

**RULES  
OF  
THE STATE BOARD OF EDUCATION  
OFFICE OF THE COMMISSIONER**

**CHAPTER 0520-12-01  
STANDARDS FOR SCHOOL ADMINISTERED CHILD CARE PROGRAMS**

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

Pursuant to T.C.A. § 49-1-302, these rules are applicable to the following programs and are subject to monitoring by the Department of Education:

- (1) Public school administered early childhood education programs;
- (2) Programs operated by private schools as defined by § 49-6-3001(c)(3);
- (3) Child care provided by church affiliated schools as defined by § 49-50-801;
- (4) State approved Montessori school programs;
- (5) Before or after school child care programs operated pursuant to §§ 49-2-203(b)(11) and 49-6-707;
- (6) Programs providing center-based early intervention services through Tennessee Early Intervention Services; and
- (7) Child care provided in federally regulated programs including Title I preschools, 21st Century Community Learning Centers and all school administered head start and even start programs.

**Authority:** T.C.A. §§ 4-5-201, et seq.; 49-1-201(c)(24); 49-1-302(l); 49-1-1101 through 49-1-1109; 49-2-203(b)(11); 49-5-413; and 49-6-707. **Administrative History:** Original rule filed September 26, 1990; effective December 29, 1990. Amendment filed April 30, 2002; effective July 14, 2002. Amendment repealing and replacing rule filed March 15, 2010; effective August 29, 2010. Amendments filed November 2, 2017; effective February 1, 2018. Amendments filed January 25, 2019; effective April 25, 2019.

**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 Uniform Administrative Procedures Act at T.C.A. §§ 4-5-101, et seq. 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 of Education (Department).

(Rule 0520-12-01-.02, continued)

- (2) Adolescence. The period of physical and psychological development from the onset of puberty to maturity.
- (3) Annual Certificate of Approval. Certificate issued by the Department to programs that have satisfactorily completed the temporary certificate of approval time period and is reissued on an annual basis as long as the program meets the standards of the Department of Education and the rules of this Chapter.
- (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 Annual Certificate of Approval.
- (5) Child. A person under eighteen (18) years of age.
- (6) Child's Age. The age of child on August 15 of any given year.
- (7) 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.
- (8) Child Care Advisory Council. A ten (10) member council established by T.C.A. § 49-1-302 to advise the State Board of Education 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.
- (9) Child Care Program. Any public school administered early childhood education programs; programs operated by private schools as defined by § 49-6-3001(c)(3); child care provided by church affiliated schools as defined by § 49-50-801; state approved Montessori school programs; before or after school child care programs operated pursuant to §§ 49-2-203(b)(11) and 49-6-707; programs providing center-based early intervention services through Tennessee Early Intervention Services; child care provided in federally regulated programs including Title I preschools, 21st Century Community Learning Centers and all school administered head start and even start programs.
- (10) 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).
- (11) Commissioner. The executive head of the Department, appointed by the Governor.
- (12) Conventional Care. Child care services provided between the hours of 6:00 a.m. and 6:00 p.m., Monday through Friday.
- (13) Department (TDOE). The Tennessee Department of Education and its representatives.
- (14) 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 (5) years of age, the Tennessee Early Learning Development Standards is adopted by the State Board of Education for guidance in appropriate learning expectations.

(Rule 0520-12-01-.02, continued)

- (15) Director. The person with overall responsibility for the child care program.
- (16) Group. A specific number of children comprising an age range, assigned to specific staff in an assigned space that is divided from the space of other groups by a recognizable barrier.
- (17) 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. Any early childhood program attached to a home school program falls under the jurisdiction of the Department of Human Services (DHS).
- (18) Infant. A child who is six (6) weeks through twelve (12) months of age.
- (19) 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 (5) years old by August 15.
- (20) Law. Statutory or regulatory provisions affecting the operation of an early childhood program 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, and Chapter 0520-12-01 of the State Board Rules.
- (21) 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 and must maintain adult:child ratios.
- (22) 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.
- (23) Off-site Activity. Any activity which occurs away from the general premises of the child care program's facility.
- (24) Parent. A biological, legal, or adoptive parent, guardian, or legal or physical custodian who has primary responsibility for a child.
- (25) Pre-kindergarten. A class or program prior to kindergarten for children that are four (4) years old by August 15.
- (26) Preschool. A program providing child care services to children who are six (6) weeks through five (5) years of age and not in kindergarten, including children who are more specifically defined under this chapter as an "infant" or a "toddler".
- (27) Program. Any public or private school-administered preschool, pre-kindergarten 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 three (3) hours per day or less than fifteen (15) hours per week.
- (28) 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.

(Rule 0520-12-01-.02, continued)

- (29) School-age Child. A child who is five (5) years of age and enrolled in kindergarten (K) through seventeen (17) years of age. A five (5)-year-old may be classified as a school-age child in the summer immediately preceding the child's fall entry into kindergarten.
- (30) School-administered. A program that is serving five (5) or more kindergarten (K) through grade twelve (12) students and is run by a public or private school.
- (31) Staff. Full and part-time teachers, employees, or unpaid volunteers of the program.
- (32) Teacher. The person, persons, entity or entities directly responsible for providing for the supervision, protection, and basic needs of the child.
- (33) Temporary Certificate of Approval. A certificate 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.
- (34) Toddler. A child who is eleven (11) months through twenty-three (23) months of age.
- (35) Umbrella Program. An umbrella program that oversees the homeschooling of children to fulfill government educational requirements. TDOE does not recognize umbrella early childhood programs as school-administered.
- (36) 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; effective through February 26, 2011. Emergency rule expired on February 27, 2011, and the rule reverted to its previous status. Amendments filed November 2, 2017; effective February 1, 2018. Amendments filed May 3, 2018; effective August 1, 2018. Amendments filed January 25, 2019; effective April 25, 2019.

### **0520-12-01-.03 PROGRAM APPROVAL.**

- (1) All persons or entities operating a child care program must be certified by the Department of Education (Department).
- (2) A school-administered child care program seeking approval shall submit an application to the Department that contains the following information:
  - (a) Satisfactory evidence that the facility that is proposed for the care of children has received fire safety and environmental safety approval, that the applicant and the personnel who will care for the children are capable to care for the children and that the applicant has the ability and intent to comply with the certificate of approval law and regulations;
  - (b) Three (3) satisfactory references for the program director;
  - (c) Verification that the program director's qualifications meet the requirements of Chapter 0520-12-01-.07;
  - (d) Verification that all program staff have successfully completed a criminal history background check as required by T.C.A. § 49-5-413; and

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

- (e) Verification of enrollment of at least five (5) school-aged children enrolled in kindergarten through grade twelve (12).
- (3) Upon receipt and approval of an application the department shall conduct an on-site inspection to ensure the site is suitable for child care activities and does not endanger the welfare or safety of children. Upon satisfaction of the on-site inspection by the department, the program shall be provided a temporary certificate of approval.
- (4) Within ninety (90) days of the issuance of the temporary certificate, the Department shall determine if the applicant has complied with all regulations and requirements necessary to receive an annual certificate of approval. During the temporary certificate of approval period:
  - (a) The Department shall perform a minimum of two (2) visits to the program at least one (1) of which shall be unannounced;
  - (b) The Department shall perform at least one (1) observation of the teachers' interaction with children; and
  - (c) The program must provide verification, including any required supporting documentation as directed by the Department, of compliance with all applicable regulations. The failure to obtain and maintain compliance with all applicable regulations during the period of temporary approval may result in the revocation of the temporary certificate of approval.
- (5) On or before the expiration of the temporary certificate of approval, the Department shall:
  - (a) Issue an annual certificate of approval to a program that has satisfied the requirements for the ninety (90) day temporary approval;
  - (b) Issue a restricted temporary certificate that limits a program's authority in one (1) or more areas of operation if the Department determines that the conditions of the facility, the methods of care or other circumstances warrant it; or
  - (c) Deny the annual certificate of approval if the Department determines that any of the requirements set forth in this Chapter have not been, or cannot be, satisfactorily met.
- (6) A certificate of approval is not transferable from one location to another or from one agency to another.
- (7) The certificate of approval may be revoked at any time upon ninety (90) days' notice to the agency. If the health, safety, or welfare of the children in care imperatively requires it, the certificate of approval shall be revoked immediately.
- (8) To renew an annual certificate of approval, approved programs shall submit an annual report to the department prior to October 1. Any entity not completing the annual report by October 1, shall be notified and if a report is not submitted the certificate of approval shall be suspended.
  - (a) The report shall include:
    - 1. Current enrollment figures;
    - 2. Identification information;
    - 3. A description of the services to be offered to children and parents and reasons these services are needed at the proposed location;

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

4. Ages of children to be served;
  5. Hours of operation;
  6. A description of meal provision or preparation;
  7. Admission requirements and enrollment procedures;
  8. Provision for emergency medical care;
  9. Transportation Plan; and
  10. Demonstration of compliance with all laws and regulations governing the program.
- (b) If, after being approved, a school wishes to change the scope or type of service offered to children and families, an amended report shall be filed with the Department for approval prior to implementation.
- (9) A program that submits a satisfactory annual report and demonstrates a reasonable probability that the program can maintain compliance with all laws and regulations during the annual certification period, shall be issued a new annual certificate of approval by the department.
- (10) Throughout the temporary certification period and during the annual re-evaluation period, immediate access to all areas of the school or program 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.
- (11) Any program found in operation without oversight from the department of education will be reported to local authorities as indicated by T.C.A. § 49-1-1105(a).
- (12) 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 a safety plan. The 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.

**Authority:** T.C.A. §§ 4-5-201, et seq.; 49-1-201(c)(24); 49-1-302, et seq.; 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. Amendments filed November 2, 2017; effective February 1, 2018. Amendments filed January 25, 2019; effective April 25, 2019.

#### **0520-12-01-.04 REPEALED.**

**Authority:** T.C.A. §§ 4-5-201, et seq.; 49-1-201(c)(24); 49-1-302(l); 49-1-1101 through 49-1-1109; 49-2-203(b)(11); and 49-5-413. **Administrative History:** Original rule filed September 26, 1990; effective December 29, 1990. Amendment filed April 30, 2002; effective July 14, 2002. Amendment repealing and replacing rule filed March 15, 2010; effective August 29, 2010. Repeal filed November 2, 2017; effective February 1, 2018.

**0520-12-01-.05 PROGRAM ORGANIZATION AND ADMINISTRATION.**

- (1) Each program shall have an adequate budget for the financial support of the program. Adequate financing of the center's operation shall be maintained throughout the year.
  - (a) Proposed budgets and other relevant financial records shall be available to the Department of Education upon request.
  - (b) 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.
- (2) 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:
  - (a) 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.
  - (b) 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.
  - (c) Automobile coverage for programs that transport children:
    1. Automobile liability coverage shall be maintained in a minimum amount of five hundred thousand dollars (\$500,000) combined single limit of liability.
    2. 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.
  - (d) 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.
  - (e) 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.
- (3) Enrollment.
  - (a) A program shall not enroll a child into care until the parent or guardian has supplied the program with a completed application, Tennessee Department of Health Official immunization record (for children over two (2) months of age), and a health history.
  - (b) Exceptions to this immunization requirement may be made only if:

(Rule 0520-12-01-.05, continued)

1. The child's physician or the health department provides a signed and dated statement, giving a medical reason why the child should not be given a specified immunization;
  2. The child's parent provides a signed written statement that such immunizations conflict with his/her religious tenets and practices; or
  3. Care for children of homeless families and/or children in state custody is needed before documentation of immunizations can be confirmed. Program must have a written plan for obtaining records for children who are homeless and/or in state custody.
- (c) Programs may not deny enrollment to students based on citizenship status. (*Plyler v. Doe*, 457 U.S. 202, 1982).
- (d) Enrollment of children under six (6) weeks of age is prohibited.
- (e) The program shall maintain documentation that the parent was offered an on-site visit of the program to review the facility and the 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.
- (f) Enrollment of children shall be allowed throughout the year, as long as the requirements set forth in these rules are met.
- (4) Each program 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.
- (a) Parents or guardians shall be provided a parent handbook outlining the program's policies, procedures, and the requirements of this Chapter upon admission of the child. The program's parent handbook shall include, at a minimum:
1. Criteria for the disenrollment 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. Rates and late fee policy;
  5. Hours of operation;
  6. Emergency plan and inclement weather policy;
  7. Smoke free environment; and
  8. Meal service policy.
- (b) The program shall require the parent to sign for receipt of the policies and summary of the requirements of this Chapter, and the signed receipt shall be maintained by the program in the child's file.



(Rule 0520-12-01-.05, continued)

- (c) Parents shall be permitted to see the professional credential(s) of program staff upon request.
  - (d) An abuse prevention awareness program or abuse prevention awareness information 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.
  - (e) 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.
  - (f) 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.
- (5) Release of Children
- (a) 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.
  - (b) Children shall be signed in and out of the program by the legal guardian or persons authorized on the list to pick up the child. Students transported to the program pursuant to 0520-12-01-.13 may be signed in and out by the appropriate staff person. Program staff shall verify parental authorization and the identity of any person to whom a child is released.
  - (c) Children shall only be released to a designated person in accordance with the child release plan. The program shall verify the identity of the authorized person by requiring presentation of a photo identification. The person to whom the child is released must sign the child out of the program.
  - (d) 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. If the person, displaying risky behavior, is not the parent, the program shall not release the child and the parent shall be called immediately.
  - (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) A parent shall be notified before the child leaves the premises except in emergency circumstances. 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:
    - 1. Voluntary placement agreement with the parent;
    - 2. Court order;

(Rule 0520-12-01-.05, continued)

3. Emergency assumption of custody under T.C.A. § 37-1-113 without parental permission;
  4. The child's parent or legal guardian is present and approves; or
  5. In conjunction with investigative procedures under the child abuse laws.
- (6) 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.
- (a) Incidents, accidents and injuries to children shall be documented immediately as follows:
    1. Date and time of occurrence;
    2. Description of circumstances; and
    3. Action(s) taken by the program.
  - (b) 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.
  - (c) The Department shall be notified of any child fatality at the program no later than one (1) calendar day immediately following the death.
- (7) All programs must comply with the following record requirements for children and staff:
- (a) All records shall be maintained in an organized manner and shall be made available to the Department upon request.
  - (b) 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.

(Rule 0520-12-01-.05, continued)

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.
- (c) 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.
- (d) 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. 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.
- (e) School-age children's records shall include:
1. An information form that 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 from 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 maintained in the child's file; and
  4. Written authorization from a physician for the self-administration of medication for the current school year, if applicable.
- (f) Staff records shall include:
1. Name, birth date, social security number, (used by the employer for Federal/State tax purposes), address, and telephone number of all staff members and a contact for each staff member in an emergency;

(Rule 0520-12-01-.05, continued)

2. Educational background and educational experiences, including dates and places of diplomas received, teaching license if applicable, and conferences, courses, and workshops attended throughout the year;
  3. 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. 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;
  4. At least three (3) references from non-relatives, either written or with documented interviews of each reference on each staff member;
  5. Written, verified record of employment history;
  6. Documentation of annual performance reviews;
  7. Daily attendance (including time in/out) of staff;
  8. Signed and completed criminal history disclosure form;
  9. Verification of criminal background check and Vulnerable Persons Registry results;
  10. Documentation of trainings to include all pre-service training hours; and
  11. Date of employment and date of separation from the program.
  12. Driver records shall additionally contain:
    - (i) Copy of driver's license showing proper endorsement;
    - (ii) Verification of a passed pre-employment drug screen;
    - (iii) Verification that the driver is included in every randomly generated pool of drivers for all annual random drug screening and proof of a passed drug test every time the driver is randomly selected; and
    - (iv) Verification of Cardiopulmonary Resuscitation (CPR) and First Aid certifications. Drivers only providing transportation for field trips with a program staff on board are not required to have CPR and First Aid certification.
- (g) Staff records shall be maintained for at least one (1) year following the separation of the staff from the program. Date of separation should be placed on the staff form.
- (h) Records of volunteers shall be maintained and must include names, addresses, telephone numbers and dates of service of all volunteers.
- (i) Records of substitutes shall be maintained and include the names, addresses, telephone numbers and dates of service of all substitutes.
- (8) 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

(Rule 0520-12-01-.05, continued)

duties and which may be necessary for health, safety, or welfare of any child enrolled in the program or the child's family.

- (9) Programs shall meet the following requirements for the posting of documentation:
- (a) During the hours of operation, the current certificate of approval 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 these state board 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.

**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; 49-2-2110; 49-6-2101; 49-6-2105; 49-6-2107; 49-6-2108; 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. Amendments filed November 2, 2017; effective February 1, 2018. Amendments filed May 3, 2018; effective August 1, 2018. Amendments filed January 25, 2019; effective April 25, 2019.

#### **0520-12-01-.06 PROGRAM OPERATION.**

- (1) Each program shall maintain a system that enables all children in the program's care to receive a level of supervision 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.
- (a) 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, 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.

(Rule 0520-12-01-.06, continued)

- (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.
  - (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) Staff shall position themselves strategically for adequate supervision and quick response.
  - (j) 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.
  - (k) Helper devices such as mirrors, electronic sound monitors, etc. may be used as appropriate to meet these requirements.
  - (l) Teachers shall monitor children's toileting and be aware of their activities while respecting the privacy needs of the child. Programs must have a bathroom supervision plan to reflect the developmental needs of children in the classroom. Items in plan may include, but are not limited to, location of staff, times of bathroom breaks and locations, and emergency bathroom procedures.
  - (m) The program shall maintain a plan, approved by the Department, that enables a teacher in an emergency situation to call a second (2<sup>nd</sup>) adult who can respond quickly while maintaining as much supervision of the children in care as is possible under the circumstances.
- (2) Each enrolled child shall be in a defined group based on their age and assigned to that group with a specific teacher.
- (a) 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.
  - (b) When infants are cared for in a center with older children, they shall not be grouped with children older than thirty (30) months of age and a separate area shall be provided for them.
  - (c) In order to assure the continuity of care for children thirty (30) months of age to five (5) years of age and their 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.

(Rule 0520-12-01-.06, continued)

- (3) Each program shall adhere to the maximum group size and adult:child ratios required by this chapter.
- The adult:child ratios shall be maintained by the program while the children are indoors and on the playground.
  - The maximum group size and adult:child ratio shall be based standards set forth in this chapter.
  - 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.
  - 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.
  - When more than twelve (12) children are present on the premises, but a second adult is not required by the adult:child ratio rules contained in this Chapter, a second adult shall be physically available on the premises.
  - 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.
- (4) Programs must meet the following group size and adult:child ratios:

- (a) Maximum group size and adult:child ratio for single-age grouping:

Age	Group Size	Adult:Child Ratio
Infant (6wks-12m)	8	1:4
Toddler (11m-23m)	12	1:6
Two (2) years old	14	1:7
Three (3) years old	18	1:9
Four (4) years old	20	1:13
VPK, 619, PDG	20	1:10

- (b) Maximum group size and adult:child ratio for multi-age grouping:

Age	Group Size	Adult:Child Ratio
Infant-18 months	8	1:4
18-36 months	16	1:8
3-4 year olds only	20	1:10
3-6 years old*	24	1:13

\*Not including first grade children.

- For children six (6) weeks through two (2) years, class assignment shall be based on the developmental needs of the child.
- For children age two (2) years and six (6) months on or before August 15<sup>th</sup>, if the director of schools finds through evaluation and testing, at the request of the parent or

(Rule 0520-12-01-.06, continued)

legal guardian, that a child is sufficiently mature, emotionally and academically, then the child may be permitted to enter a mixed-age three through six (3-6) year old classroom.

- (e) For children three (3) years through pre-kindergarten, class assignment shall be determined based on the child's age on August 15<sup>th</sup>. If the director of schools finds through evaluation at testing, at the request of the parent or legal guardian, that a child who has a birthdate from August 16<sup>th</sup> through September 30<sup>th</sup> is sufficiently mature, emotionally and academically, then the child may be permitted to enter the next classroom level.
- (f) Group sizes or class assignments and adult: child ratios may not be adjusted based on a change to a child's age during the school year. Schools shall not change a classroom status mid-year (e.g. from single-age to multi-age, due to a child's age).
- (g) Maximum group size and adult: child ratio during arrival and departure (1 hour prior to and end of the school day) excluding infants and toddlers:

Age	Group Size	Adult:Child Ratio
Including 3 year olds	15	1:10
Including 4 year olds	20	1:12

- (h) Maximum group size and adult: child ratio during before and after school programs for birth through five:

Age	Group	Adult: Child Ratio
Infant – 36 months	Ratio and Group size remains the same	
3-4 year olds	22	1:13
4 year olds – kindergarten	24	1:16

- (5) During naptime and nighttime care adult:child ratios may be relaxed so long as the children are adequately protected and all of the following requirements are met:
  - (a) At least one (1) adult shall be awake and supervising the children in each nap room or sleeping area;
  - (b) Infant/toddler ratios shall be maintained; and
  - (c) The adult:child ratio for children ages three (3) years 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.
  - (d) Maximum group size limits do not apply as long as the appropriate adult:child ratio is met at the fifty percent (50%) level.
- (6) Each program shall have a written playground supervision plan that includes:
  - (a) Arrival and departure procedures;
  - (b) 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;



(Rule 0520-12-01-.06, continued)

- (c) Identification of which staff will merely supervise in their assigned zone while other staff, if any, interact with children as play facilitators;
  - (d) 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
  - (e) A communication link among playground supervisors and a designated staff person, if available, inside the program's facility.
- (7) Programs shall meet the following requirements for off-site activities and swimming:
- (a) The required adult:child ratio for preschool children shall be doubled during off-site visits.
  - (b) In order for parents or guardians to be included in the adult:child ratio for off-site activities, the school must have a TBI/FBI background check, child abuse check, and vulnerable person's registry check on file for the parent or guardian.
  - (c) For children in kindergarten through thirteen (13) years of age the following requirements shall be met:
    - 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 below may be teachers, volunteers and/or unpaid staff.

Number of children	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

- (d) For children age fourteen (14) to eighteen (18), 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.
- (e) A minimum of two (2) adults is required for any off-site activity.
- (f) Programs shall maintain a system utilizing an off-site attendance roll which tracks the whereabouts of each child while off the premises.
- (g) The following requirements shall be met when children are swimming:
  - 1. The following adult:child ratios shall be followed:

Age	Adult:Child Ratio
Infant	1:1
Thirteen (13) – thirty-five (35) months	1:2
Three (3) years old	1:4
Four (4) years old	1:6
Five (5) years old	1:8

(Rule 0520-12-01-.06, continued)

Kindergarten – thirteen (13) years	1:10
Fourteen (14) – eighteen (18) years	1:20

2. Group swimming for infants and toddlers is not recommended.
3. 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.
4. The lifeguard may not be included in the required adult:child ratio while performing lifeguard duties.
5. Remaining teachers should supervise both in and out of the water.

**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; 49-2-2110; 49-5-413; 49-6-2101; 49-6-2105; 49-6-2107; 49-6-2108; 49-6-2114; 49-6-2116; 49-6-3001; 55-9-602, et seq.; 55-50-301, et seq.; 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. Amendments filed November 2, 2017; effective February 1, 2018. Amendments filed May 3, 2018; effective August 1, 2018. Amendments filed January 25, 2019; effective April 25, 2019.

**0520-12-01-.07 STAFF.**

- (1) All programs shall be staffed with a director and enough teachers and staff to meet the required adult:child ratios.
- (2) 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. 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.
- (3) Every staff person, both paid and unpaid, shall be at least twenty-one (21) years of age in order to work in an early child care program.
- (4) At least one (1) adult available on the premises at all times during program operating hours shall be able to read and write English.
- (5) Prior to assuming duties, each new employee shall receive two (2) hours of orientation, and be able to explain the program philosophy, emergency procedures, policies regarding discipline of children, policies regarding the reporting of child abuse, Sudden Infant Death Syndrome (SIDS), and policies for receiving and dismissing children.
- (6) Within the first two (2) weeks on the job and annually thereafter, each employee, including directors, teachers, substitutes, volunteers, and practicum students, shall receive annual instruction in:
  - (a) Child abuse detection, reporting, and prevention;
  - (b) Parent-center communication;
  - (c) Disease control and health promotion;
  - (d) An overview of certificate of approval requirements;

(Rule 0520-12-01-.07, continued)

- (e) Information on risks of infection to female employees of childbearing age;
  - (f) Food allergies;
  - (g) Supervision during high risk activities such as eating and outdoor play;
  - (h) Meal service and safe food preparation policies;
  - (i) Shaken baby syndrome;
  - (j) Abusive head trauma;
  - (k) Safe sleep procedures;
  - (l) Developmentally appropriate practices; and
  - (m) Policies regarding discipline and supervision of children.
- (7) All training shall be documented in the program's records and be available for review by the Department's staff at any time.
- (8) The program must maintain written documentation that each employee has read the full set of all applicable rules. In addition, a copy of these rules shall be maintained in an area that is readily accessible to all staff.
- (9) Each program location where children are present shall have an on-site director. The on-site director, with the guidance of the board or owner of the program, shall be responsible for staff and the day-to-day operation of the program. On-site directors shall meet the following criteria:
- (a) The on-site director of a program shall be a full-time employee and shall be physically present in the program's facilities daily at least half of the total hours of operation.
  - (b) A director shall be at least twenty-one (21) years of age if hired after June 30, 2017 and shall meet at least one (1) of the minimum qualifications listed below:

Education level	Minimum experience required
Graduation from an accredited four-year (4 year) college.	One (1) year of full-time experience in a group setting. Experience may be paid or unpaid. (2 years school-age care experience = 1 year full-time experience)
Sixty (60) semester hours 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 experience in a group setting. Experience may be paid or unpaid. (2 years school-age care experience = 1 year full-time experience)
High school diploma (or equivalent), and Tennessee Early Childhood Training Alliance (TECTA) certificate for completing thirty (30) clock hours of orientation training, or the equivalent as	Four (4) years of full-time experience in a group setting. Experience may be paid or unpaid. (2 years school-age care experience = 1 year full-time experience)

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recognized by the Department.	
Has been continuously employed as an on-site program director or child care agency owner since July 1, 2000.	Not applicable.

- (c) Within the first thirty (30) days of employment by a program, a director shall complete an orientation provided by the Department of Education.
  - (d) Directors shall complete at least thirty (30) hours of professional development, of which six (6) hours shall be in administration management or supervisory training and six (6) hours shall be in developmentally appropriate literacy practices.
  - (e) If a director serves a dual role (e.g. an individual serving as the director and a teacher), the duties of each role shall be performed separately and not simultaneously.
- (10) Programs may employ an on-site assistant director. 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. On-site assistant directors shall meet the following criteria:
- (a) The on-site assistant director shall be at least twenty-one (21) years of age if hired after June 30, 2017 and 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 be at least twenty-one (21) years of age and 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 unpaid) in a group setting.
  - (c) Within the first thirty (30) days of employment, assistant directors shall complete an orientation provided by the department of education child care program evaluator.
  - (d) Assistant directors shall complete at least thirty (30) hours of professional development, of which six (6) hours shall be in developmentally appropriate literacy practices and three (3) hours shall be in administration management or supervisory training.
- (11) All teachers and assistant teachers shall be at least twenty-one (21) years of age if hired after June 30, 2017 and shall meet the following criteria:
- (a) Before assuming teaching duties, teachers and assistant teachers shall complete 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. Up to two (2) hours of training credit may be earned for Child and Adult Care Food Program (CACFP) training or USDA Free and Reduced Price Meal Program training.
  - (b) Full-time teachers and assistant teachers shall complete at least thirty (30) hours of professional development.
  - (c) At least six (6) hours of the required professional development shall be obtained outside of the program. At least six (6) hours of the professional development shall be in developmentally appropriate literacy practices.

(Rule 0520-12-01-.07, continued)

- (d) 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.
- (12) Part-time teachers and teaching assistants shall meet the following criteria:
- (a) Prior to assuming duties, part-time teachers and assistant teachers shall complete two (2) clock hours of pre-service orientation training offered or recognized by the Department.
  - (b) Part-time teachers and assistant teachers shall complete at least fifteen (15) hours of professional development, of which three (3) shall be in developmentally appropriate literacy practices and three (3) shall be obtained outside of the program.
  - (c) Part-time 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.
- (13) Substitute teachers shall meet the following criteria:
- (a) Substitutes shall comply with the same orientation requirements defined by these rules for all program staff and shall be provided a classroom orientation prior to assuming duties.
  - (b) 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 part-time teachers.
  - (c) Auxiliary staff may be used as emergency substitutes if their qualifications permit, but not while performing auxiliary duties.
  - (d) Substitutes shall meet the criminal background check requirements and the same requirements as regular staff for the physical examination required by this Chapter.
  - (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.
- (14) A volunteer is a person who provides services for a child care center without payment and who is used to supplement the regular staff or substitutes. Volunteers shall not be included in the adult:child ratios. The on-site director shall be responsible for and supervise the activities of volunteers to assure the safety of children.
- (15) All child care programs shall require any person employed in a position requiring proximity to children to:
- (a) Provide evidence of the following:
    - 1. Department of Health Vulnerable Persons Abuse Registry check;
    - 2. TBI/FBI Fingerprint and Background check;
    - 3. TBI/FBI Sex Offender Registry; and
  - (b) This evidence shall be obtained by the program prior to employment.

(Rule 0520-12-01-.07, continued)

- (c) 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 this Chapter, 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.
  - (d) A new fingerprint sample must be obtained, for all employees, every five (5) years.
- (16) No individual with a prohibited criminal history as defined below may work, substitute or volunteer in a program, be an owner, director or manager of a program who has access to children, have significant contact with children or otherwise have unrestricted access to children in any manner whatsoever. An individual shall be immediately and automatically excluded from a program or any contact whatsoever with children if the individual's criminal history includes:
- (a) 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
  - (b) A pending juvenile action or previous juvenile adjudication, which, if an adult, would constitute a criminal offense; and
  - (c) Any of the circumstances in (a) or (b) above involves any of the following criminal offenses:
    - 1. 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;
    - 2. Any offense (including a lesser included offense) involving violence, or the threat of violence against another person; and/or
    - 3. Any offense (including a lesser included offense) involving, the manufacture, sale, distribution or possession of any drug.
- (17) 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:
- (a) Reveals a prohibited or potentially prohibited criminal history on the criminal history disclosure form;
  - (b) Is listed on the Department of Health's Vulnerable Persons Abuse Registry; or
  - (c) Is known to the 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.
- (18) 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:

(Rule 0520-12-01-.07, continued)

- (a) 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
  - (b) 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.
- (19) 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.
- (20) 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.
- (a) 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.
  - (b) 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.
  - (c) 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.
- (21) The Department may, at any time, request that the criminal background status or the Department of Health's Vulnerable Persons Abuse 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.
- (22) 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 Chapter.

**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) 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. Amendments filed November

(Rule 0520-12-01-.07, continued)

2, 2017; effective February 1, 2018. Amendments filed May 3, 2018; effective August 1, 2018. Amendments filed January 25, 2019; effective April 25, 2019.

#### **0520-12-01-.08 REPEALED.**

**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. Repeal filed November 2, 2017; effective February 1, 2018.

#### **0520-12-01-.09 PROGRAM REQUIREMENTS.**

- (1) Educational activities shall be based on developmentally appropriate educational practices.
  - (a) 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)
    1. Sit and listen to teacher read aloud to him/her individually and in a group daily;
    2. 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;
    3. Engage in meaningful conversations with teachers;
    4. Engage in touching, feeling, and identify a variety of known and unknown objects;
    5. Explore a variety of culturally diverse books that encourage early literacy skill development and increase children's knowledge about the world around them. These books should represent different genres, i.e. poetry, nonfiction, fiction, informational texts, etc.; and
    6. Experience daily tummy time.
  - (b) Preschool/Pre-K classrooms ages twenty-four (24) months to five (5) years must show evidence that children are provided the opportunity to: (See TNELDS standards for 48 months to kindergarten)
    1. Sit and listen to teacher read aloud to him/her individually and in group daily;
    2. Engage in pretend play;
    3. Engage with developmentally appropriate educational and open-ended materials, i.e. blocks, clay, sand;
    4. Engage in meaningful conversations with peers and teachers;
    5. Write, create books, and engage with print rich materials;
    6. Engage with a variety of culturally diverse books and materials that encourage early literacy skills in concepts about print, genres, letter identification, beginning sounds, etc.;



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7. Engage in a variety of activities that support number sense, mathematical thinking, and understanding; and
  8. Help with daily classroom and self-care routines.
- (c) Children enrolled in any LEA pre-kindergarten program must participate in an educational curriculum that is aligned with the Tennessee early learning developmental standards.
  - (d) Staff shall plan ahead for developmentally appropriate activities and written lesson plans shall be provided for children of each age group.
  - (e) There shall be a balance between child's choice and adult-directed activities.
  - (f) 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
- (2) Non-educational program activities shall be stimulating and developmentally appropriate.
    - (a) Any technology children engage in shall be developmentally appropriate, previewed by staff for content, approved by parents, and shall not exceed two (2) hours per day.
    - (b) There shall be alternating periods of vigorous activity and rest throughout the day.
    - (c) 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.
    - (d) Opportunities shall be provided for children to interact with one another.
    - (e) 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.
    - (f) Youth ten (10) years and older shall be encouraged to participate in the planning of their schedules and activities.
    - (g) Indoor physical activities, requiring children to use both large and small muscles, shall be provided for children of each age group.
    - (h) For infants and toddlers, a portion of the day shall include floor time for activities that develop physical, social, language and cognitive skills.
    - (i) Infants and toddlers shall have language experiences with adults on a daily basis.
  - (3) For ages three (3) through school-age, the program curriculum shall include instruction in personal safety.
    - (a) 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.
    - (b) The personal safety curriculum used by the program shall be made available to the parents and legal guardians for review.

(Rule 0520-12-01-.09, continued)

- (c) 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.
  - (d) 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.
  - (e) 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.
  - (f) Children, enrolled in a school-administered pre-kindergarten program, shall participate in an educational curriculum, aligned with the Tennessee Early Learning Developmental Standards as required by T.C.A. § 49-6-104(b)(5).
- (4) 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.
- (a) Children shall be provided an opportunity for outdoor play when the temperature range is between thirty-two (32) degrees and ninety-five (95) degrees Fahrenheit and not raining.
  - (b) Teachers shall be alert for signs of dehydration, heat stroke, frostbite, etc., dependent upon the season.
  - (c) Each agency shall develop a set of age appropriate playground rules that uses positive language. Rules shall be posted in each play area.
- (5) Programs shall meet the following behavior management criteria:
- (a) Discipline shall be reasonable, appropriate, and in terms the children can understand.
  - (b) Discipline that is shaming, humiliating, frightening, verbally abusive, or injurious to children shall not be used.
  - (c) Discipline shall not be related to food, rest, or toileting.
  - (d) Spanking or any other type of corporal punishment is prohibited.
  - (e) Praise and encouragement of good behavior shall be used.
  - (f) 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

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(36) months and sixty (60) months of age shall be placed in time-out for longer than five (5) minutes.

- (6) Toilet training shall never be started until a child has been in the program long enough to feel comfortable and is able to communicate their need to use the bathroom. Children shall not be made to sit on the toilet for more than five (5) minutes.
- (7) 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.) 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.
- (8) When more than twelve (12) school-age children in first (1<sup>st</sup>) grade and above are present, a separate group, a separate space, and a separate program type shall be provided for them.
- (9) Routines such as snacks, meals, and rest shall occur at approximately the same time each day.

**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. Amendments filed November 2, 2017; effective February 1, 2018. Amendments filed May 3, 2018; effective August 1, 2018. Amendments filed January 25, 2019; effective April 25, 2019.

#### **0520-12-01-.10 HEALTH AND SAFETY.**

- (1) Current and comprehensive first aid information shall be available to all staff who interact with children. 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. Each program shall provide periodic training and updates on basic first aid and the use of the first aid kit.
- (2) At least one staff member who has current certification in first aid from a certifying organization recognized by the Department shall be on duty at all times. The first aid certification course shall be a minimum of three (3) hours and shall be taught by a certified first aid instructor.
- (3) At least one (1) staff member on duty shall hold current certification in Infant/Pediatric Cardiopulmonary Resuscitation (CPR) from the American Red Cross, the American Heart Association, or other certifying organization, as recognized by the Department
  - (a) 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.
  - (b) When school-age children are present, and/or in a school-age only program, at least one (1) staff member shall hold current certification in adult CPR.

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- (4) Each 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.
  - (a) 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.
- (5) Smoking is not permitted on the premises of a child care program.
- (6) The consumption or possession of alcohol is not permitted on the premises of a child care program.
- (7) 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.
- (8) Kitchen knives and other potentially dangerous utensils or tools shall be secured so that they are not accessible to children.
- (9) 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.
- (10) The following emergency telephone numbers shall be posted next to all telephones and be readily available to any staff member:
  - (a) Fire department;
  - (b) Police department/sheriff;
  - (c) Nearest hospital emergency room;
  - (d) Child abuse hotline;
  - (e) Local emergency management agency;
  - (f) Ambulance or rescue squad;
  - (g) Poison control center;
  - (h) 911 or a similar generic number operated in the community; and
  - (i) Contact numbers for parents.
- (11) Programs shall comply with the following rules for the health of children:
  - (a) All children shall be checked upon arrival and observed for signs of communicable disease during the day.
  - (b) 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.
  - (c) Impetigo and diagnosed strep shall be treated appropriately for twenty-four (24) hours prior to readmission of the child to the center.

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- (d) Children diagnosed with scabies or lice shall have proof of treatment prior to readmission.
  - (e) 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.
  - (f) 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.
  - (g) 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.
  - (h) In no event shall the program delay seeking emergency treatment due to a delay in making contact with the parent.
  - (i) 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;
    - 3. Salmonella;
    - 4. Shigella;
    - 5. Measles, mumps, and/or rubella;
    - 6. Pertussis;
    - 7. Polio;
    - 8. Influenza type A or B;
    - 9. Meningococcal meningitis;
    - 10. Staphylococcus aureus; and
    - 11. Any other illness identified by the state or local Department of Health.
  - (j) 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.
- (12) Program 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.

(Rule 0520-12-01-.10, continued)

- (13) Tuberculosis (TB) screening prior to on-going contact with children is recommended for any individual who:
- (a) Was born in a country other than the United States, Canada, Western Europe, Australia, New Zealand, and Japan;
  - (b) Has a weakened immune system (Human Immunodeficiency Virus (HIV), cancer, taking chemotherapy drugs, etc.); or
  - (c) Has been recently exposed to tuberculosis.
- (14) The administration of medication shall be in compliance with the following:
- (a) All medications, prescription and non-prescription shall be received from the parent by a designated staff person or management level staff person. An alternate staff person shall be available to administer medication in the event the designated staff person is absent.
  - (b) The designated staff person shall document verification of the following:
    - 1. The parent's written authorization to administer medication and instructions on the methods of administration;
    - 2. That medicines or drugs are in the original prescription container, are not out of date, and labeled with the child's name; and
    - 3. The specific dosage and times medication is to be administered to the child.
  - (c) 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.
  - (d) The parent of a child receiving medication shall sign documentation verifying the receipt of documentation of administration required by subparagraph (c) above and that all unused medication was returned to the parent.
  - (e) Medication shall not be handled by children. Exception: Children with a physician's authorization for the self-administration of a medication. 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.
  - (f) Medication shall never be administered in bottles or infant feeders unless authorized by a physician.
  - (g) All medicines, prescription and non-prescription shall be stored in a locked compartment or container.
    - 1. If medicine requiring refrigeration is kept in a refrigerator the medicine shall be put in a leak-proof locked container.
    - 2. Keys for these compartments shall be inaccessible to children.

(Rule 0520-12-01-.10, continued)

3. 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.
  - (h) Public school-administered programs shall follow the procedures for student medications defined in the School Health policy, adopted by the Local Education Agency.
- (15) The following safe sleep practices shall be followed:
- (a) Infants shall be positioned on their backs when placed in a crib for sleeping.
  - (b) A crib shall only have a tight fitting sheet; soft bedding for infants is prohibited.
  - (c) Infants shall not be wrapped tightly or swaddled in blankets for sleeping.
  - (d) Infants should be dressed lightly for sleep and the room temperature shall be in a range that is comfortable for a lightly clothed adult. Infants may be clothed in sleep sacks that have been approved by the Consumer Product Safety Commission and the Tennessee Department of Health as long as the sleep sack is not handmade, not on the recall list, and children are able to move their arms freely while wearing the sleep sack.
  - (e) Infants that fall asleep during tummy time shall be placed in their crib immediately.
  - (f) Infants shall be touched by a teacher every fifteen (15) minutes in order to check breathing and body temperature.
  - (g) Pillows and blankets shall be prohibited for infants.
  - (h) If a child appears not to be breathing, the program must immediately begin CPR and call for emergency medical assistance.
  - (i) Before any teacher can assume duties of any type in an infant room they must be oriented in the foregoing SIDS procedures.
  - (j) The areas where infants sleep shall have adequate lighting 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.
- (16) For the protection of children and adults, the Centers for Disease Control guidelines for hand washing and diapering procedures shall be followed. Hand Sanitizer shall not be a substitute for soap and water and shall be kept out of reach of children.
- (17) Diapering shall comply with the following:
- (a) Children shall be diapered/changed and cleaned immediately when wet or soiled.
  - (b) 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.
  - (c) All diapering surfaces must be off the floor, nonporous and shall be sanitized using solutions for general cleaning and sanitizing purposes, i.e.:

(Rule 0520-12-01-.10, continued)

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.
- (d) 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.
- (18) Program equipment shall meet the following safety requirements:
- (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, sharp edges, splinters, nails sticking out, 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.
  - (j) There shall be equipment for napping or sleeping for each preschool child who is in care for six (6) hours or more.
    1. 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.
    2. No child shall be forced to stay on a cot or on a mat for an extended period of time.
    3. In order to avoid the spread of airborne diseases, children shall be positioned on mats in a face-to-feet alternating pattern.



(Rule 0520-12-01-.10, continued)

4. Spacing of cots, cribs, and mats shall allow sufficient space to walk between them.
  5. All nap/sleep equipment shall be in good condition and comply with the following requirements:
    - (i) Individual cots or two-inch (2") mats shall be provided for children ages twelve (12) months to five (5) years.
    - (ii) 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.
    - (iii) 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.
    - (iv) Mattresses and foam pads shall be covered with safe, waterproof material.
    - (v) A clean sheet or towel shall be used to cover whatever the child sleeps on.
    - (vi) A clean coverlet shall be available to each child.
    - (vii) Soiled sheets and coverlets shall be replaced immediately.
    - (viii) Each crib, cot, bed or mat shall be labeled to assure that each child naps on his own bedding.
  6. Crib mattress shall not be positioned directly on the floor for napping. Pack 'n plays may be used for naptime.
- (19) 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.
- (a) All agency staff, including non-caregiving staff, shall receive annual training regarding the procedures to report child abuse and neglect.
  - (b) 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.
  - (c) The program shall not attempt to validate the allegation prior to making a report. 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.
  - (d) Any statement from a child reasonably indicating abuse/neglect of that child or another child or any evidence of abuse or 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.

(Rule 0520-12-01-.10, continued)

(e) The following procedures for reporting suspected child abuse or neglect are prohibited:

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 this Chapter 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 this Chapter.
3. The operator, owner, director, teacher, or staff member of, or substitute staff member or volunteer in the program shall not suggest to advise or direct a parent or caretaker of a child enrolled in the program to make a report of suspected child abuse or neglect regarding that parent's or caretaker's own child who is enrolled in the program as a means of fulfilling the duty of the operator, owner, director, teacher or staff member of, or substitute staff member or volunteer in, the program to report child abuse or neglect as required by T.C.A. §§ 37-1-403 and 37-1-605.
4. Any action that does not comply in all respects with these rules, will not fulfill the statutory duty to report child abuse or neglect and the certification of approval requirements of this Chapter.

(f) Failure to make the reports required by this Chapter or the use of the prohibited methods 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.

(g) If the facts established by a preponderance of the evidence indicate that there has not been strict compliance with the requirements of this Chapter or that the prohibited procedures been utilized as an alternative means of fulfilling the requirements, 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.

(h) 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.

1. The program shall provide access to records of children and staff.
2. The program shall allow appropriate investigators to interview children and staff.
3. The program shall not interfere with a child abuse and neglect investigation.
4. The program shall protect the child by requesting the investigator's identification.
5. The program shall maintain confidentiality of the investigation and shall not disclose the investigation or details of the investigation except as required to carry

(Rule 0520-12-01-.10, continued)

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.

- (i) Upon notification of a pending abuse or neglect investigation of any program staff member 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.

**Authority:** T.C.A. §§ 4-5-201, et seq.; 37-1-113; 37-1-401, et seq.; 37-1-601, et seq.; 49-1-302(l); 49-1-1101 through 49-1-1109; 49-5-415; 49-6-5001 and 5002; 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. Amendments filed November 2, 2017; effective February 1, 2018. Amendments filed May 3, 2018; effective August 1, 2018. Amendments filed January 25, 2019; effective April 25, 2019.

#### **0520-12-01-.11 FOOD.**

- (1) 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:
  - (a) 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.
  - (b) 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.
  - (c) Children in care seven (7) to ten (10) hours shall be provided one (1) meal and one (1) or two (2) snacks.
  - (d) Children in care for longer than ten (10) hours shall be provided two (2) complete meals and one (1) or two (2) snacks.
  - (e) A meal shall be provided to children who arrive before 7:00 a.m. and who have not had breakfast at home.
  - (f) Foods high in sugar and/or fat content but containing low nutritional value, shall not be served.
  - (g) All special needs diets shall be prepared as prescribed by a physician or by the written instructions of the parent.
  - (h) 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. These menus shall be followed, although reasonable substitutions are permissible, if the substituted food contains the same nutrients. Any change shall be documented in advance of the meal.
  - (i) Food shall not be forced on or withheld from children.
  - (j) Programs must establish a feeding schedule for infants.
  - (k) Bottled breast milk, infant bottles, and formula shall not be heated in a microwave.

(Rule 0520-12-01-.11, continued)

- (l) Infants must be held while bottle feeding.
  - (m) Children shall not be permitted to carry a bottle with them throughout the day.
- (2) The following rules shall be followed for 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) 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.
  - (e) To avoid choking, foods shall be appropriately sized for the eating and chewing abilities of children.
  - (f) At mealtime, children shall be seated at appropriately sized tables and chairs, and adults shall supervise them.
- (3) The following guidelines shall be followed for formula and food brought from home:
- (a) All formulas and food brought from home shall be labeled with the child's name.
  - (b) Milk shall be placed immediately in the refrigerator.
  - (c) Once milk has been warmed, it shall not be re-warmed or returned to the refrigerator.
  - (d) For optimum digestion, formula is to be served at body temperature.
  - (e) Frozen breast milk shall be dated when expressed.
  - (f) All formulas remaining in bottles after feeding shall be discarded.
  - (g) 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.
- (4) Microwaves, bottle warmers, and crock pots shall be only used by adults and shall not be accessible to children. All devices shall be used on the lowest setting. Children shall not be held while removing a bottle from crock pot or warming device.
- (5) 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.
- (6) 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.
- (7) 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.

(Rule 0520-12-01-.11, continued)

- (8) Children shall never be left without adult supervision while eating.
- (9) The following rules for food storage shall be followed:
  - (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.
- (10) The following rules for food sanitation shall be followed:
  - (a) Raw fruits and vegetables shall be washed before use.
  - (b) Utensils shall be thoroughly cleaned and sanitized after each use. Single-service utensils shall be made from non-toxic materials and shall be discarded following use.
  - (c) 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. Amendments filed November 2, 2017; effective February 1, 2018. Amendments filed January 25, 2019; effective April 25, 2019.

#### **0520-12-01-.12 PHYSICAL FACILITIES.**

- (1) Physical facilities shall maintain compliance with all applicable health and safety codes throughout the certification year and shall additionally comply with any updated standards issued by the Fire Marshal and the Department of Health.
- (2) All facilities shall have a means of communications via phone.
- (3) 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.

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

- (a) A minimum of thirty (30) square feet of usable indoor space shall be provided for each child.
  - (b) 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.
  - (c) For the purposes of calculating square footage requirements:
    - 1. Usable space to be included in the square footage calculation includes:
      - (i) Book shelves used in centers or reading nooks;
      - (ii) Children's tables (centers, sand and water, etc.);
      - (iii) Shelving used to house toys, blocks, manipulatives, etc.; and
      - (iv) Other items that are used to enhance a child's learning space.
    - 2. Non-usable space that shall not be included in the square footage calculation includes:
      - (i) Teacher's desk;
      - (ii) Teacher's file cabinet;
      - (iii) Cubbies;
      - (iv) Cot or mat racks;
      - (v) Diapering tables;
      - (vi) Cribs;
      - (vii) Restrooms;
      - (viii) Halls;
      - (ix) Kitchen; and
      - (x) Office space.
  - (d) 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.
- (4) All indoor areas shall be clean and safe.
- (a) The indoor play/care areas shall be free of hazardous items that could be accessible to children.
  - (b) Indoor play equipment shall meet the following guidelines:

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

1. Pieces of equipment, such as television sets, bookcases, and appliances, shall be secured or supported so that they will not fall or tip over.
  2. Sufficient indoor equipment, materials, and toys shall be available to meet active and quiet play needs of all children enrolled and to provide a variety of developmentally appropriate activities so that each child has at least three (3) choices during play time.
  3. Toys, educational and play materials, shall be organized and displayed within children's reach so that they can select and return items independently.
  4. 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.
- (5) 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.
- (a) The outdoor play area must be enclosed by a fence or barricade at least four (4) feet in height. 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.
  - (b) Outdoor play equipment shall meet the following guidelines:
    1. There shall be developmentally appropriate outdoor play equipment for children who are in care more than three (3) daylight hours.
    2. 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.
    3. All outdoor play equipment shall be placed to avoid injury:
      - (i) 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.
      - (ii) 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 (i) above.
    4. 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.
    5. 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.
    6. An acceptable resilient surfacing material, as recognized by the Department, shall cover fall zones in accordance with the following:

Resilient Surfacing Material	Minimum Acceptable Depth
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(Rule 0520-12-01-.12, continued)

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	Manufacturer recommendation

- (c) The outdoor areas where children play or are cared for shall be properly maintained and 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.
  - (d) A pre-play/care inspection of the outdoor play area shall be completed by the program before children play outdoors.
  - (e) The outdoor play/care areas shall be free of hazardous items that could be accessible to children.
  - (f) Outdoor areas shall be free of all animal waste.
- (6) Drinking water from individual single service cups or an approved drinking fountain shall be provided in all occupied rooms.
  - (7) All garbage shall be removed from the building daily and all garbage storage receptacles shall be outside and kept closed with tight-fitting lids. The area surrounding the garbage containers shall be kept clean.
  - (8) The building shall be kept clean and maintained in good repair, without unsafe cracks, leaks or unsatisfactory plumbing.
  - (9) Adequate natural and/or artificial lighting shall be provided throughout the facility.
  - (10) 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.
  - (11) 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.
  - (12) Broken glass, trash, and debris shall be kept removed from the building and grounds.
  - (13) Swimming pools and/or wading pools shall be fenced and shall not be used without prior approval by the Department of Health.
  - (14) Grounds, tire swings and containers shall have adequate drainage to prevent standing water that can breed mosquitoes and other insects.
  - (15) 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.



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

- (16) Turtles are prohibited as classroom pets.

**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. Amendments filed November 2, 2017; effective February 1, 2018. Amendments filed January 25, 2019; effective April 25, 2019.

### 0520-12-01-.13 TRANSPORTATION.

- (1) 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.
- (2) Transportation services shall be operated in compliance with all state laws, regarding school transportation and all rules and regulations, promulgated by State Board of Education regarding school transportation and school buses.
- (3) 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).
  - (a) Automobile insurance coverage for non-school community-based organizations which transport children shall comply with the following:
    1. Automobile liability coverage shall be maintained in a minimum amount of five hundred thousand dollars (\$500,000) combined single limit of liability.
    2. 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.
- (4) 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.
- (5) Fifteen (15) passenger vans are prohibited.
- (6) 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.
  - (a) Any child under one (1) year of age or any child weighing twenty pounds (20 lbs.) or less shall be properly secured in a child passenger restraint system in a rear facing position.
  - (b) 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.

(Rule 0520-12-01-.13, continued)

- (c) 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.
  - (d) 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.
  - (e) Any child, thirteen (13) through fifteen (15) years of age, shall be properly secured in a passenger motor vehicle using a seat belt system.
- (7) Federally approved child care restraint systems must be provided and utilized during the transport of any child three (3) years of age or under on a school bus.
- (8) 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.
- (9) 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.
- (10) All persons hired for the position of "school bus driver" shall:
- (a) Be issued a commercial driver's license (CDL) by the Tennessee Department of Safety;
  - (b) Have the "S" and "P" endorsements if employed by a public school or school system;
  - (c) Have a "P" endorsement and completion of school bus driver training if employed by a nonpublic school or a non-school, community based organization;
  - (d) Know and understands the school system's or private school's policies and procedures concerning transportation and to bus driver's responsibilities and duties;
  - (e) Have no criminal offense or criminal record of a violation of any of the following:
    - 1. Driving under the influence of an intoxicant as prohibited by T.C.A. § 55-10401;
    - 2. Vehicular assault as prohibited by T.C.A. § 39-13-106;
    - 3. Vehicular homicide as prohibited by T.C.A. § 39-13-213(a)(2);
    - 4. Aggravated vehicular homicide as prohibited by T.C.A. § 39-13-218; or
    - 5. Manufacture, delivery, sale or possession of a controlled substance as prohibited by T.C.A. § 39-17-417;
  - (f) Complete the annual physical and mental examinations of school bus drivers as required by T.C.A. § 49-6-2108;
  - (g) 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); and
  - (h) Complete CPR and First Aid certifications. If driver is accompanied by regular staff that has certification in CPR and First Aid, the driver does not have to meet this requirement.

(Rule 0520-12-01-.13, continued)

- (11) 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.
- (12) 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.
- (13) Vehicles used for transporting children shall:
  - (a) Have a clearly visible identifying sign. Exceptions: Vehicles used exclusively for the occasional field trip; vehicles used exclusively for the limited provision of emergency transportation, e.g., vehicle used when regular vehicle has a mechanical breakdown; and The Department may waive the vehicle identification requirements for programs under the direction or control of a public agency.
  - (b) 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.
- (14) Transportation routes shall be (school bus routes) in compliance with T.C.A. § 49-6-2105 to ensure no child is on a school bus more than one and one-half (1½) hours in the morning and one and one-half (1½) hours in the afternoon.
- (15) Firearms are prohibited in vehicles used to transport children.
- (16) Supervision of children in vehicles shall meet the following requirements:
  - (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.
  - (d) Adult Monitor Requirements.
    1. An adult monitor, in addition to the driver, is required on the vehicle for the transportation of four (4) or more children ages six (6) weeks to four (4) years of age.
    2. An adult monitor, in addition to the driver, is required on the vehicle for all routes exceeding thirty (30) minutes for children ages six (6) weeks to four (4) years of age, regardless of the total number of children being transported.
    3. An adult monitor, in addition to the driver, is required on the vehicle for the transportation of four (4) or more non-ambulatory children (permanently or temporarily non-ambulatory) of any age.
    4. An adult monitor, in addition to the driver, is required if more than ten (10) Voluntary Pre-Kindergarten students four (4) years of age are transported on the same bus.

(Rule 0520-12-01-.13, continued)

5. An adult monitor shall not be seated in the front passenger seat, but shall be seated in the vehicle in a position which will allow:
    - (i) Each child to be seen with a quick glance;
    - (ii) Each child to be heard at all times;
    - (iii) Each child's activities to be observed; and
    - (iv) The monitor to respond immediately should there be an emergency.
- (17) A passenger log shall be used to track each child during transportation.
- (a) 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".
  - (b) The driver of the vehicle or the monitor shall be designated as the person responsible for completing the log.
  - (c) As each child is loaded onto the vehicle the time the child was placed on the vehicle shall be recorded on the passenger log.
  - (d) The passenger log shall be updated immediately upon the child being released from the vehicle. The time the child was released shall be recorded and initialed by the person responsible for completing the log.
- (18) All drivers shall comply with the following:
- (a) Bus drivers who do not return to a central depot shall check 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. Immediately upon unloading the last child the driver shall:
    1. Physically walk through the vehicle;
    2. Inspect all seat surfaces, under all seats and in all compartments or recesses in the vehicle's interior;
    3. Sign the log, with the driver's full name, indicating the children are all unloaded.
  - (b) 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.
  - (c) 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.
- (19) All programs providing transportation for child care shall provide a written statement to the Department:

(Rule 0520-12-01-.13, continued)

- (a) 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.;
  - (b) Listing and describing the vehicles that will be used for the transportation of children;
  - (c) Describing any contracts, agreements or arrangements with any third (3<sup>rd</sup>) parties for the provision of transportation services, with copies of such contracts or agreements or arrangements available upon the Department's request;
  - (d) Describing the agency's policy, procedures and staff training plans for maintaining compliance with responsibilities for loading and unloading and tracking each child;
  - (e) 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;
  - (f) Describing the agency's policy, procedures and staff transportation training plans for maintaining compliance with transportation rules and state law; and
  - (g) Describing the agency's policy, procedures and staff training plans for the emergency evacuation of the vehicle.
- (20) Non-school, community-based organization vehicles shall meet the following requirements:
- (a) Annually, all non-school, community-based organization's vehicles that are designed by the vehicle manufacturer to carry ten (10) or more passengers shall 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.
  - (b) 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.
  - (c) 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.
  - (d) No vehicle which does not pass the inspections required in part (a) 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.
  - (e) Non-school, community-based organization vehicles shall receive regular inspections and maintenance by a certified mechanic in accordance with the maintenance schedule recommended by the vehicle manufacturer.
  - (f) Vehicle equipment shall be 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, including: brakes; steering; oil levels; coolant; brake, windshield- washer and transmission fluids; hoses and belts; and tires.
  - (g) 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

(Rule 0520-12-01-.13, continued)

device designed to immediately release the vehicle's child restraint system(s) in an emergency.

- (h) The bus driver or transportation monitor assigned to the vehicle shall be familiar with the location and use of all equipment required under part (g).
- (i) 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.
  - 1. A visual inspection of the vehicle's tires for wear and adequate pressure;
  - 2. A visual inspection for working headlights and taillights (brake lights and back-up lights), signals, mirrors, wiper blades and dash gauges;
  - 3. An inspection of properly functioning child and driver safety restraints;
  - 4. An inspection for properly functioning doors and windows;
  - 5. 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;
  - 6. A determination that the vehicle has adequate fuel; and
  - 7. An inspection for, and cleaning of, debris from the vehicle's interior.
- (j) Emergency exiting procedures shall be practiced on a regular basis by all staff responsible for transporting children.
- (k) Any vehicle, contracted by a non-school community-based organization 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.
- (l) The contracted vehicle shall have a commercial license plate (tag) and shall have minimum levels of liability insurance as defined by the Federal Motor Carrier Safety Administration rule § 387.33.
  - 1. Any vehicle with seating capacity of sixteen (16) passengers or more shall have five million dollars (\$5,000,000) liability coverage.
  - 2. 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. Amendments filed November 2, 2017; effective February 1, 2018. Amendments filed May 3, 2018; effective August 1, 2018. Amendments filed January 25, 2019; effective April 25, 2019.

**0520-12-01-.14 CARE OF CHILDREN WITH SPECIAL NEEDS.**

- (1) When children with special needs are enrolled in a child care program, 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 intellectual disability) 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) 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. 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 follows:
  - (a) Children shall be changed in a location designated for that purpose and which provides privacy from other children and adults.
  - (b) School-age children may be diapered on the floor on a nonporous washable, surface that adequately protects the floor from contamination.
  - (c) The floor beneath the diapering surface shall be immediately cleaned after each diapering.
  - (d) The diapering area shall be located near a hand washing lavatory. This area shall be in a separate location from food preparation/service area.
- (10) Isolation and physical restraint shall be in accordance with T.C.A. §§ 49-10-1301-1305:
  - (a) A student receiving special education services, as defined by T.C.A. § 49-10-102(4), may be isolated or restrained only in emergency situations and only if such isolation or restraint is provided in the student's IEP in emergency situations.

(Rule 0520-12-01-.14, continued)

- (b) If school personnel impose restraints or isolation in an emergency situation, the school shall immediately contact the appropriate school personnel designated to authorize isolation or restraint. The student's parent or guardian shall be notified, orally or by written 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 appropriate school personnel designated to authorize isolation or restraint 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.
- (e) If the appropriate school personnel designated to authorize isolation 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.
- (f) 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.
- (g) 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.
- (h) Administering a noxious substance to a student receiving special education services, as defined by T.C.A. § 49-10-102(4), is prohibited.
- (i) Use of any mechanical restraint on any student receiving special education services, as defined by T.C.A. § 49-10-102(4), is prohibited.
- (j) 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.
- (k) 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.
- (l) 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;



(Rule 0520-12-01-.14, continued)

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 this Chapter in any of the circumstances listed in this subdivision (l).
- (m) 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.

**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; and 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. Amendments filed November 2, 2017; effective February 1, 2018. Amendments filed January 25, 2019; effective April 25, 2019.

#### **0520-12-01-.15 SCHOOL AGE BEFORE AND AFTER SCHOOL PROGRAMS.**

- (1) All before- and after-school programs shall have an adequate budget.
- (2) Records shall be kept on all school age students enrolled in each program.
- (3) Each program shall post their annual certificate of approval and provide parents with a copy of the policies and procedures.
- (4) Parents shall have access to all areas of the program when the student is present.
- (5) Immediate access to all areas of the school or program shall be granted to all Department representatives and other inspection authorities (i.e., fire safety, sanitation, health, etc.) during operating hours.
- (6) Any program found in operation without oversight from the Department of Education will be reported to local authorities as indicated by T.C.A. § 49-1-1105(a).
- (7) If the program provides transportation, the transportation shall be in accordance with the rules of this Chapter.
- (8) Staff
  - (a) Each program shall have a director responsible for the day to day operations, including staff and program.
    1. The director shall be at least twenty-one (21) years of age and shall have at least a high school diploma and four (4) years' experience working with school age students.
    2. Directors shall have eighteen (18) hours in-service training each year.
    3. A person shall be designated to serve as acting director when the director is absent.

(Rule 0520-12-01-.15, continued)

- (b) All staff shall be a minimum of eighteen (18) years of age and one (1) staff member in each group shall have a high school diploma.
1. High school students in grade twelve (12) may work in before or after school programs but shall not count in ratios and shall not be left alone with children.
  2. All staff shall have twelve (12) hours of in-service training each year.
- (c) All staff shall be physically, mentally, and emotionally stable and shall have knowledge of school age behavior and development.
- (d) All new employees shall have orientation and training on the following prior to assuming duties:
1. Abusive head trauma;
  2. Emergency preparedness;
  3. Health and safety;
  4. Developmentally appropriate practice;
  5. Effective afterschool programming;
  6. Supervision;
  7. Parent communication; and
  8. Any additional training identified by the Department.
- (e) Staff shall be in compliance with all criminal history background checks required under 0520-12-01-.07.
- (f) Program volunteers shall complete criminal history background checks and appropriate in- service training.
- (g) Staff records shall be maintained for each employee with the following: educational background, reference checks, TBI check, in-service training, physical exams and reviews.
- (9) Each grouping of children shall have adult supervision and shall meet the following minimum staffing requirements:
- (a) Minimum staffing requirements per group:
- | Age               | Max. Group Size | Adult:Child Ratio |
|-------------------|-----------------|-------------------|
| Elementary School | No Max          | 1:20              |
| Middle School     | No Max          | 1:30              |
| High School       | No Max          | 1:30              |
- (b) Swimming and field trips require ratios be doubled.
- (10) All program equipment shall be in good condition and kept clean.

(Rule 0520-12-01-.15, continued)

- (11) Students shall have time for self-directed activities, as well as, adult-directed activities.
  - (a) Students shall have choices regarding activities and an opportunity to help plan activities.
  - (b) Parents shall be informed of any TV or movies or computer games to be shown.
  - (c) Staff shall monitor computer use.
  - (d) Sports and physical activity shall be offered, weather permitting.
  - (e) Students shall have opportunities for learning, self-expression, and enrichment activities each day.
  - (f) Students shall receive child abuse awareness and personal safety information.
- (12) Teachers shall be knowledgeable of developmentally appropriate school-age behavior.
  - (a) 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.
  - (b) No corporal punishment is allowed.
  - (c) Good behavior shall be praised and encouraged.
- (13) Programs shall comply with the following rules for health and safety:
  - (a) Students shall have immunizations in accordance with this Chapter.
  - (b) Instructions for any student's special health needs shall be documented.
  - (c) Parents shall be notified if their student is hurt or becomes ill.
  - (d) All parents shall be notified of any communicable diseases in accordance with this Chapter.
  - (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) Smoking and the possession or consumption of alcohol is prohibited.
  - (g) There shall be a staff member present at all times who has current certification in CPR and first aid training.
  - (h) A first aid kit must be on the premises as well as a first aid chart.
  - (i) There shall be no firearms on the premises.
  - (k) 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.
- (14) Snacks and meals (if full day program) shall be scheduled regularly.

(Rule 0520-12-01-.15, continued)

- (a) Students 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.
- (15) Programs shall be in buildings that are not hazardous or dangerous to children.
- (a) All facilities shall have annual fire and health inspections.
  - (b) All programs shall have a working telephone.
  - (c) Programs shall have thirty (30) square feet of usable space per adolescent.
  - (d) Outdoor recreation/sports area shall have fifty (50) square feet per student.
- (16) Programs serving students with disabilities shall follow the rules defined in this Chapter.
- (a) Adaptations shall be directed towards helping the student become independent and developing self-help skills.
  - (b) 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; and 49-6-707. **Administrative History:** Original rule filed March 15, 2010; effective August 29, 2010. Amendments filed November 2, 2017; effective February 1, 2018. Amendments filed January 25, 2019; effective April 25, 2019.

#### **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

(Rule 0520-12-01-.16, continued)

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 these rules;
    - (ii) Failure to follow any regulation related to health and safety pursuant to these rules;
    - (iii) Failure to follow any regulation related to food, nutritional needs and meal service pursuant to these rules;
    - (iv) Failure to follow any regulation related to maintenance of equipment pursuant to these rules;
    - (v) Failure to follow any regulation related to maintenance of physical facilities pursuant to these rules;
    - (vi) Failure to follow any regulation related to adult:child ratios pursuant to these rules;

(Rule 0520-12-01-.16, continued)

- (vii) Failure to follow any regulation related to supervision of children pursuant to these rules;
- (viii) Failure to follow any regulation related to dispensing or storing medications pursuant these rules;
- (ix) Failure to follow any regulation related to care of children with special needs pursuant to these rules;
- (x) Failure to follow any regulation related to program staff pursuant to 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 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 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 (a).
  2. Each minor violation may require the program to complete a corrective action plan and may subject the program 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 by the Tennessee Secretary 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. Amendments filed November 2, 2017; effective February 1, 2018.