:

Revision Type (check all that apply):
X Amendment
___ New
___ Repeal

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

Chapter Number	Chapter Title
0520-12-01	Standards for Child Care Centers and School-Age Child Care Programs
Rule Number	**Rule Title**
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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
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0520-12-01-.15	Afterschool Programs Serving Adolescents
0520-12-01-.16	Civil Penalties

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to http://sos.tn.gov/sites/default/files/forms/Rulemaking_Guidelines_August2014.pdf)

RULES
OF
THE STATE BOARD OF EDUCATION
Office of the Commissioner

CHAPTER 0520-12-01
STANDARDS FOR CHILD CARE CENTERS AND
SCHOOL-AGE CHILD 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 (LEAPs) as mandated by the T.C.A. § 49-6-707; programs providing center-based early intervention services through Tennessee Early Intervention Services; and school-administered Head 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. In addition, any before or after school program, 21st Century Community Learning Centers (21st CCLC), and community based Voluntary Pre-K programs, may be subject to these rules.

(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.

(3) Criteria for Approval. The state board of education's regulations of school-administered child care programs are based on 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;

(c) The quality of 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 program, the program's personnel policies, and the financing of the program.

uthority: *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. Amendment repealing and replacing rule filed March 15, 2010; effective August 29, 2010.*

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 usable 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. (See Teacher).

(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 August 15 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 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.

(16) Civil Penalty. A penalty placed upon a program for each violation of a statute, rule, or order pertaining to such person or entity in an amount ranging from fifty dollars ($50.00) to one thousand dollars ($1,000.00). Each day of continued violation constitutes a separate violation as indicated by T.C.A. § 49-1-1107(c)(1).

(17) Commissioner. The executive head of the Department of Education, appointed by the Governor.

(18) Conventional Care. Child care services provided between the hours of 6:00 a.m. and 6:00 p.m., Monday through Friday.

(19) Day Care. Synonymous with definition of child care, above.

(20) Department (TDOE). The Tennessee Department of Education and its representatives.

(21) 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 from 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.

(22) Director. The person with overall responsibility for the child care program.

(23) Emergency Situation. A child's behavior places the child or others at risk of violence or injury if no intervention occurs.

(24) Extended Isolation. Isolation which lasts longer than one (1) minute per year of the child's age.

(25) Extended Restraint. Physical holding restraint lasting longer than five (5) minutes.

(26) Field Trip. A trip that is not part of the regular curriculum which is off the general premises and beyond reasonable walking distance.

(27) 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.

(28) 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.

(29) Infant. A child who is six (6) weeks through fifteen (15) months of age.

(30) 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.

(31) Kindergarten. A school or class that prepares children for first grade and is part of a public or private school system. Kindergarten programs in the public school system must comply with the Minimum Kindergarten Program Law pursuant to T.C.A. § 49-6-201. To enter kindergarten, a child must be five years old by August 15th.

(32 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.

(33) Meal. Meat or meat substitute, vegetable and/or fruit, bread or bread product, and fluid milk.

(34) 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.

(35) Mixed Age Grouping. Mixed age group can also be referred to "heterogeneous or multi-age". A group of children with varying ages that are combined to maximize the educational benefits in a non-traditional classroom. All mixed age group classrooms shall not exceed the maximum group size, must maintain ratios, and must show an equal distribution of children between the ages at all times. For 3-6 year old classrooms, 30% of students must be school-age.

(36) Non-school, Community-based Organization Program. An infant/toddler, preschool or school-age before and after school program operated through contract with the Department of Education and under the certificating authority of the Department of Education.

(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) Parent. A biological, legal, or adoptive parent, guardian, or legal or physical custodian who has primary responsibility for a child.

(40) 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.

(41) Plan of Corrective Action (POCA). Required when one or more violations are found that require documented progress of the correction and specific steps to move into compliance.

(42) Pre-kindergarten. A class or program proceeding kindergarten for children that are four (4) years old by August 15.

(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. Any public or private school-administered infant/toddler, pre-kindergarten/preschool and/or school-age care program, including community based programs funded by Voluntary Pre-K, Pre-K, Lottery Education Afterschool Programs (LEAPs), and 21st Century Community Learning Center (21st CCLC) programs that serve a minimum of ONE (1) child, is subject to the jurisdiction of the Office of School-based Support Services. Exception: fee based and 21st CCLC funded before and after care programs that operate less than 3 hours per day or less than 15 hours per week.

(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 to seventeen (17) years of age, by August

15, and currently enrolled in kindergarten through 12th grade.

(47) Safety Plan. A plan that is placed on a program as a result of a violation of Chapter 0520-12-01. A safety plan may require, but is not limited to, the exclusion or restriction of any individuals from access to children, the closure or restriction of any part of the program, the modification or elimination of services, the re-inspection of the program, the training of management, staff, or volunteers.

(48) Satellite/Umbrella Program. A satellite and/or umbrella program is an alternative education school which serves to oversee the homeschooling of children to fulfil government educational requirements. TDOE does not recognize satellite or umbrella early childhood programs as school-administered.

(49) School-administered. A program that is run by a public or private school and is housed in conjunction with an elementary, middle, or high school T.C.A. § 49-6-301 (a-c).

(50) 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

(51) Staff. Full and part-time teachers, employees, or unpaid volunteers of the program.

(52) Substitute. Paid or unpaid persons who are replacements for regular staff.

(53) 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 shall be able to hear the child at all times, shall 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.

(54) Teacher. The person, persons, entity or entities directly responsible for providing for the supervision, protection, and basic needs of the child.

(55) 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, in accordance with T.C.A. § 49-1-1103(c)(2)(C), for ninety days (90) or until the Department grants or denies the application for annual certificate of approval.

(56) Toddler. A child who is twelve (12) months through twenty-three (23) months of age.

(57) 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.

(58) 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), 49-2-203(b)(11)(B), 49-1-302(l), 49-1-1102, 49-6-101 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. Amendment repealing and replacing rule filed March 15, 2010; effective August 29, 2010. Emergency rule filed August 30, 2010; effective through February 26, 2011. Amendment filed December 21, 2010; effective March 21, 2010. Emergency rule filed August 30, 2010 and to have been effective through February 26, 2011 expired; on February 27, 2011 the rule reverted to its previous status.*

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

(1) Annual Certification of Approval: Tennessee law requires that all school-administered 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 teacher in the performance of any of the teacher'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.

(Rule 0520-12-01-.03, continued)

(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) 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. Amendment repealing and replacing rule filed March 15, 2010; effective August 29, 2010.*

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; Voluntary Pre-Kindergarten (VPK) programs; school-administered Head Start; approved Montessori programs; infant/toddler, preschool or school age programs administered by private schools; church related schools, as defined in T.C.A. § 49-50-801; Lottery Education Afterschool Programs (LEAPS); and center-based Tennessee Early Intervention System programs. 21st Century Community Learning Centers (21st CCLC) programs and fee based after school programs may be subject to these rules. 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 must be contacted to start the certification process.

(4) Any program found in operation without oversight from the department of education, will be found to be running an illegal operation, and will be turned over to local authorizes as indicated by T.C.A. § 49-1-1105(a).

(5) 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 all staff have 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.

(6) Denial or Restriction of Temporary Certificate of Approval.

(a) The temporary certificate of approval must remain in effect, unless suspended, for a period of ninety (90) 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.

(7) 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 teachers' 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 have 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.

(8) Renewal and Re-Evaluation.

(a) Programs currently certified as approved by the Department must submit an updated annual report prior to October 1, in accordance with T.C.A. § 49-1-1108(c).

(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 have 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.

(9) 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.

(10) 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., 49-1-201(c) (24), 49-1-302(l), 49-1-1101 et seq. 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. Amendment repealing and replacing rule filed March 15, 2010; effective August 29, 2010.*

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 program, pre-kindergarten/preschool, school-age care, center-based TEIS early intervention services, or school-administered or community organization administered LEAPS, Voluntary Pre-K, and 21st Century Community Learning Center programs must submit, on or before October 1, 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 is not permitted to admit a child into care until the parent/guardian has supplied the program with a completed application, Tennessee Department of Health Official immunizations record (for children over two (2) months of age), and a health history. Exception: After an initial eligibility determination, children who are homeless and/or children in state custody may receive care prior to providing all required documentation by the department. Care without documentation of immunizations must not exceed two (2) weeks.

(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. Exception: On-site visit is not required for children of homeless families.

(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 (Expulsion Policy).

2. Specific criteria concerning the release of children to anyone whose behavior may place the children at immediate risk.

3. Behavior management techniques

4. Late fees

5. Hours of Operation

6. Rates

7. Inclement weather

8. Emergency policy

9. Smoke free environment

10. Meal Service Policy

(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's 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.

      (III) Care for children of homeless families and/or children in state custody is needed before documentation of immunizations can be confirmed. Care without documentation of immunizations must not exceed two (2) weeks.

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 (1st) 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 (3rd) 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) Documentation of trainings to include all pre-service training hours;

(n) 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;

(o) 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 him/her 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., 37-1-403(a)(8) 49-1-302(l), 49-1-1101 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. 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. Amendment repealing and replacing rule filed March 15, 2010; effective August 29, 2010.*

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 30th 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) Teachers 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 (2nd) adult is not required by the Adult: Child ratio rules, contained in this Chapter, a second (2nd) 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 teacher in an emergency situation to call a second (2nd) 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 (1st) 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..

(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.

(d) In order to assure the continuity of care for children thirty (30) months of age to five (5) years of age and their teachers, 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.

(e) 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.

Adult: Child

(b) Any number of children in excess of the adult: child ratio requires a second qualified adult teacher; provided, however, that the maximum group size shall not be exceeded.

(c) Adult: Child Ratio Charts

Adult: ChildAdult: ChildAdult: ChildAdult: ChildAdult: ChildAdult: ChildChart 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. – 12 months	1:4						
Toddlers (12 mos. – 23 mos.)		1:6					
2 years (24 mos. – 35 mos.)			1:7				
3 years					1:9		
4 years						1:13	
School-age before/after care (kindergarten-12 years)							1:20
School-age before/after care (13-17 years)							1:30

**The pre-kindergarten classes implemented in accordance with State Board of Education rule 0520-01-03-.5-.05 may never exceed twenty (20) children.

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: 6 wks. – 18 months	1:4						
Toddlers: 18-36 months		1:8					
3 – 6 years (Kindergarten only)						1:10	

*** All mixed age group classrooms shall not exceed the maximum group size, shall maintain ratios, and must show an enrollment of 30% school-age.

Chart 3- Allowable group size during arrival and departure (1 hour prior to and end of the school day) i.e. children grouped in cafeteria prior to school starting.

Maximum group size and Adult: Child Ratio		
Multi-age grouping	15	20
Including 3 year olds	1:10	
Including 4 year olds		1:12

(4) Naptime Supervision

(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 teacher 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 teacher can assume duties of any type in an infant room they must be oriented in the foregoing SIDS procedures.

(d) Nap Room Lighting. The areas where infants sleep shall be lit in a manner which allows the teacher 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 teachers;

3. Identification of which staff will merely supervise in their assigned zone while other staff, 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 teachers 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 teachers, volunteers and/or unpaid staff.

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

Number of Children On Activity	Trained Teachers	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 teachers 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 teachers, 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 teachers should supervise both in and out of the water.

(8) Transportation Supervision. Supervision for transportation of children shall comply with rules in 0520-12-01-.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, 49-6-2101, 49-6-2105, 49-6-2107, 49-6-2108, 49-2-2110, 49-6-2114, 49-6-2116, 49-6-3001, 55-9-602 et. seq., 55-50-301 et seq., 37-1-403(a)(8), 55-50-401 et. seq. and 71-3-507(g) and (h).* ***Administrative History:*** *Original rule filed September 26, 1990; effective December 29, 1990. Amendment filed April 30, 2002; effective July 14, 2002. Amendment repealing and replacing rule filed March 15, 2010; effective August 29, 2010.*

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. Teachers 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 twenty-one (21) 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 two (2) hours of orientation, 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, and reviewed annually 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, Chapter 0520-12-01

5. Information on risks of infection to female employees of childbearing age

6. Food Allergies

7. Supervision during high risk activities such as eating and outdoor play

8. Meal service and safe food preparation policies

9. Shaken baby syndrome and abusive head trauma

10. Safe sleep procedures

11. Developmentally appropriate practices

(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 Bachelor's degree, an Associate's 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;

      (II) Six (6) hours must be in developmentally appropriate literacy development; and

      (III) 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) Teacher Qualifications.

(a) Each teacher shall be at least twenty-one (21) years of age.

(b) Each group shall have at least one (1) teacher at all times.

(c) Training for Teachers During the First (1st) Year of Employment.

1. New teachers shall complete, within the first (1st) 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 teacher's employment status with the program is conditional.

2. New teachers shall additionally complete sixteen (16) hours of Department-recognized, competency-based training within the first (1st) year of employment, six (6) hours of which must be completed within the first six (6) months of employment.

3. Failure of the teacher 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 (1st) six (6) months of employment shall require that the employee be removed from duties until completion of the training.

4. Exception. Teachers 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 teachers required in subparagraph (d) below.

(d) Training for Teachers After First (1st) Year of Employment.

1. Experienced teachers shall complete at least twelve (18) 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. Six (6) hours must be in developmentally appropriate literacy development; and

6. Credit for Tennessee Early Childhood Training Alliance Orientation Training Completion of a thirty (30) hour orientation class through the TECTA system shall satisfy the teacher'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 teachers for two hundred (200) or more hours in the previous calendar year shall meet the training requirements contained in the rules for teachers.

(d) Substitutes providing services :

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 teachers 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 teachers 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-.07(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, substitute, 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 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, 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. A new fingerprint sample must be obtained, for all employees, every five (5) years.

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 (d)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 any time 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 any time, 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(l), 49-1-1101 through 49-1-1109, 49-2-203, 49-5-413, 49-6-300, 49-10-608 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. Amendment repealing and replacing rule filed March 15, 2010; effective August 29, 2010.*

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. Amendment repealing and replacing rule filed March 15, 2010; effective August 29, 2010.*

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 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 teacher 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 teacher(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 teacher 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) Teachers 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 teachers 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) Teachers 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 teacher 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 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.

1. Infant/Toddler classrooms ages six (6) weeks- twenty-four (24) months must show evidence that children are provided the opportunity to: (See TNELDS standards for Birth-48 months)

i. Sit and listen to teacher read aloud to him/her individually and in a group daily

ii. Engage in interactive play that includes activities such as movement, dance, musical games, and pretend play that encourages the use of both large and small muscles.

iii. Engage in meaningful conversation with teachers.

iv. Engage in touching, feeling, and identify a variety of known and unknown objects.

v. Explore a variety of culturally diverse books that encourage early literacy skill development in rhythm, rhyming words, predictive texts, etc. These books should represent different genres, i.e. poetry, nonfiction, fiction, informational texts, etc.

2. Preschool/Pre-K classrooms ages twenty-four (24) months- five (5) years must show evidence that children are provided the opportunity to: (See TNELDS standards for 48 months to kindergarten)

i. Sit and listen to teacher read aloud to him/her individually and in group daily;

ii. Engage in pretend play;

iii. Engage with developmentally appropriate educational and open-ended materials, i.e. blocks, clay, sand;

iv. Engage in conversation with peers;

v. Write, create books, and engage in print rich materials;

vi. Engage in a variety of culturally diverse books that encourage early literacy skills in concepts about print, genres, letter identification, beginning sounds, etc.;

vii. Engage in a variety of activities that support numeracy development; and

viii. Help with daily classroom and self-care routines.

3. Children, enrolled in any LEA pre-kindergarten program, must participate in an educational curriculum that is aligned with the state department of education approved early learning standards and that includes, but not limited to, literacy, writing, math and science skills. (T.C.A. § 49-6-104 (b) (5)).

(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).

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 and 49-6-104.* ***Administrative History:*** *Original rule filed September 26, 1990; effective December 29, 1990. Amendment filed April 30, 2002; effective July 14, 2002. Amendment repealing and replacing rule filed March 15, 2010; effective August 29, 2010.*

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.

(c) 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 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;

10. Chicken Pox; and

11. 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.
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 consumption or possession of alcohol is not permitted.

(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 program, or in any vehicle used to transport children or in the presence of a child

(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 hand washing and diapering procedures shall be followed.

(c) The diapering area and/or toilet training area shall be located near a hand washing 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 hand washing 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 he 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 and 5002, 37-1-113, 37-1-401 et seq., 37-1-601 et seq. and 20 U.S.C. § 6081.* ***Administrative History:*** *Original rule filed April 30, 2002; effective July 14, 2002. Amendment repealing and replacing rule filed March 15, 2010; effective August 29, 2010. Amendment filed June 18, 2013; effective November 28, 2013.*

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 teachers 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) Teachers 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 teacher, 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. Amendment repealing and replacing rule filed March 15, 2010; effective August 29, 2010.*

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 nap room 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 Fahrenheit 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. Amendment repealing and replacing rule filed March 15, 2010; effective August 29, 2010.*

0520-12-01-.13 TRANSPORTATION.

(1) Management Responsibility.

(a) If a program provides transportation or contracts for transportation, the program's 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 & T.C.A. §§ 49-6-2117 through 49-6-2118;

2. All rules and regulations, promulgated by State Board of Education, Chapter 0520-01-05 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 school-administered 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 Rule 0520-01-05-.01(2).

1. Automobile insurance coverage for non-school community-based organizations which 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 non-school community-based organization's program.

(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 USC § 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, and must be transported in rear seats (vehicles weighing less than ten thousand (10,000) pounds).

(i) Any child under one (1) year of age or any child weighing less than twenty pounds (20 lbs.) 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 pounds (20 lbs.) shall be properly secured in a child passenger restraint system in a forward facing position.

(ii) Any child, four (4) through eight (8) years of age and measuring less than four feet, nine inches in height shall be properly secured in a child seat or a belt-positioning booster seat.

(iv) Any child, nine (9) through twelve (12) years of age, measuring four feet, nine inches 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 1340-03-03, 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;

(i) Bus drivers employed by a public school/school system shall have an "S" endorsement.

(ii) Bus drivers employed by a nonpublic school or a non-school, community-based organization shall have a "P" endorsement and completion of school bus driver training.

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. School bus driver training is not required for drivers of passenger vehicles only.

6. Completed CPR and First Aid certifications.

(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;

(ii) Vehicles used exclusively for the limited provision of emergency transportation, e.g., vehicle used when regular vehicle has a mechanical breakdown; and

(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 (1 ½) hours in the morning and one and one-half (1 ½) 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). All items must be secured.

(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 children ages six (6) weeks through Pre-K.

2. 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.

(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 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.

(4) Transportation plan for all programs.

(a) All programs providing transportation for child care shall provide a written statement to the Department:

1. Stating the type(s) of transportation offered, e.g. transportation to and/or from school, transportation to and/or from child care program, transportation to and/or from child's home, etc.;

2. Listing and describing the vehicles that will be used for the transportation of children;

3. Describing any contracts, agreements or arrangements with any third (3rd) parties for the provision of transportation services, with copies of such contracts or agreements or arrangements available upon the Department's request;

4. Describing the agency's policy, procedures and staff training plans for maintaining compliance with responsibilities for loading and unloading and tracking each child;

5. Describing the agency's management plan for ensuring all transportation staff properly perform their duties in accordance with the licensing rules and agency policies and procedures;

6. Describing the agency's policy, procedures and staff transportation training plans for maintaining compliance with transportation rules and state law; and

7. Describing the agency's policy, procedures and staff training plans for the emergency evacuation of the vehicle.

(b) Non-school, community-based organization's vehicle requirements and inspections.

1. Department of Safety Inspections. Annually, all non-school, community-based organization's vehicles that are designed by the vehicle manufacturer to carry ten (10) or more passengers must be inspected in accordance with the schedule established by the Department of Safety. Any maintenance or repair to the vehicles disclosed by the inspections shall be the sole responsibility of the non-school, community-based organization.

   (i) The non-school, community-based organization's vehicle may have a stop arm in accordance with T.C.A. § 55-8-151(d) if the bus driver has completed annual school bus driver training provided by the Department of Safety.

   (ii) The non-school, community-based organization's vehicle with a stop arm is required to be distinctly marked "Youth Bus" on the front and rear thereof in letters not less than six inches (6") in height and legibly written.

2. No vehicle which does not pass the inspections required in part (4) shall be used by the non-school, community-based organization to provide transportation services until necessary repairs, as determined by Department of Safety, have been made.

3. Receive regular inspections and maintenance by a certified mechanic in accordance with the maintenance schedule recommended by the vehicle manufacturer.

4. Have the following vehicle equipment certified as inspected at least every four thousand (4,000) miles if not covered by and/or otherwise serviced in accordance with the manufacturer's maintenance schedule: brakes; steering; oil levels; coolant; brake, windshield-washer and transmission fluids; hoses and belts; and tires.

5. The following equipment shall be maintained in the vehicle and stored in a manner which is not readily accessible to children: fire extinguisher; emergency reflective triangles; first aid kit; blood-borne pathogenic clean-up kit; and seat-belt cutter or similar device designed to immediately release the vehicle's child restraint system(s) in an emergency.

   (i) The bus driver or transportation monitor assigned to the vehicle shall be familiar with the location and use of all equipment required under subparagraph 5.

6. The non-school, community-based organization shall maintain documentation that the following daily inspections have been performed and any necessary repairs completed or other appropriate action taken before transporting children.

(i) A visual inspection of the vehicle's tires for wear and adequate pressure;

(ii) A visual inspection for working headlights and taillights (brake lights and back-up lights), signals, mirrors, wiper blades and dash gauges;

(iii) An inspection of properly functioning child and driver safety restraints;

(iv) An inspection for properly functioning doors and windows;

(v) An inspection for the presence of safety equipment required by these rules or any other provisions of law or regulations, and repair or replacement as necessary based upon visual evidence of the need to do so;

(vi) A determination that the vehicle has adequate fuel; and

(vii) An inspection for, and cleaning of, debris from the vehicle's interior.

7. Emergency exiting procedures shall be practiced on a regular basis by all staff responsible for transporting children.

(5) Non-school community-based organizations contracting for transportation services.

(a) Any vehicle, contracted for the purposes of transporting children in a program administered by a non-school, community-based organization, shall be a for hire commercial passenger vehicle properly registered with the Federal Motor Carrier Safety Administration.

(b) The contracted vehicle shall have a commercial license plate (tag).
The contracted vehicle shall have minimum levels of liability insurance as defined by the Federal Motor Carrier Safety Administration rule § 387.33. Any vehicle with seating capacity of sixteen (16) passengers or more shall have five million dollars ($5,000,000) liability coverage. Any vehicle with seating capacity of fifteen (15) passengers or less shall have one and one half million dollars ($1,500,000) liability coverage.

Authority: *T.C.A. §§ 4-5-201 et seq., 49-1-302(l), 49-6-2101 through 49-6-2117, 55-8-151, 55-9-602, 55-10-401 and 55-50-101 et seq.* ***Administrative History:*** *Original rule filed April 30, 2002; effective July 14, 2002. Amendment repealing and replacing rule filed March 15, 2010; effective August 29, 2010. Emergency rule filed August 30, 2010; effective through February 26, 2011. Repeal and new rule filed December 21, 2010; effective through March 21, 2011. Emergency rule filed August 30, 2010 and to have been effective through February 26, 2011 expired; on February 27, 2011 the rule reverted to its previous status. Repeal and new rule filed December 21, 2010; effective through March 21, 2011. Amendment filed September 29, 2011; effective February 28, 2012.*

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 teachers 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 0520-12-01-.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 March 1, 2005; effective July 29, 2005. Amendment repealing and replacing rule filed March 15, 2010; effective August 29, 2010.*

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 teachers shall be a minimum of eighteen (18) years of age and one teacher in each group shall have a high school diploma.

(i) Directors shall have eighteen (18) hours in-service training each year and teachers 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) Teachers 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.
(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.* ***Administrative History:*** *Original rule filed March 15, 2010; effective August 29, 2010.*

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 1360-04-01 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 15, 2010; effective August 29, 2010.*

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: 4/25/16

Signature: [signature]

Name of Officer: Sara Heyburn

Title of Officer: Executive Director

PHYLLIS E. CHILDRESS
STATE OF TENNESSEE NOTARY PUBLIC
DAVIDSON COUNTY
MY COMMISSION EXPIRES 8-28-2019

Subscribed and sworn to before me on: 4/27/16

Notary Public Signature: Phyllis E Childress

My commission expires on:

Department of State Use Only

Filed with the Department of State on: 4/27/16

[signature]

Tre Hargett
Secretary of State

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