

**RULES  
OF  
TENNESSEE DEPARTMENT OF HUMAN SERVICES  
COMMUNITY AND SOCIAL SERVICES DIVISION**

**CHAPTER 1240-04-01  
LICENSURE RULES FOR CHILD CARE AGENCIES**

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**1240-04-01-.01 SCOPE AND PURPOSE.**

- (1) Scope of Rules. These rules are applicable to child care agencies subject to licensing by the Department of Human Services as defined by T.C.A. §§ 71-3-501 et seq. Any conflict between this chapter and any other rules of the Department concerning the licensing procedures and regulations governing these agencies or the rules and licensing and appeal procedures for these agencies shall be resolved by reference to these rules.
- (2) Applicable Requirements. These rules are organized as follows: The requirements set forth in 1240-04-01-.01 through 1240-04-01-.19 apply to all licensed categories of child care agencies unless otherwise noted within the rules. The requirements set forth in 1240-04-01-.20 through 1240-04-01-.23 apply to the specific class of care identified in each section.
- (3) The Department maintains a link on its website to current statutes, rules, policies, and guidelines that are prerequisites for licensure. To access the website search for “Child Care Services” on <https://tn.gov/humanservices/>. Licensees are notified of changes that impact the licensure requirements at issuance and renewal of the annual license.
- (4) Purpose of Licensing.
  - (a) The purpose of licensing is the protection of children while under the care of child care agencies licensed by the Department of Human Services and to promote developmentally appropriate practices that enhance early learning and foster parental engagement.
  - (b) The basic requirements in these rules seek to maintain the adequate health, safety, and supervision of children while in a licensed care setting.

**Authority:** T.C.A. §§ 4-5-201, et seq.; 4-5-202; 71-1-105; 71-1-105(5) and (12); 71-3-501, et seq.; 71-3-502(a)(2); and Acts 2000, ch. 981, §§ 8 and 14. **Administrative History:** Original rule certified June 10, 1974. Amendment filed March 16, 1978; effective April 17, 1978. Amendment filed March 17, 1980;

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*effective June 29, 1980. Repeal and new rule filed December 6, 1983; effective January 5, 1984. Amendment filed October 9, 1987; effective January 27, 1988. Repeal and new rule filed April 22, 1992; effective June 6, 1992. Amendment filed April 30, 1996; effective July 14, 1996. Amendment filed September 29, 2000; effective December 13, 2000. Amendments filed May 1, 2018; effective July 30, 2018.*

#### **1240-04-01-.02 DEFINITIONS.**

- (1) Administrative Closure. Closure of an incomplete application after notification of deficiencies.
- (2) Administrative Hearing. A hearing that is held under the Uniform Administrative Procedures Act, Title 4, Chapter 5, Part 3 of the Tennessee Code Annotated, rather than a court of law, that is conducted by an administrative law judge from the Secretary of State's Office or by an administrative hearing officer of the Department of Human Services. The purpose of the hearing is to allow a child care agency the opportunity to challenge legal enforcement actions taken by the Department.
- (3) Annual License. An annual permit issued by the Department to a child care agency, authorizing the licensee to provide child care in accordance with provisions of the license, the law, and the rules of the Department.
- (4) Applicant. The owner or owner's authorized representative who is required, pursuant to the provisions of these rules, to sign the application for a license.
- (5) Auxiliary staff. Full and part-time employees of the child care agency who do not provide caregiving services, including but not limited to custodial, food service and maintenance staff.
- (6) Breakfast. A meal consisting of:
  - (a) Fluid milk (or approved substitute);
  - (b) Fruit or vegetable or 100% fruit juice or vegetable juice; and
  - (c) Bread or bread alternate.
- (7) Child or Children. A person or persons under eighteen (18) years of age.
- (8) Child Care. As defined by T.C.A. § 71-3-501, the provision of supervision and protection, and meeting, at a minimum, the basic needs of a child for less than twenty-four (24) hours a day.
- (9) Child Care Agency or Agency. A place or facility, regardless of whether it is currently licensed, that is operated as a "family child care home", a "group child care home", a "child care center", or a "drop-in child care center", that provides child care for three (3) or more hours per day to five (5) or more children who are not related to the primary educator.
- (10) Child Care Center. Any place or facility operated by any person or entity that provides child care for three (3) or more hours per day for at least thirteen (13) children who are not related to the primary educator.
- (11) Child Development Associate (CDA). A person who has earned an early childhood educational credential granted by the National Council for Professional Recognition. This credential is only recognized, for purposes of these rules, if issued by the above named organization.
- (12) Commissioner. The Commissioner of the Department of Human Services.

(Rule 1240-04-01-.02, continued)

- (13) Curriculum. A planned program of activities and experiences that promotes learning and social and emotional development and includes the content that children are to learn, the processes through which children achieve the identified curricular goals, what educators do to help children achieve these goals, and the context in which teaching and learning occur.
- (14) Department (DHS). The Tennessee Department of Human Services and its authorized representatives.
- (15) Developmentally Appropriate Practice (DAP). Principles and guidelines that are appropriate to each child's age and developmental status and responsive to the social and cultural context in which they live.
- (16) Director. The on-site child care center staff member who has responsibility for the overall operation of the center.
- (17) Drop-In Child Care Center.
  - (a) A place or facility operated by any person or entity providing child care, at the same time, for fifteen (15) or more children, who are not related to the primary educator, for short periods of time, not to exceed fourteen (14) hours per week and for not more than seven (7) hours per day for any individual child during regular working hours (Monday-Friday, 6:00 a.m. to 6:00 p.m.).
  - (b) A drop-in center may provide child care during evenings (after 6:00 p.m.) and weekends (Friday, 6:00 p.m. - Sunday, 10:00 p.m.) so long as the drop-in center provides no more than a total of twenty (20) hours per week, exclusive of snow days when the school of the affected child is closed.
  - (c) Training requirements for the staff of this class of child care agency shall be limited to basic health and safety precautions and the detection and reporting of child abuse and neglect for children in care.
  - (d) Drop-in centers that provide child care for no more than two (2) hours per day with a maximum of ten (10) hours per week without compensation, while the parent/guardian or other custodian is engaged in short-term activities on the premises of the organization, shall register as providing casual care and shall not be deemed to be a drop-in center or regulated as a drop-in center.
- (18) Educator. An individual, whether paid or unpaid, including the Primary Educator, who is responsible for meeting the supervision, protection, and basic needs of the child, and who is used to meet the adult:child ratios required by these rules. For the purposes of these rules the term educator is equivalent to caregiver as defined by T.C.A. § 71-3-501.
- (19) Extended Care. Child care services offered between the hours of 6:00 p.m. and 6:00 a.m. Monday through Friday, and weekend child care.
- (20) Family Child Care Home. Any place or facility which is operated by any person or entity that provides child care for three (3) or more hours per day for at least five (5) children, but not more than seven (7) children who are not related to the primary educator.
- (21) Field Trip. Any off-site activity which occurs away from the general premises of the child care agency's licensed facility.
- (22) Five (5) Panel Test. A drug test for marijuana, cocaine, methamphetamine, amphetamine, and opiates that uses a specimen of the individual's urine.

(Rule 1240-04-01-.02, continued)

- (23) Foster Home. A home approved by the Department of Children's Services or a licensed child-placing agency for the residential care of children, also referred to as a resource home.
- (24) Group Child Care Home. Any place or facility operated by any person or entity that provides child care for three (3) or more hours per day for at least eight (8) children who are not related to the primary educator, but not more than twelve (12) children or fifteen (15) children if approved for three (3) additional school-agers.
- (25) High School Diploma. A document recognizing graduation from an accredited institution, public or private, based on the issuing state's or country's required number of academic credits and includes passing a GED test or equivalent as defined by Tennessee law.
- (26) Infant. A child who is six (6) weeks through twelve (12) months of age.
- (27) Insurance Terms.
  - (a) General Liability Insurance. Provides coverage for legal liability of businesses arising out of business operations for bodily or personal injury and property damage.
  - (b) Auto Liability Insurance. Provides coverage if an insured is legally liable for bodily injury or property damage caused by an accident arising out of ownership or operation of an automobile.
  - (c) Medical Payment Insurance. Provides coverage for necessary medical expenses regardless of who has been assigned fault.
- (28) Licensee. The owner, to whom a license to operate a child care agency is issued.
- (29) Licensed Capacity. The designated maximum number of children permitted in the care and supervision of a licensed child care agency as determined by the Department based upon available indoor space, age of children, adult:child ratios, and group size.
- (30) Meal. Includes the following four components:
  - (a) Meat or meat substitute;
  - (b) Two vegetables or one vegetable and one fruit;
  - (c) Bread or bread product; and
  - (d) Fluid milk.
  - (e) Or as otherwise defined by USDA standards.
- (31) Operator/Owner. The licensee for the child care agency which assumes, or is legally required to assume, ultimate legal and administrative responsibility for the management and control of a child care agency.
- (32) Pre-school Child. A child who is thirty-one (31) months of age and who has not entered kindergarten to school-age.
- (33) Primary Educator. The adult on site at a family or group child care home who is directly responsible for care, education, and supervision of children in a child care home and for the daily operation of a child care home. For the purpose of these rules the term primary educator is equivalent to primary caregiver as referenced in T.C.A. § 71-3-501.

(Rule 1240-04-01-.02, continued)

- (34) Related. Children, step-children, grandchildren, step-grandchildren, siblings, of the whole or half-blood, step-siblings, nieces, nephews or foster children of the primary educator.
- (35) Safety Plan. A mandatory plan applicable to a child care agency as a result of an investigation. A safety plan may require, but is not limited to, the exclusion or restriction of any individuals from access to children, the closure or restriction of any part of the child care agency, the modification or elimination of services at the child care agency, the re-inspection of the child care agency, the training of child care agency management, staff or volunteers.
- (36) Serious Injury. An injury that requires treatment from an outside medical professional or facility such as an emergency medical technician, physician, health clinic, or hospital.
- (37) School-Age Child. A child who has entered kindergarten through seventeen (17) years of age.
- (38) Snack. A fluid drink and two (2) of the components listed in (a) through (e) below. If the fluid drink is 100% vegetable or fruit juice or milk, only one additional component from (a) through (c) is required.
  - (a) Vegetables or fruits in solid form.
  - (b) Bread or bread alternates.
  - (c) Meat, or meat alternates, which can consist of cooked dry peas or beans, peanut butter or nuts or seeds, cheese, eggs, and yogurt or other items approved by the United States Department of Agriculture.
  - (d) Fluid milk.
  - (e) One Hundred Percent (100%) vegetable or fruit juice.
  - (f) Or as otherwise defined by USDA standards.
- (39) Special Needs. Refers to specialized services, supports, or monitoring which are necessary beyond those provided to typically developing children.
- (40) Specialized Services. Services provided to children with special needs by individuals having detailed training or expertise in a particular field such as speech/language therapy, physical therapy, play therapy, mental health counseling, or health care treatments, etc.
- (41) Staff. Full and part-time paid educators and employees of the child care agency.
- (42) Substitute. Paid or unpaid persons who are replacements for regular staff.
- (43) Supervision. For the purposes of this Chapter, when children are not within the direct sight and sound of an adult, the term "supervision" means the following requirements:
  - (a) Children six (6) weeks of age through nine (9) years of age. The adult must be able to hear the child at all times, must be able to see the child with a quick glance, and must be able to physically respond immediately.
  - (b) Children six (6) weeks of age through five (5) years of age during mealtime. An adult must be in the direct sight and sound of children ages six (6) weeks through five (5) years, not in kindergarten, while the child is eating.
  - (b) Children ten (10) years of age and older:

(Rule 1240-04-01-.02, continued)

1. The adult shall know the whereabouts and activities of the children at all times and must be able to physically respond immediately.
  2. Each child shall be greeted and received by the specific educator assigned who will have ultimate responsibility and accountability for their supervision, oversight and care.
- (c) Mixed-age Groups. When children ages ten (10) years or above are grouped with children under ten (10) years of age, the minimum supervision requirements for children ages six (6) weeks through nine (9) years, as set forth in subparagraph (a) above, shall be followed.
- (d) Helper devices such as mirrors, electronic sound monitors, etc. may be used as appropriate to meet these requirements.
- (44) Supervision During Mealtime. Direct supervision of children by the educator is required anytime the child(ren) are eating. Educator shall not be engaged in other activities while children are eating.
- (45) Temporary License. A license issued to a child care agency for up to 120 days for the purpose of allowing the child care agency to demonstrate their ability to attain and maintain compliance with all licensing laws and regulations.
- (46) Time Out. A means of correcting undesirable behavior by removing the child from the environment, placing the child in a quiet place away from the group for a few minutes, and then talking about the problem.
- (47) Toddler. A child who is thirteen (13) months through thirty (30) months of age.
- (48) Unsupervised Access to a Child. When a person in question has access to a child and no other approved staff person is present with the child and supervising.
- (49) Volunteer. A person who provides services for a child care agency without payment and who is used to supplement the regular staff.

**Authority:** T.C.A. §§ 4-5-201, et seq.; 4-5-202; 71-1-105; 71-1-105(5) and (12); 71-3-501, et seq.; 71-3-502(a)(2); 71-3-502(a)(4)(B); and Acts 2000, ch. 981, §§ 3(a)(4) and 14. **Administrative History:** Original rule certified June 10, 1974. Amendment filed March 16, 1978; effective April 17, 1978. Repeal and new rule filed December 6, 1983; effective January 5, 1984. Amendment filed October 9, 1987; effective January 27, 1988. Repeal and new rule filed April 22, 1992; effective June 6, 1992. Amendment filed July 1, 1993; effective September 14, 1993. Amendment filed November 18, 1999; effective January 31, 2000. Amendment filed September 29, 2000; effective December 13, 2000. Amendment filed August 30, 2001; effective November 13, 2001. Amendment filed November 21, 2002; effective February 4, 2003. Emergency rules filed July 1, 2016; effective through December 28, 2016. Amendments filed September 28, 2016; effective December 27, 2016. Amendments filed May 1, 2018; effective July 30, 2018.

#### **1240-04-01-.03 REQUIREMENTS FOR LICENSURE AS A CHILD CARE AGENCY.**

- (1) Upon receipt of an application for a license, and throughout the temporary licensing period and during the annual licensing period, immediate access during operating hours to all areas of the child care facility shall be granted to all Department representatives and other inspection authorities (i.e., fire safety, sanitation, health, the Department of Children's Services, etc.).
- (2) Scope of Licensed Operation.

(Rule 1240-04-01-.03, continued)

- (a) All programs shall operate within:
  - 1. Their licensed capacity;
  - 2. The approved hours of operation;
  - 3. The specific age ranges of children served;
  - 4. The services offered;
  - 5. At the address designated on the license; and
  - 6. Any restrictions stated on the license.
- (3) Multiple Child Care Agencies Operated by a Licensee at the Same Location.
  - (a) If two (2) or more child care agencies are located on the same property, each child care agency shall independently meet the requirements for a license.
  - (b) A child care agency shall not operate on the same property as an unlicensed, unregulated, or exempt child care agency unless approved in advance by the Department.
  - (c) If more than one licensed child care agency occupies the same building, the programs shall not share space and children from each child care agency shall not intermingle.

Exception to shared space: The programs may share the same playground space as long as children from each program are not using the space at the same time.

**Authority:** T.C.A. §§ 4-5-201, et seq.; 4-5-202; 71-1-105; 71-1-105(5) and (12); 71-3-501, et seq.; 71-3-502(a)(2) and (3); 71-3-503(a)(6), (8), and (9); 71-3-508(c); Acts 2000, ch. 981, §§ 8 and 14; Acts 2003, ch. 412, § 2; and Acts 2016, ch. 839. **Administrative History:** Original rule certified June 10, 1974. Amendment filed March 16, 1978; effective April 17, 1978. Repeal and new rule filed December 6, 1983; effective January 5, 1984. Amendment filed October 9, 1987; effective January 27, 1988. Repeal and new rule filed April 22, 1992; effective June 6, 1992. Amendment filed July 1, 1993; effective September 14, 1993. Amendment filed April 30, 1996; effective July 14, 1996. Amendment filed September 29, 2000; effective December 13, 2000. Amendment filed September 29, 2003; effective December 13, 2003. Emergency rules filed July 1, 2016; effective through December 28, 2016. Amendments filed September 28, 2016; effective December 27, 2016. Amendments filed May 1, 2018; effective July 30, 2018.

#### 1240-04-01-.04 PROCEDURES FOR OBTAINING A LICENSE.

- (1) Renewal Evaluation Process.
  - (a) The application, fee, and any supporting documentation shall be submitted sixty (60) calendar days prior to the expiration of the license. Failure to submit a completed application and the required fee before the license expires shall result in the automatic termination of the annual license upon the expiration date.
  - (b) In addition to the evaluation requirements listed above, applicants for the renewal of a license shall be evaluated and shall be issued a report card, as set forth in Chapter 1240-04-07.
  - (c) The Department shall issue a renewal of an existing license demonstration of:

(Rule 1240-04-01-.04, continued)

1. Compliance with all laws and licensing regulations governing the specific classification of child care agency;
  2. Compliance history throughout the licensing period; and
  3. Payment in full of all assessed civil penalties and other monies owed the state.
- (d) A license is not transferable to a new address or a new owner.
- (e) Failure to meet the requirements for the issuance of an annual license may result in the denial of the renewal of the license.
- (f) If the Department determines that the conditions of the applicant's facility, its methods of care or other circumstances warrant, it may issue a restricted annual license that permits operation of a child care agency, but limits the child care agency's authority in one (1) or more areas of operation.
- (g) Business Organization.
1. The organization of every child care agency shall be such that legal and administrative responsibility is clearly defined in writing in the form and manner directed by the Department and shall accompany the application for a license.
  2. Documentation of the child care agency's business organization shall be made in the form and manner directed by the Department. The application shall include copies of the business organization filings with the Tennessee Secretary of State Division of Business Services.

**Authority:** T.C.A. §§ 4-5-202; 71-1-105(5) and (12); 71-3-501, et seq.; 71-3-502(a)(2) and (d)(5); and 71-3-508(c). **Administrative History:** Original rule certified June 10, 1974. Amendment filed March 16, 1978; effective April 17, 1978. Repeal and new rule filed December 6, 1983; effective January 5, 1984. Amendment filed October 9, 1987; effective January 27, 1988. Repeal and new rule filed April 22, 1992; effective June 6, 1992. Amendment filed April 30, 1996; effective July 14, 1996. Amendments filed May 1, 2018; effective July 30, 2018.

#### **1240-04-01-.05 OWNERSHIP, ORGANIZATION, AND ADMINISTRATION.**

- (1) Child Care Agency Program Description.
- (a) An applicant shall submit a written program description to the Department that minimally includes the following information:
1. All services and types of care to be offered;
  2. Ages of children accepted;
  3. Hours of operation;
  4. Description of food service; and
  5. If applicable, plans for sharing outdoor equipment and space with children not enrolled in the child care agency.
- (b) Notification of changes to the program description shall be submitted to the Department at least ten (10) calendar days prior to making the change.



(Rule 1240-04-01-.05, continued)

- (2) Finances.
  - (a) The applicant shall provide a proposed budget that demonstrates adequate funding for both preliminary and ongoing costs associated with staffing, equipment and safe operation.
  - (b) Relevant financial records of the child care agency shall be immediately available to the Department upon request.
- (3) Records of Subsidized Child Care and Food Supplement Payments.
  - (a) A child care agency that receives any funding from the Department or its contractors to subsidize the cost of child care or the cost of providing meals or snacks shall maintain and make available immediately upon request of any auditing or licensing authority the following:
    1. Complete and accurate record of payments received;
    2. Children's attendance;
    3. A record of food served for each program in which the child care agency participates; and
    4. Any other records required by the Department or any other child care agency for reimbursement for the child's care and/or feeding.
- (4) Liability and Medical Payment Insurance Coverage.
  - (a) General liability, automobile liability and medical payment insurance coverage shall be maintained on the vehicles owned, operated or leased by the child care agency and on the operations of the child care agency's facilities as follows:
    1. Family and Group Child Care Homes: General liability coverage on the operations of the child care agency facilities shall be maintained in a minimum amount of:
      - (i) Three Hundred Thousand Dollars (\$300,000) per occurrence; and
      - (ii) Three Hundred Thousand Dollars (\$300,000) general aggregate coverage.
    2. Child Care Centers and Drop-In Child Care Centers: General liability coverage on the operations of the child care agency facilities shall be maintained in a minimum amount of:
      - (i) Five Hundred Thousand Dollars (\$500,000) per occurrence; and
      - (ii) Five Hundred Thousand Dollars (\$500,000) general aggregate coverage.
    3. Medical payment coverage for injuries to children resulting from the operation of the child care agency shall be maintained in the minimum amount of Five Thousand Dollars (\$5,000).
    4. Automobile Coverage for Child Care Agencies that Transport Children:
      - (i) Automobile liability coverage.

(Rule 1240-04-01-.05, continued)

- (I) Family and Group Homes: Automobile liability coverage shall be maintained in a minimum amount of three hundred thousand dollars (\$300,000), combined single limit of liability.
  - (II) Child Care Centers: Automobile liability coverage shall be maintained in a minimum amount of five hundred thousand dollars (\$500,000), combined single limit of liability.
- (ii) Medical payment coverage for injuries to children being transported in vehicles owned, operated or leased by the child care agency shall be maintained in the minimum amount of five thousand dollars (\$5,000).
- (b) A standard homeowner's policy is not sufficient to provide the coverage requirements for a child care facility outlined in this section.
  - (c) The requirements of this paragraph shall not apply to a child care agency that is under the direct management of a self-insured administrative Department of the state, a county or a municipality, or any combination of those three (3), or that has, or whose parent entity has a self-insurance program that provides, as determined by the Department, the coverages and the liability limits required by these rules.
  - (d) Unless subparagraph (c) is applicable, non-profit corporations that administer Head Start child care programs and are defined as government entities for the purposes of the governmental tort liability act (T.C.A. §§ 29-20-101 et seq.) shall have the insurance required by subparagraph (a) above.
  - (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 child care agency and shall be available for review by the Department. Documentation shall include the declarations page of the insurance policy and this documentation shall reflect, at a minimum, the requirements described above.
- (5) Enrollment Restrictions.
- (a) Enrollment of children under six (6) weeks of age is prohibited.
  - (b) Children shall not be in care for more than twelve (12) hours in a twenty-four (24) hour period except in special circumstances. See Rule 1240-04-01-.23 for drop-in center enrollment restrictions.
  - (c) Individualized plans for the care of a child in excess of twelve (12) hours due to special circumstances shall be signed by the parent/guardian and primary educator/director and approved in advance by the Department. Plans shall be updated annually. See Rule 1240-04-01-.23 for drop-in center enrollment restrictions.
  - (d) The child care agency shall not admit a child into care until the parent/guardian has supplied the child care agency with a completed application, valid Tennessee Department of Health Official Immunization Certificates record (for children over two (2) months of age), and a health history.

Exception: After an initial eligibility determination, children who are homeless and/or children in state custody may receive care prior to providing all required documentation as determined by the Department. Care without documentation of immunizations shall not exceed sixty (60) days.

(Rule 1240-04-01-.05, continued)

- (e) The child care agency shall maintain written documentation that the parent/guardian performed an on-site visit to the child care agency prior to the child being enrolled into care and that the child care agency provided and reviewed parent engagement strategies recognized by the Department with the parent during the required pre-placement visit.

Exception: a pre-placement visit is not required for children of homeless families.

(6) Home Schooling.

- (a) Home schooling shall not take place during child care hours unless a qualified primary educator, in addition to the home schooling parent/guardian, is available to supervise the child care agency and to care for the enrolled children.
- (b) Home schooling conducted during child care operating hours shall be conducted in a space separate from the designated child care space.

(7) Extended Care.

- (a) Extended care services may be offered by a child care agency as an additional component to conventional care services, or the child care agency may exclusively provide extended care services.
- (b) In order for a child care agency to offer extended care services, the Department shall issue a license bearing a notation that the child care agency is authorized to provide extended care services.
- (c) A child care agency may not offer extended care services without the Department's approval.

(8) Child Care Agency Drug Testing Policy.

- (a) Child care agencies shall establish a drug testing policy for all staff that have direct contact with children, as defined by the Department, with a child in the care of the child care agency.
- (b) The policy shall:
  - 1. Specify when and how testing should be completed;
  - 2. Provide for immediate and effective enforcement action in the event of a positive drug test; and
  - 3. Require drug testing based upon reasonable suspicion that employees, directors, licensees, or operators of a child care agency, or other persons providing services under contract or for remuneration for the agency are engaged in the use of illegal drugs.
- (c) The child care agency shall provide the policy to all staff that have direct contact with children upon the individual's employment with the child care agency.
- (d) The child care agency shall maintain drug test results for all currently employed staff members who are subject to drug testing and for five (5) years after employment is terminated. All drug test result shall be immediately provided to the Department upon request.

(Rule 1240-04-01-.05, continued)

- (e) Drug testing results are confidential and may be disclosed only for purposes of enforcing this part.
- (f) The Department may require the licensee or operator of a family child care home who has direct contact with children to submit to a drug test at the expense of the licensee or operator, when reasonable suspicion exists.
- (g) A child care agency that does not comply with this section is subject to the Department:
  - 1. Denying the application for a license;
  - 2. Denying the application for a license renewal; or
  - 3. Suspending or revoking a license issued.
- (9) Parent Communication and Engagement.
  - (a) The child care agency shall ensure that a copy of the child care agency's policies, procedures, and the Department's Summary of Licensing Requirements is supplied to the parents/guardians upon admission of the child.
  - (b) The child care agency's policies shall include, at a minimum:
    - 1. Criteria for the disenrollment of children [see expulsion policy requirements in 1240-04-01-.05(13)];
    - 2. Specific criteria concerning the release of children;
    - 3. Written parental permission for observation of children by non-child care agency staff;
    - 4. Behavior management techniques;
    - 5. Hours of operation;
    - 6. Late fees;
    - 7. Rates;
    - 8. Inclement weather;
    - 9. Emergency policy;
    - 10. Whether the environment is smoke free;
    - 11. Meal Service policy; and
    - 12. Child care agency after-hours contact telephone phone number in case of an emergency.
  - (c) The child care agency shall require the parent/guardian to sign for receipt of the policies and the Summary of Licensing Requirements, and the signed receipt shall be maintained by the child care agency in the child's file.
  - (d) Parents/guardians shall be permitted to see the professional credential(s) of staff upon request.

(Rule 1240-04-01-.05, continued)

- (e) The child care agency shall have ongoing communication with parents/guardians to include curriculum, changes in personnel and any changes affecting children's routine care.
- (f) Child care agencies shall provide information about the benefits of immunizing children against influenza each August or September to parents/guardians of all children enrolled in the child care agency.
  - 1. Parents shall sign the notification form to verify that they received the information.
  - 2. Documentation of notification shall be available for review by the Department and maintained for one (1) year.
- (g) The child care agency shall use a developmental checklist approved by the Department as a guide for conducting annual individual parent meetings to discuss the child's progress and development. Documentation of the meetings must be maintained in the child's record.

Exception: Not required for school-age children participating in after-school programs.

- (h) All child care agencies shall disseminate materials and information to parents/guardians, as required by the Department.
- (i) Child care agencies shall obtain training relevant to the special needs of the child in care and shall consult with parents/guardians and appropriate service providers regarding techniques used in the home to ensure the child's safety. If children with special needs are enrolled, Section 504 of the federal Rehabilitation Act of 1973 and the Americans with Disabilities Act (ADA) guidelines shall be consulted regarding the number of caregivers that a reasonable accommodation of a child's disability may require.
- (j) Specialized services.
  - 1. The provision of specialized services shall be conducted only by individuals who hold the appropriate license or certification and with written permission by the parent/guardian and shall be documented in the child's record.
  - 2. Any information exchanged regarding specialized services that is shared with or received from third parties shall also be documented in each child's record.
- (k) During operating hours, parents/guardians shall be permitted immediate access to their children, unless an Order of Protection or other legal document otherwise restricts or prohibits such access.
- (l) Notification of Parents/Guardians of Field Trips.

Written permission, including prior notification and consent for each field trip, shall be obtained from the parents/guardians prior to the child's removal from the premises.

- (m) Authorized Removal of Children.
  - 1. An authorized investigator with the Department of Children's Services or law enforcement may take a child off the premises of the child care agency if he/she has obtained custody of the child as follows:

(Rule 1240-04-01-.05, continued)

- (i) Voluntary placement agreement with the parent/guardian;
  - (ii) Court order;
  - (iii) Emergency assumption of custody under T.C.A. § 37-1-113 without parent/guardian permission;
  - (iv) If the child's parent or legal guardian is present and approves; or
  - (v) In conjunction with investigative procedures under the child abuse laws.
2. The child care agency shall request visual confirmation of an investigator's identification.

(10) Notifying Parents/Guardians.

- (a) The child care agency shall post the following in a clearly visible location and obtain parents'/guardians' signatures indicating they have read the document:
  1. A formal notice of a critical licensing violation that put a child at imminent risk of harm or resulted in actual harm;
    - (i) Critical violations include but are not limited to the following:
      - (I) Transportation;
      - (II) Ratios;
      - (III) Supervision;
      - (IV) Failure to properly dispense or store medications;
      - (V) Background checks/Failure to complete or failure to exclude;
      - (VI) Failure to store hazardous items;
      - (VII) Failure to properly remove or secure firearms;
      - (VIII) Corporal punishment;
      - (IX) Failure to report suspected abuse or neglect;
      - (X) Falsification of documents required by the Department;
      - (XI) Failure to have CPR/first aid certification as required by the Department;
      - (XII) Six (6) or more minor violations of any type within a three (3) month period; or
      - (XIII) Three (3) or more minor violations of the same type within a three (3) month period.
  2. Any issuance of a legal enforcement order;

(Rule 1240-04-01-.05, continued)

3. Any decision rendered by the Child Care Agency Board of Review pursuant to Chapter 1240-04-05;
4. An Order affecting the child care agency's operations issued by any court of law;  
or
5. Notice of probation.

(11) Right to Privacy/Confidentiality.

The licensee and child care agency staff shall not disclose or knowingly permit the use by other persons, any information concerning a child or family enrolled at the child care agency except as required by law.

(12) Posting Required Documentation.

- (a) The following shall be posted near the main entrance where staff, parents, and others may view them:
  1. The child care agency license;
  2. Current child care agency Report Card;
  3. The child care agency's operating hours;
  4. The Department's toll-free Child Care Complaint Hotline phone number; and
  5. The Department of Children's Services' Central Intake Child Abuse Hotline number. This information shall also be posted at each telephone.
- (b) No smoking signs shall be posted in a conspicuous manner at each entrance to the facility.
- (c) Required adult:child ratios and group size shall be posted in every classroom.
- (d) Items that must be accessible in a place where staff, parents, and others may view:
  1. Applicable Department licensing rules shall be maintained in a central space and available to all staff and parents/guardians;
  2. Weekly menu;
  3. Daily schedule;
  4. Notice of requirements to report child abuse;
  5. Emergency procedures; and
  6. Record of fire and other emergency drills.
- (e) Any other materials shall be posted as directed by the Department.

(13) The child care agency shall have a written expulsion policy.

- (a) The policy shall be:

(Rule 1240-04-01-.05, continued)

1. Clearly articulated to staff and parents;
  2. Developmentally appropriate and consistent; and
  3. Non-discriminatory in practice and impact.
- (b) Other options shall be considered prior to expulsion, such as but not limited to reducing the number of days or amount of time the child may attend, or if applicable, referrals to the Center on the Social and Emotional Foundations for Early Learning (CSEFEL), Early Intervention System, or Individuals with Disabilities Act (IDEA).
- (c) Procedures shall be developed to allow for a planned transition of a child to another program if expulsion must occur.
- (d) Aggregate data that includes reasons for expulsions shall be maintained and reported to the Department annually.
- (14) Data Reporting.

Child care agencies shall submit data as requested by the Department quarterly on topics such as but not limited to: active enrollment, homeless children, non-traditional hours, deaths/serious injuries, child abuse, English as a Second Language/dual language learners, and children with disabilities.

- (15) Falsification of any information or documentation is prohibited.

**Authority:** 7 C.F.R. § 226.15(e); T.C.A. §§ 4-5-202; 4-5-209; 39-17-1803; 71-1-105(5) and (12); 71-3-501, et seq.; 71-3-502(l); 71-3-502, et seq.; 71-3-512; and Acts 2008, ch. 1032. **Administrative History:** Original rule certified June 10, 1974. Amendment filed March 16, 1978; effective April 17, 1978. Amendment filed June 7, 1982; effective September 30, 1982. Repeal and new rule filed December 6, 1983; effective January 5, 1984. Amendment filed June 27, 1985; effective September 13, 1985. Amendment filed October 9, 1987; effective January 27, 1988. Amendment filed April 30, 1996; effective July 14, 1996. Public necessity rule filed October 1, 2008; effective through March 15, 2009. Amendment filed December 29, 2008; effective March 14, 2009. Amendments filed May 1, 2018; effective July 30, 2018.

#### 1240-04-01-.06 STAFF.

- (1) Responsibility for Staff.
- (a) Owners, directors, and primary educators shall be responsible for:
1. Selecting qualified and capable staff;
  2. The supervision, training, and evaluation and performance management of the staff;
  3. The efficient operation of the child care agency's program; and
  4. Providing written policy to staff that includes job functions, qualifications, lines of authority, staff performance evaluations, and disciplinary process.
- (b) Annual Evaluations.
1. Teaching staff, assistant directors, and directors shall be evaluated on the performance of their duties at least annually.



(Rule 1240-04-01-.06, continued)

2. Records of performance evaluations shall be maintained in the educator's files and made available to the Department upon request.

(2) Organizational Management.

- (a) Family and group home child care agencies must notify parents in advance of person(s) in charge during the primary educator's absence.
- (b) The primary educator/director shall identify and notify staff of the person in authority in the event of his/her absence.
- (c) The child care agency shall be responsible for all volunteers and service providers/contractors providing services to the child care agency.

1. Service providers or contractors shall never be alone with children unless:

- (i) Written authorization is obtained from a parent/guardian for the child prior to receiving the service;
- (ii) Written authorization is obtained from a parent/guardian naming the service provider or contractor as their authorized representative for the purposes of releasing the child to them; and
- (iii) The service provider or contractor shall provide identification prior to signing the child out or delivering the service and shall sign the child back in upon completion of service.

(3) General Child Care Agency Staff Qualifications.

- (a) Staff involved in transporting children are subject to general qualifications in addition to the requirements and qualifications detailed in Transportation Rule 1240-04-01-.17.
- (b) Every staff person shall be capable of performing his/her duties satisfactorily.
- (c) A staff member shall be designated to be in charge of the child care agency in the absence of the primary educator/director and the name of the person in authority shall be posted. Such person shall be familiar with child care agency policies and procedures.
- (d) The primary educator/director or designee shall ensure that no person shall have any access to children who:
  1. Has a physical, mental, or emotional condition that poses a risk to children.
  2. Exhibits any evidence suggestive of illegal or inappropriate drug/alcohol use or possession.
- (e) Examinations to Determine Physical, Mental, and Emotional Status.
  1. A childcare agency may, upon reasonable cause/suspicion require any persons having significant contact with children to obtain physical/mental health evaluations to determine their ability to satisfactorily perform their job duties.
- (f) At all times during child care operating hours, one (1) adult educator with at least a high school diploma shall be on the premises.

(Rule 1240-04-01-.06, continued)

Exception: Not applicable for primary educators who received their initial license before the effective date of these rules.

- (g) Prior to having contact with children, each new employee shall receive orientation in, and have a working knowledge of the following items:
    - 1. Program philosophy and policies;
    - 2. Job description;
    - 3. Emergency health and safety procedures;
    - 4. Behavior management procedures;
    - 5. Detection, reporting, and prevention of child abuse;
    - 6. Procedures for receiving and releasing children;
    - 7. Safe sleep procedures;
    - 8. Meal service and safe food preparation policies;
    - 9. Supervision during high risk activities such as eating and outdoor play;
    - 10. Food allergies;
    - 11. Expectations for communications with parent/guardian;
    - 12. Disease control and health promotion, including childhood obesity and the beneficial health impacts of physical activity;
    - 13. An overview of licensing requirements; and
    - 14. Information on risks of Cytomegalovirus (CMV) to female employees of childbearing age.
  - (h) Prior to having contact with children, each new employee shall complete training in the following areas:
    - 1. Shaken baby syndrome/abusive head trauma; and
    - 2. A minimum of two (2) hours pre-service training as recognized by the Department.
  - (i) Documentation of the requirements in subparagraphs (g) and (h) shall be maintained in the staff file.
- (4) Substitutes and Practicum Students.
- (a) Substitutes providing services for more than thirty-six (36) hours in a calendar year shall:
    - 1. Meet the background check requirements prior to beginning their duties;
    - 2. Meet the same requirements as regular staff for the physical examination

(Rule 1240-04-01-.06, continued)

required by these rules; and

3. Have a minimum of four (4) hours of annual training if they acted as substitutes/educators for more than thirty-six (36) hours in the previous calendar year.
- (b) Substitutes that do not meet the above shall never be left alone with children, and practicum students shall never be left alone with children.
- (5) Volunteers.
  - (a) Volunteers may not be counted to meet the adult:child ratios and shall never be left alone with children.

Exception: Parents/guardians may be counted in the adult:child ratio at a field trip location.

**Authority:** T.C.A. §§ 4-5-202; 37-1-603(b)(1)(A); 71-1-105(5) and (12); 71-3-501, et seq.; 71-3-502(a)(2); and 71-3-507. **Administrative History:** Original rule certified June 10, 1974. Amendment filed March 16, 1978; effective April 17, 1978. Amendment filed June 7, 1982; effective September 30, 1982. Repeal and new rule filed December 6, 1983; effective January 5, 1984. Emergency rules filed July 1, 2016; effective through December 28, 2016. Amendments filed September 28, 2016; effective December 27, 2016. Amendments filed May 1, 2018; effective July 30, 2018.

#### **1240-04-01-.07 CRIMINAL BACKGROUND CHECK AND STATE REGISTRY/RECORDS REVIEW PROCEDURES.**

- (1) Criminal Background and Abuse Registry Disclosures and Reviews; Fingerprinting Requirements.
  - (a) The following persons are required to have a background check no more than ninety (90) days before having access to any child care agency:
    1. Any person who owns or operates a child care agency;
    2. Any person who applies to work in a child care agency as an employee, director or manager;
    3. Any person who will provide substitute services to a child care agency for more than thirty-six (36) hours in a calendar year and who is counted in the adult:child ratio; and
    4. Any person who is fifteen (15) years of age or older who will reside in a child care agency.
  - (b) New background checks are required for all staff and residents when a child care agency moves from one class of care to another, such as when a family home becomes a group home or when a child care agency is sold and staff remain employed by the new owner or any time a child care agency is issued a license that is not the renewal of an existing license. This requirement does not apply to background checks completed within the last ninety (90) days.
  - (c) Background checks are required for all staff at least every five (5) years.
  - (d) Requirements for disclosure of criminal/juvenile and state register history and fingerprinting, are provided by T.C.A. § 71-3-507 and as required by the Child Care and

(Rule 1240-04-01-.07, continued)

Development Block Grant Act.

- (2) Responsibility for Providing Fingerprint Sample; Prohibition of Contact with Children Prior to Completion of Criminal History Review.
- (a) The general requirements regarding responsibility for providing background checks and prohibition of contact with children prior to completion of criminal history review are provided at T.C.A. § 71-3-507.
  - (b) The Department will pay for the costs of performing one background check per person per child care agency per year.
  - (c) The child care agency shall be responsible for costs associated with the background check if:
    - 1. The fingerprint sample is rejected and the fingerprint sample must be resubmitted;
    - 2. The child care agency submits a second fingerprint sample for an individual more than one (1) time within a thirty (30) day period; or
    - 3. The child care agency submits a fingerprint sample for a person who is not a resident or a person who has been selected by the child care agency, substitute pool, or staffing agency to fill a position as an employee, or substitute who will work directly with children.
- (3) Prohibited Criminal, Juvenile, Vulnerable Persons or Sex Offender Registry, Abuse or Neglect or Driving History; Exclusion from Contact with Children.
- (a) No person shall be employed, be a licensee or operator, or provide substitute services, reside, or have any access to children in a child care agency if the criminal background check identifies an excludable criminal offense for which the person has:
    - 1. Been convicted of, or pled guilty or no contest to (or to a lesser included offense);
    - 2. Been, or currently is, the subject of a juvenile petition or finding that would constitute a criminal offense or lesser included offense if the child were an adult; or
    - 3. Been named in a pending warrant, indictment, presentment, or petition.
  - (b) An excludable criminal offense involves:
    - 1. The physical, sexual or emotional abuse or neglect of a child;
    - 2. A crime of violence against a child or any person;
    - 3. Any offense, including a lesser included offense, involving the manufacture, sale, distribution or possession of any drug; or
    - 4. Any offense that presents a threat to the health, safety or welfare of children.
    - 5. The criminal offenses for which a person will be excluded from a child care agency include but are not limited to the following offenses as well as their lesser included offenses (and including convictions for equivalent offenses in other states or jurisdictions):

(Rule 1240-04-01-.07, continued)

- (i) Aggravated arson (T.C.A. § 39-14-302);
- (ii) Aggravated assault (T.C.A. § 39-13-102);
- (iii) Aggravated child abuse (T.C.A. § 39-15-402);
- (iv) Aggravated child neglect (T.C.A. § 39-15-402);
- (v) Aggravated cruelty to animals (T.C.A. § 39-14-212);
- (vi) Aggravated kidnapping (T.C.A. § 39-13-304);
- (vii) Aggravated rape (T.C.A. § 39-13-502);
- (viii) Aggravated rape of a child (T.C.A. § 39-13-531);
- (ix) Aggravated robbery (T.C.A. § 39-13-402);
- (x) Aggravated sexual battery (T.C.A. § 39-13-504);
- (xi) Aggravated sexual exploitation of a minor (T.C.A. § 39-17-1004);
- (xii) Aggravated vehicular homicide (T.C.A. § 39-13-218);
- (xiii) Arson (T.C.A. § 39-14-301);
- (xiv) Assault (T.C.A. § 39-13-101);
- (xv) Carjacking (T.C.A. § 39-13-404);
- (xvi) Child abuse, child neglect or endangerment (T.C.A. § 39-15-401);
- (xvii) Criminal attempt, under T.C.A. § 39-12-101, to commit any criminal offense that requires exclusion from child care;
- (xviii) Criminal exposure to HIV (T.C.A. § 39-13-109);
- (xix) Criminal homicide (T.C.A. § 39-13-201);
- (xx) Criminally negligent homicide (T.C.A. § 39-13-212);
- (xxi) Cruelty to animals (T.C.A. § 39-14-202);
- (xxii) Custodial interference (T.C.A. § 39-13-306);
- (xxiii) Domestic abuse in violation of an order of protection or in violation of a restraining order (T.C.A. § 39-13-113);
- (xxiv) Domestic assault (T.C.A. § 39-13-111);
- (xxv) Drug offenses (felony or misdemeanor, possession, manufacturing, sale, distribution, etc.);
- (xxvi) Especially aggravated burglary (T.C.A. § 39-14-404);

(Rule 1240-04-01-.07, continued)

- (xxvii) Especially aggravated kidnapping (T.C.A. § 39-13-305);
- (xxviii) Especially aggravated robbery (T.C.A. § 39-13-403);
- (xxix) Especially aggravated sexual exploitation (T.C.A. § 39-17-1005);
- (xxx) Exploitation of a minor by electronic means (T.C.A. § 39-13-529);
- (xxxi) False imprisonment (T.C.A. § 39-13-302);
- (xxxii) First degree murder (T.C.A. § 39-13-202);
- (xxxiii) Incest (T.C.A. § 39-13-302);
- (xxxiv) Indecent exposure (T.C.A. § 39-13-511);
- (xxxv) Involuntary labor servitude (T.C.A. § 39-13-307);
- (xxxvi) Kidnapping (T.C.A. § 39-13-105);
- (xxxvii) Rape (T.C.A. § 39-13-503);
- (xxxviii) Rape of a child (T.C.A. § 39-13-522);
- (xxxix) Reckless endangerment (T.C.A. § 39-13-103);
- (xl) Reckless homicide (T.C.A. § 39-13-215);
- (xli) Robbery (T.C.A. § 39-13-401);
- (xlii) Second degree murder (T.C.A. § 39-13-210);
- (xliii) Sexual battery (T.C.A. § 39-13-505);
- (xliv) Sexual battery by an authority figure (T.C.A. § 39-13-527);
- (xlv) Sexual exploitation of a minor (T.C.A. § 39-17-1003);
- (xlvi) Solicitation of a minor (T.C.A. § 39-13-528);
- (xlvii) Stalking (T.C.A. § 39-17-315);
- (xlviii) Statutory rape (T.C.A. § 39-13-506);
- (xlix) Statutory rape by an authority figure (T.C.A. § 39-13-532);
- (l) Trafficking a person for sexual servitude (T.C.A. § 39-13-309);
- (li) Vehicular assault (T.C.A. § 39-13-106);
- (lii) Vehicular assault while intoxicated (T.C.A. § 39-13-106);
- (liii) Vehicular homicide (T.C.A. § 39-13-213);
- (liv) Voluntary manslaughter (T.C.A. § 39-13-211); and

(Rule 1240-04-01-.07, continued)

- (iv) Weapons offenses (unlawful possession, carrying, use, etc.).
- (c) No person may be employed as a driver or serve as a driver for a child care agency if the person:
  - 1. Is currently charged with; or
  - 2. Has been convicted of, or pled guilty to, within the last five (5) years any of the following criminal offenses:
    - (i) Vehicular homicide;
    - (ii) Accidents involving death or personal injury;
    - (iii) Accidents involving damage to a vehicle;
    - (iv) Driving under the influence of an intoxicant, drug or drug producing stimulant; or
    - (v) Any felony involving the use of a motor vehicle while under the use of any intoxicant.
- (4) Exclusion from access to child care based on a listing on a state registry.
  - (a) No person shall be employed, be a licensee or operator, provide substitute services, reside, or have any access to children in a child care agency if the results of the state registry review identify the person as being:
    - 1. Listed on the Vulnerable Persons Registry;
    - 2. Listed on the Sexual Offender Registry; or
    - 3. Substantiated in the records of the Department of Children's Services as a perpetrator of abuse or neglect of a child.
- (5) Requirements for Supplemental Background Checks Subsequent to Licensing, Employment or Residence in a Child Care Agency, are provided by T.C.A. § 71-3-507.

**Authority:** T.C.A. §§ 4-5-202; 55-50-102(11) and (20); 71-1-105(5) and (12); 71-3-501, et seq.; 71-3-502(a)(2); 71-3-507; 71-3-508(c); Acts 2003, ch. 412, §§ 1(c), 2, and 3; and 49 Code of Federal Regulations Part 571. **Administrative History:** Original rule certified June 10, 1974. Amendment filed March 16, 1978; effective April 17, 1978. Repeal and new rule filed December 6, 1983; effective January 5, 1984. Amendment filed October 9, 1987; effective January 27, 1988. Repeal and new rule filed April 22, 1992; effective June 6, 1992. Amendment filed November 21, 2002; effective February 4, 2003. Amendment by Acts of 2003, Public Chapter 412, §§ 1(c) and 3 filed June 25, 2003; effective July 1, 2003. Amendment filed September 29, 2003; effective December 13, 2003. Amendment filed October 21, 2004; effective January 4, 2005. Amendments filed May 1, 2018; effective July 30, 2018.

#### **1240-04-01-.08 RECORD KEEPING.**

- (1) General Record Requirements.
  - (a) All records required by this chapter shall be maintained in an organized manner on-site at the child care agency's licensed location and shall be immediately available to the Department upon request.

(Rule 1240-04-01-.08, continued)

1. The term "on-site" in subparagraph (a) above may refer to a centralized location approved, in advance, in writing by the Department as long as emergency contact information is maintained at the actual physical location of the child care agency.

(2) General Children's Records.

- (a) The child care agency shall maintain a file for each child in a central location within the child care agency.
- (b) A child's records shall be kept for one (1) year following the child's leaving the child care agency; however, the health record shall be returned to the parent/guardian upon request when the child leaves the child care agency.
- (c) All children, including related children younger than age nine (9), shall have required records on file before care is provided.

Exception: After an initial eligibility determination, children of homeless families and/or children in state custody may receive care prior to providing required documentation as determined by the Department.

(d) General Requirements - Children's Records shall include:

1. A current information form, containing the following:
  - (i) The child's name and date of birth;
  - (ii) Name of parents/guardians;
  - (iii) Child's and parents'/guardians' home addresses and phone numbers;
  - (iv) Parents'/guardians' business addresses, phone numbers, and work hours (if applicable);
  - (v) Any special needs, medical conditions (including allergies) or relevant history of the child;
  - (vi) For a child with life-threatening allergies, a written plan of action endorsed by the child's pediatrician or licensed medical provider;
  - (vii) Name, address, and telephone number of a physician to call in case of an emergency;
  - (viii) Written consent of parents/guardians regarding emergency medical care; and
  - (ix) The name and address (home and business or school) and current phone number of an emergency contact.
2. A written statement stating to whom the child shall be released.
3. Written transportation agreement, if applicable, between parent/guardian and the child care agency regarding daily transportation between the home and the child care agency and the child care agency and the school.
4. Daily attendance records that include the full name and time in and time out for



(Rule 1240-04-01-.08, continued)

each child shall be maintained on-site but not necessarily in the individual child's file.

5. Daily attendance records shall be kept for one (1) year after the child has left the child care agency.
6. An individual attendance list shall be maintained in each classroom.
7. The child care agency shall obtain individual permission slips signed and dated by the parent/guardian for each field trip prior to the activity.
8. A signed Personal Safety Curriculum Notification Form indicating the parents/guardians have been provided an opportunity to review the personal safety curriculum offered by the child care agency, and have been notified of the child sexual abuse/personal safety curriculum. See Rule 1240-04-01-.23 for requirements specific to drop-in centers.

(e) Immunization Record Requirements.

1. The child care agency shall have a Tennessee Department of Health Official Immunization Certificate before accepting any child age two (2) months or older into care.
2. Exceptions to immunization record requirements may be made only if:
  - (i) The child's physician or a state or local health department provides a signed and dated statement giving a medical reason why the child should not be given a specified immunization;
  - (ii) The child's parent provides a signed written statement that such immunizations conflict with his/her religious tenets and practices; or
  - (iii) If care for children of homeless families and/or children in state custody is needed before documentation of immunizations can be confirmed. Care without documentation of immunizations shall not exceed sixty (60) days.
3. Before a school-age child is accepted for care, the center shall have on file a statement from the parent or school that the child's immunizations are current and that his or her health record is on file at the specified school which the child attends.

(f) Children's Record Requirements.

1. The following information shall be documented and shared with all educators of an infant, toddler or non-verbal child during the day:
  - (i) Time and amount of feeding;
  - (ii) Any incidence of excessive spitting up;
  - (iii) Toileting;
  - (iv) Times of diaper changes;
  - (v) Sleep patterns; and

(Rule 1240-04-01-.08, continued)

(vi) Developmental progress.

2. Before a child under the age of sixty (60) months of age is accepted for care, the parent/guardian shall provide documentation, signed or stamped by a physician or licensed medical provider, that the child has completed a well-child examination. This record shall be kept on file at the child care agency for one (1) year.

Exception: If care for children of homeless families and/or children in state custody is needed before documentation a well-child examination can be confirmed. Care without well-child examination documentation shall not exceed sixty (60) days.

3. Each infant, toddler and pre-school child shall have a transition plan for moving from one age group to another.

(g) School Age Children's Record Requirements.

1. The information form shall list the name, address, and phone number of the school the child attends.
2. The records of any child who is five (5) years old in a child care agency which lacks approved kindergarten status for purposes of T.C.A. § 49-6-201 shall include a signed acknowledgment by the child's parent or guardian that recognizes that the child's attendance does not satisfy the mandatory kindergarten prerequisite for the child's enrollment in first grade. The statement of acknowledgment shall be signed by the parent or guardian and maintained in the child's file.

(h) Record Requirements for Children with Special Needs. The child care agency will maintain a written activity record that consists of a daily activities and behavior and information pertinent to the needs of the individual child.

(3) Staff Record Requirements.

- (a) The child care agency shall maintain a file for all staff in a central location within the child care agency.
- (b) Staff records shall be maintained for at least one (1) year following the separation of the staff from the child care agency.
- (c) Staff records shall include the following information for each staff member:
  1. The name, birth date, the social security number, address, and telephone number;
  2. An emergency contact name/phone number/address;
  3. Documentation of education and certificates of conferences and workshops attended in the preceding year;
  4. Documentation signed by the examining licensed physician, nurse practitioner or physician's assistant, verifying that the staff person is physically, mentally and emotionally capable of safely and appropriately providing care for children in a group setting, if the staff person is an educator, owner, operator, director, manager, or will otherwise have unsupervised access to children. The

(Rule 1240-04-01-.08, continued)

- documentation shall be on file within ten (10) calendar days of employment or work start date;
5. Documentation that staff have been screened and, if necessary, tested and medically cleared for tuberculosis prior to having contact with children;
  6. At least three (3) written, non-relative, references;
  7. Documentation that the child care agency has checked and verified each reference prior to employment;
  8. Written employment history verified in a written statement that employment history has been checked prior to employment;
  9. Documentation of annual performance reviews including personnel and corrective actions;
  10. Date of employment and date of separation, as applicable, from the child care agency;
  11. Daily attendance (including time in/out);
  12. Signed and completed criminal history disclosure form; and
  13. Verification of criminal and juvenile background check results, the vulnerable person's and sex offender registries results, and the results of a review of the protective services records of the Departments of Children's and Human Services.
- (d) In addition, driver records shall contain the information required by 1240-04-01-.17:
1. Copy of driver license showing proper endorsements;
  2. Verification of a valid driver license and driver history check;
  3. Annual physical exam;
  4. Verification of a clear drug screen prior to assuming driving duties; and
  5. Verification of Cardio Pulmonary Resuscitation and First Aid Certification.
- (e) Substitute and Volunteer Records. Records of substitutes and volunteers shall include their names, addresses, telephone numbers and hours and dates of service.
- (f) Substitute Pool Records. All staff records shall be available onsite where the substitute is working either as print copies or web-accessible documents.

**Authority:** T.C.A. §§ 4-5-202; 71-1-105(5) and (12); 71-3-501, et seq.; and 71-3-502(a)(2).  
**Administrative History:** Original rule certified June 10, 1974. Amendment filed March 16, 1978; effective April 17, 1978. Repeal and new rule filed December 6, 1983; effective January 5, 1984. Amendment filed November 21, 2002; effective February 4, 2003 (Formerly 1240-04-01-.07). Amendments filed May 1, 2018; effective July 30, 2018.

**1240-04-01-.09 INCIDENT REPORTING.**

- (1) Reports of Incidents, Illnesses, Accidents, Injuries, and Fatalities.
  - (a) Incidents, accidents, injuries, and signs of illness shall be reported to the parent/guardian no later than the child's release to the parent/guardian or authorized representative on the date of occurrence.
  - (b) Serious injuries or signs of serious illness shall be reported to the parent/guardian immediately.
  - (c) The child care agency shall not delay seeking emergency treatment due to a delay in contacting the parent/guardian.
  - (d) Incidents, accidents, injuries, and signs of serious illness to children shall be documented immediately with the following information:
    1. Child's name and date of birth;
    2. Name of the person writing the report;
    3. Date and time;
    4. Date and time of completion of incident report;
    5. Description of incident and circumstances; and
    6. Action(s) taken by the child care agency.
  - (e) The documentation shall be provided to the parent/guardian the same day of the incident, and filed in the child's record.
  - (f) The child care agency shall notify the Department of all serious incidents the same day of the incident, by contacting the Complaint Hotline at 1-800-462-8261. Serious incidents include but are not limited to the following:
    1. Any injury that requires medical treatment beyond on-site first aid;
    2. Reports made to the Department of Children's Services, law enforcement, or anytime it is necessary to call 911;
    3. Any incident that may result in staff exclusion from child care per 1240-04-01-.07;
    4. Transportation accidents and traffic citations (such as a driver cited for speeding) that occur when children are on the vehicle; and
    5. Any child or adult fatality at the child care agency.

**Authority:** T.C.A. §§ 4-5-201, et seq.; 71-1-105(5) and (12); 71-3-501, et seq.; and 71-3-502(a)(2).  
**Administrative History:** Original rule certified June 10, 1974. Amendment filed March 16, 1978; effective April 17, 1978. Repeal and new rule filed December 6, 1983; effective January 5, 1984. Amendment filed October 9, 1987; effective January 27, 1988. Repeal and new rule filed April 22, 1992; effective June 6, 1992. Amendment filed November 21, 2002; effective February 4, 2003 (Formerly 1240-04-01-.08). Amendments filed May 1, 2018; effective July 30, 2018.

**1240-04-01-.10 DUTY TO REPORT CHILD ABUSE AND NEGLECT.**

- (1) Duty to Report Child Abuse and Neglect.
  - (a) Duty to Report.
    1. Every operator, owner, licensee, director, primary educator or staff member of, or substitute staff member or volunteer in, a child care agency licensed by the Department of Human Services is individually responsible and required to immediately report any reasonable suspicion of child abuse or neglect to either the Department of Children's Services and/or local law enforcement or the judge of the juvenile court in the county of the child's residence, pursuant to T.C.A. §§ 37-1-403 and 37-1-605.
    2. Any statement from a child reasonably indicating abuse/neglect of that child or another child or any evidence of abuse/neglect observed on a child shall be immediately reported by staff to the Department of Children's Services and/or to local law enforcement or to the judge of the juvenile court in the county of the child's residence.
    3. Determining Suspicion of Abuse/Neglect.
      - (i) The child care agency and/or individual staff shall not delay reporting possible abuse or neglect in an attempt to investigate or verify the abuse/neglect allegations.
      - (ii) The child care agency shall limit questioning of the child to basic inquiries necessary to determine if any reasonable possibility of abuse or neglect exists. No suggestions as to the validity of the child's statements shall be made to the child during this time.
      - (iii) The child care agency shall not attempt to validate (or "prove") the allegation prior to making a report as required by the law.
    4. Each child care agency shall develop written procedures, approved by the Department, for staff to follow when reporting suspected abuse or neglect that is alleged to have occurred in the child care agency.
  - (b) Prohibited Procedures for Reporting Suspected Child Abuse or Neglect/Penalties.
    1. A child care agency shall not develop or implement any 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.
    2. A child care agency shall not require staff to report to the child care agency or seek the approval of child care agency management or ownership prior to any individual staff member reporting the suspected abuse or neglect.
    3. A report required by subparagraph (a) above 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 complying with, subparagraph (a) above.
    4. A person required to report by subparagraph (a) above shall not suggest, advise or direct a parent/guardian or caretaker of a child enrolled in the child care agency to make a report of suspected child abuse or neglect regarding that

(Rule 1240-04-01-.10, continued)

parent's/guardian's or caretaker's own child who is enrolled in the child care agency as an alternative to, or substitute for complying with subparagraph (a) above.

- (c) Child Care Agency Duties during Investigations of Child Abuse and Neglect; Custodial Authority of Children.
1. Every operator, owner, licensee, primary educator, staff member, substitute staff member or volunteer in a child care agency licensed by the Department of Human Services shall fully cooperate with all agencies involved in the investigation of child abuse or neglect and with the Department of Human Services.
  2. The child care agency shall provide access to records of children and staff to the Departments of Children's and Human Services and to law enforcement agencies.
  3. The child care agency shall allow appropriate investigators to interview children and staff.
  4. The child care agency shall not interfere with an abuse or neglect investigation.
  5. The child care agency shall protect the child by reviewing the investigator's identification.
  6. The child care agency shall maintain confidentiality of the investigation and shall not disclose the investigation or details of the investigation directed by the Department of Children's Services, law enforcement or the Department of Human Services.
- (d) Upon notification of a pending abuse/neglect investigation of any individual who is a child care agency staff member or resident of a family or group child care home, the licensee shall enter into a safety plan with the Department regarding the individual's access to the child care agency and to children in the care of the child care agency.
- (e) All child care agency staff, including auxiliary staff, shall receive documented, Department-approved training annually regarding proper procedures to report child abuse and neglect.

**Authority:** T.C.A. §§ 4-5-201, et seq.; 37-1-113; 37-1-401, et seq.; 37-1-601, et seq.; 37-1-605; 37-5-512; 71-1-105(5) and (12); 71-3-501, et seq.; 71-3-502(a)(2); and 71-3-508. **Administrative History:** Original rule filed April 22, 1992; effective June 6, 1992. Amendment filed November 21, 2002; effective February 4, 2003 (Formerly 1240-04-01-.09). Amendments filed May 1, 2018; effective July 30, 2018.

#### 1240-04-01-.11 SUPERVISION.

- (1) Supervision Procedures.
- (a) To ensure the health and safety of all children enrolled, the management of the child care agency shall maintain a system that enables all children to receive a level of supervision that is appropriate to their age and their developmental, physical and mental status. The child care agency staff shall know where children in their care are at all times, be aware of their activities, and be able to intervene appropriately.
  - (b) Staff shall conduct a visual inspection of all areas of the building and grounds immediately after closing the child care agency for the day in order to ensure that no

(Rule 1240-04-01-.11, continued)

children have been unintentionally left in any part of the child care agency's facilities.

- (c) If any child is left unattended at any time, the child care agency is subject to summary suspension, denial or revocation of the license. This includes, but is not limited to a child:
1. Walking out of a child care agency without the knowledge of staff;
  2. Being left in a classroom or any other area of the facility;
  3. Being left on the playground;
  4. Being left at a field trip location; or
  5. Being left on a vehicle.
- (d) Procedures for Release of Children from the Care of the Child Care Agency.
1. Children shall be released to only the child's parent/guardian, or other person authorized by the parent/guardian in accordance with the child care agency's policies, unless otherwise directed by the Department of Children's Services or law enforcement authorities.
  2. The child care agency shall verify the identity of the parent/guardian or other authorized person and shall require presentation of a photo identification for comparison with the child's file if the educator does not recognize the individual.
  3. In the event an unauthorized person requests release of a child, authorization may be obtained by calling the parent/guardian.
    - (i) The child care agency shall document the date and time of the contact, to whom he/she spoke, and to whom the child was released.
    - (ii) The child care agency shall verify the identity of the unauthorized person by requiring presentation of a photo identification.
  4. The person to whom the child is released shall sign the child out of the child care agency as required in subparagraph (e) below.
  5. The child care agency shall immediately call 911 or other local emergency services number if anyone whose behavior may place a child at imminent risk attempts to pick up a child.
- (e) Sign-In/Sign-Out Procedures.
1. Child care agencies shall maintain a daily sign-in and sign-out sheet that includes:
    - (i) Each child's printed full name;
    - (ii) Date;
    - (iii) Time of entry;
    - (iv) Time of departure; and

(Rule 1240-04-01-.11, continued)

- (v) Space for printed name and signature of parent/guardian or authorized representative.
  - 2. Child care agency staff shall sign children in and out of the child care agency only when transported to the child care agency by the child care agency's transportation service or local school transportation system and no parent/guardian or authorized representative is present.
  - 3. The sign-in and sign-out sheets shall be maintained for one (1) year and shall be kept on-site and immediately available.
- (2) Meal and Snack Time Supervision.
- (a) During meal and snack time, staff shall maintain direct supervision of children between six (6) weeks and five (5) years of age and maintain supervision of children between six (6) and nine (9) years of age.
  - (b) During meal and snack times, educators that are providing supervision are prohibited from performing other activities and classroom duties unrelated to food service.
  - (c) Child care agencies shall develop and follow a written mealtime supervision plan that addresses:
    - 1. Room arrangement that will allow staff to directly supervise each child at all times;
    - 2. Individual staff duties to ensure age-appropriate supervision can be given to each child at all times;
    - 3. Individual children's needs, including high risk behaviors; and
    - 4. Interruptions and emergencies.
  - (d) Mealtime supervision plans shall be updated as needed.
  - (e) The meal time supervision plan shall be prominently posted in each area where food is served.
- (3) Playground Supervision.
- (a) The same supervision requirements are applicable on the playground as in the classroom.
  - (b) Child care agencies shall develop and follow a written playground supervision plan that includes:
    - 1. Arrival and departure procedures;
    - 2. Playground design and placement of equipment;
    - 3. Individual staff duties to ensure age-appropriate supervision can be given to each child at all times;
    - 4. Individual children's needs, including high risk behaviors;
    - 5. Emergency procedures, including communication with other staff; and



(Rule 1240-04-01-.11, continued)

6. Roll call before leaving classroom and upon arrival at playground and prior to leaving playground and upon arrival in classroom.

(c) Playground supervision plans shall be updated as needed.

(4) Supervision during Field Trips.

(a) Child care agencies shall provide age-appropriate supervision to each child at all times during field trips.

(b) The adult:child ratio shall be doubled during field trips. Exception: for family and group homes, the adult:child ratio during field trips shall be increased by one (1).

(c) The child care agency shall monitor attendance by checking attendance as follows:

1. Prior to leaving the child care agency;
2. Upon arrival at each destination;
3. At the beginning and end of each activity (such as lunch, breaks, etc.);
4. Upon departing each destination; and
5. Upon arrival at the child care agency.

(5) Supervision in and Near Water.

(a) When children are engaged in activities in or near a body of water, the following requirements shall be met:

1. Swimming Ratio Chart

Age Group	Adult:Child Ratio
Six (6) weeks – Twelve (12) months	1:1
Thirteen (13) months – Thirty-five (35) months	1:2
Three (3) years	1:4
Four (4) years	1:6
Five (5) years	1:8
School-age (Kindergarten and above)	1:10

2. One (1) adult present shall have a current certificate in advanced aquatic lifesaving skills. This person shall supervise from above the level of the swimmers. This person may be the lifeguard provided by the facility.

3. The lifeguard, including those provided by a swimming facility, shall not be included in the required adult:child ratio while performing lifeguard duties.

(6) Safe Sleep Supervision Procedures.

(a) Because of the possibility of Sudden Infant Death Syndrome (SIDS) and to prevent suffocation deaths in infants:

1. Infants shall sleep in cribs or play yards;

(Rule 1240-04-01-.11, continued)

2. No infant shall be allowed to sleep on a sofa, soft mattress, adult bed, in a car seat, in a swing, or in other restraining devices;
3. Infants shall be positioned on their backs for sleeping;
4. Bibs shall be removed prior to placing infants in a crib for sleeping;
5. Soft bedding that is prohibited includes, but is not limited to, pillows, bumper pads, blankets, quilts, comforters, stuffed toys, and other soft items;
6. Mobiles and other toys that attach to any part of the crib are prohibited;
7. It is not necessary to reposition infants once they have demonstrated the ability to turn front to back and back to front independently;
8. Any cribs or other sleeping equipment prohibited by federal product safety regulations shall not be permitted;
9. Infants shall be touched by an educator every fifteen (15) minutes in order to check breathing, body temperature and position;
10. If a child appears not to be breathing, the child care agency shall immediately begin CPR and immediately call for emergency medical assistance;
11. The child care agency shall provide orientation on safe sleep practices before allowing any educator to assume infant-caregiving duties;
12. All infant educators shall practice safe sleep procedures;
13. Infants that arrive asleep in car seats or fall asleep in any piece of equipment other than a crib must be immediately removed and placed on their back in a crib; and
14. Any practice that is an exception to the above procedures shall not be used without written authorization from a physician.

**Authority:** T.C.A. §§ 4-5-202; 71-1-105(5) and (12); 71-3-501, et seq.; and 71-3-502(a)(2).  
**Administrative History:** Original rule filed November 21, 2002; effective February 4, 2003 (Formerly 1240-04-01-.10). Amendments filed May 1, 2018; effective July 30, 2018.

#### **1240-04-01-.12 HEALTH AND SAFETY.**

- (1) The onsite staff shall be responsible for the daily health and safety of children in care.
- (2) The child care agency shall ensure that the child care environment and practices support child health and safety.
- (3) The receiving educator shall observe each child upon arrival each day for signs of illness and injury.
- (4) Designated staff shall immediately contact a parent/guardian when a child shows sign of illness or infection.
- (5) The receiving educator shall document any obvious marks or injuries and shall note any comments from the parents pertaining to the marks or injuries.

(Rule 1240-04-01-.12, continued)

- (6) A child showing signs of illness shall be cared for apart from other children to the extent that supervision can be maintained for all children, and the parent shall be contacted and arrangements made for pick up.
- (7) The child care agency shall not provide care and/or isolation for a child with a contagious condition unless written instructions are obtained from a licensed medical professional.
- (8) A child's temperature shall be taken using a non-invasive method unless otherwise prescribed by a physician.
- (9) Universal and standard precautions, as defined by the Centers for Disease Control, shall be followed when handling or cleaning bodily fluids.
- (10) First Aid.
  - (a) A standard first aid kit, as defined by the current National Health and Safety Performance Standards: Guidelines for Out-of-Home Child Care shall be accessible to all staff, and all staff shall be familiar with its contents and use.
  - (b) All staff shall obtain first aid training within ninety (90) days of employment. At least one staff member who has current certification in first aid from a certifying organization recognized by the Department shall be on-site at all times.
    1. The certification shall be applicable to the ages present in the classroom:
      - (i) Infant/Child first aid; and/or
      - (ii) Adult first aid if children over age twelve (12) are present.
  - (c) Current and comprehensive first aid information shall be prominently posted in each area that children use.
  - (d) Extended Care First Aid Requirements. One (1) staff person on duty at all times shall have current certification or the equivalent in first aid from a certifying organization recognized by the Department.
- (11) Cardiopulmonary Resuscitation (CPR) Requirements.
  - (a) All staff on duty shall receive training in Cardiopulmonary Resuscitation (CPR) as recognized by the Department within ninety (90) days of employment. At least one staff member who has certification in CPR from a certifying organization recognized by the Department shall be present onsite at all times.
    1. The certification shall be applicable to the ages present in the classroom:
      - (i) Infant/Child CPR; and/or
      - (ii) Adult CPR if children over age twelve (12) are present.
- (12) Contagious Conditions.
  - (a) Impetigo and diagnosed strep shall be treated according to a licensed medical professional's instructions prior to readmission to the child care agency.

(Rule 1240-04-01-.12, continued)

- (b) A child diagnosed with scabies or lice shall have proof of treatment prior to readmission.
- (c) Parents/guardians of every child enrolled shall be notified immediately if one of the following communicable diseases has been introduced into the child care agency:
  - 1. Hepatitis A;
  - 2. Food-borne illness (food poisoning);
  - 3. Salmonella;
  - 4. Shigella;
  - 5. Measles, mumps, and/or rubella;
  - 6. Pertussis;
  - 7. Polio;
  - 8. Haemophilus influenza type B;
  - 9. Meningococcal meningitis;
  - 10. Chickenpox; and
  - 11. Any other illness so identified by the state or local Department of Health.
- (d) The child care agency shall report the occurrence of any of the above diseases to the local health department no later than the end of the day on which it is discovered.

(13) Medications.

- (a) Receiving Medications.
  - 1. All medications and all preventative products, such as non-prescription diaper cream, sunscreen and insect repellent, shall be received from the parent/guardian by a designated staff person or persons.
  - 2. The designated staff person(s) shall:
    - (i) Obtain the parent's/guardian's written authorization to administer each medication;
    - (ii) Document that the medicines or drugs are in the original not just prescription drugs but also other container, are not expired, and are labeled with the child's name;
    - (iii) Document the specific dosage and times the medication is to be administered to the child; and
    - (iv) Document that the parent/guardian has provided the child care agency with instructions on the means and method of administration.
- (b) Administering Medications.

(Rule 1240-04-01-.12, continued)

1. All medications and all preventative products, such as non-prescription diaper cream, sunscreen and insect repellent, shall be administered by a designated staff person or persons.
2. The following documentation shall be maintained in the child's file and a copy provided to the parent/guardian:
  - (i) Medication was administered according to parent/guardian or health care provider instruction, including times and amounts of medications administered;
  - (ii) Any side-effects observed;
  - (iii) Name of staff person administering medication to child; and
  - (iv) Unused medication was returned to the parent/guardian.
3. Medication shall never be administered in bottles or infant feeders unless authorized by a physician. Educators shall ensure that medication administered in this way is not accessible to other children.

(c) Accessibility of Medications.

1. Medication shall not be accessible to children unless a physician's authorization for the current school year is on file that allows a school-age child to have self-administered medication.
2. All medication shall be stored in a child-proof compartment or container.
3. Over-the-counter diaper creams, ointments, sunscreens and lotions must be inaccessible to children.
4. If medications requiring refrigeration are kept in a refrigerator used for food storage, the medicine shall be put in a leak-proof, child-proof container.
5. Medication requiring emergency administration, as prescribed by a licensed medical professional, e.g. an "Epi-Pen" or asthma inhaler, may be kept in an unlocked container that is inaccessible to children.

(14) Prohibited Practices and Products.

(a) Smoking.

1. Smoking is not permitted in any indoor area or vehicle of the child care agency at any time.
2. Smoking is not permitted on the playground or in any outdoor area accessible to children during the time children are present.
3. Smoking is not permitted within fifty (50) feet of the child care agency entrance.
4. "No Smoking" signs shall be posted conspicuously at each child care entrance, as required by state law.

(b) Alcoholic Beverages.

(Rule 1240-04-01-.12, continued)

1. The use of alcoholic beverages is not permitted in a child care agency during the hours of operation.
  2. Alcoholic beverages stored in areas of the child care agency where care is provided shall not be accessible to children.
- (c) Illegal activities, inappropriate activities, or any activities that otherwise place children at risk that occur on the premises, property, or in a vehicle on the property of the child care agency.
- (d) Firearms shall not be permitted on the premises of a child care agency, in any vehicle used to transport children or in the presence of a child.
1. In a private residence, firearms, other deadly weapons, and potentially hazardous items, such as power tools, are permitted on the premises, but shall be kept locked, out of sight, and inaccessible to children at all times.
  2. The provisions of this subparagraph (d) are not applicable to law enforcement officers.
- (e) Kitchen knives and other potentially dangerous utensils or tools shall be secured so that they are inaccessible to children.
- (f) All items labeled “keep out of reach of children” shall be stored so that they are inaccessible to children.
- (g) Personal belongings of residents and staff (such as, but not limited to, contents of purses, backpacks, coat pockets, diaper bags, etc.) shall be inaccessible to children at all times.
- (15) Diapering.
- (a) Children shall be checked regularly throughout the day to determine if they are wet or soiled.
  - (b) Children shall be diapered/changed and cleaned promptly when wet or soiled.
  - (c) The diapering area and/or toileting area shall be located near a hand-washing station and shall be located in a separate area from the food preparation area.
  - (d) Diapering surfaces shall be off the floor and nonporous.
  - (e) Children shall never be left unattended on an off the floor diapering surface.
  - (f) Educators shall provide rich social interchanges such as smiling, talking, touching, singing, calling child by name, and engaging in eye contact.
  - (g) Educators shall utilize sanitary diapering procedures:
    1. Adults shall wash their hands, using soap and running water, following each diaper change;
    2. The child’s hands shall be cleaned when soiled;
    3. Diapering surface shall be washed with soap and water and sanitized after diapering each child;

(Rule 1240-04-01-.12, continued)

4. Soiled diapers and wipes shall be disposed of in such a manner as to prevent access by children and to prevent cross-contamination;
5. The required diapering procedure shall be used with children of all ages and abilities who require diapering;
6. Pre-school and school-age children requiring assistance with toileting needs shall receive assistance in a location designated for that purpose which provides privacy from other children and adults;
7. School-age children who require diapering may be diapered on the floor on a nonporous, washable diapering surface that adequately protects the floor from contamination; and
8. The floor beneath and surrounding the diapering surface shall be immediately cleaned and sanitized if the area has become contaminated after each diapering.

(h) Sanitizing Solutions:

1. A bleach solution mixed according to the manufacturers' instructions to achieve bleach concentration levels approved by the Department of Health shall be used for:
  - (i) General cleaning and sanitation purposes;
  - (ii) Sanitizing items that children frequently put in their mouths; and
  - (iii) Sanitizing food-contact surfaces and food equipment.
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. All bleach solutions or substitutions shall be used in a manner that does not present a hazard to children.

(16) Tuberculosis Screening.

- (a) The child care agency shall ensure that any staff member or volunteer who meets one or more of the following criteria is screened and medically cleared for tuberculosis (TB) prior to ongoing contact with children in the child care agency:
1. Born in a country with a high rates of TB (e.g., a country other than the United States, Western Europe, Australia, New Zealand, or Japan); or
  2. History of travel for at least two weeks to a country with high rates of TB (see above); or
  3. History of working or residing in a congregate setting (e.g., jail or prison, homeless shelter, or long-term care facility); or
  4. History of providing medical or social services to persons at high risk for TB; or
  5. History of close contact to a person diagnosed with active TB disease; or
  6. History of a previous diagnosis of active TB disease or TB infection (aka "latent

(Rule 1240-04-01-.12, continued)

TB infection"); or

7. Currently have symptoms that may be associated with active TB disease (e.g., cough for at least two (2) to three (3) weeks with one or more of the following: coughing up blood, unexplained weight loss, drenching night sweats, fever).

- (b) The child care agency shall require that any staff member, volunteer, or child who has had an unexplained cough for three (3) weeks or longer shall be excluded until they can be evaluated by a licensed health care provider and medically cleared prior to returning to the child care agency.

(17) Staff Health.

- (a) Staff members with signs of a communicable disease, as provided in 1240-04-01-.12(12)(c), shall not be present, and the child care agency shall take prompt steps to prevent further spread of the illness.

**Authority:** T.C.A. §§ 4-5-201, et seq.; 71-1-105(5); 39-17-1803; 71-3-501, et seq.; 71-3-502(a)(2)-(3); and 71-3-508. **Administrative History:** Original rules filed May 1, 2018; effective July 30, 2018.

**1240-04-01-.13 FOOD AND FOOD SERVICE.**

(1) Meal and Snack Time Procedures.

- (a) Staff shall wash their hands with soap and water before preparing and serving meals and after meals and snacks. Children shall wash their hands with soap and water before and after meals and snacks.
- (b) An educator shall be present, near any table or high chair where a child is eating, as required in supervision procedures outlined in 1240-04-01-.11.
- (c) Children shall be seated at appropriately sized tables and chairs while eating.
- (d) Educators shall engage children in developmentally appropriate conversation to include nutrition and healthy eating choices.
- (e) An infant shall be held while drinking from a bottle if the infant is too young to use a high chair.
- (f) Educators shall ensure that infants have completed feeding and swallowed all milk/formula before being laid down for a nap.
- (g) Children shall be restrained using the manufacturer's safety restraint while sitting in a high chair or similar seating device.
- (h) Bottles may be served from the refrigerator without warming.
- (i) If desired, bottles may be warmed:
  1. Under running warm tap water; or
  2. In a container of warm water no warmer than one hundred twenty degrees Fahrenheit (120°F) for no more than five minutes.
- (j) Bottles shall not be propped, and a child shall not be given a bottle while lying flat.



(Rule 1240-04-01-.13, continued)

- (k) Children shall not be permitted to carry a bottle with them throughout the day.
  - (l) Children shall not have food or drink while in beds, cots, cribs or on mats.
  - (m) Prevention of Injuries by Bottle Warmers and Microwaves:
    - 1. Crock pots are prohibited for use as bottle warmers;
    - 2. Crock pots shall be kept in the kitchen area and shall be inaccessible to children;
    - 3. Microwave ovens and their immediate surrounding area, including cords, shall not be accessible to infants or pre-school children;
    - 4. To prevent scalding, liquid and solid foods heated in a microwave shall be stirred and carefully checked for "hot spots" prior to serving;
    - 5. School-age children shall use microwaves only under direct adult supervision;
    - 6. Breast milk and formula shall not be heated in a microwave oven;
    - 7. The use of bottle warmers is not prohibited but is not recommended by the Department; and;
    - 8. All heated bottles shall be checked for safe temperatures before serving.
- (2) Choking Prevention.
- (a) Solid foods (including cereal) shall not be given to children with normal eating abilities in bottles or infant feeders unless written authorization from a physician is on file.
  - (b) It is the responsibility of the supervising educator to ensure that food is not accessible or served until it has been chopped, diced, cut or mashed and is appropriate for each child's age, and individual eating, chewing and swallowing ability.
  - (c) Food shall not be given to a child until the supervising educator is able to provide focused attention to the child.
  - (d) Educators shall check that no food is left in the mouth of an infant/toddler before putting the infant/toddler down to sleep.
  - (e) The supervising educator is prohibited from performing other classroom duties unrelated to food service during mealtime.
  - (f) Children shall not be permitted to wear teething necklaces, pacifiers, or any item around their neck or attached to their clothing that are potentially hazardous and associated with choking.
- (3) Food Preparation.
- (a) Powdered milk shall not be substituted for fluid milk, formula, or breast milk.
  - (b) Formulas shall be used as directed on the container or as directed in writing by a physician.
  - (c) Once milk, formula, or breast milk has been warmed, it shall not be re-warmed or returned to the refrigerator.

(Rule 1240-04-01-.13, continued)

- (d) All contents remaining in bottles after feeding shall be discarded immediately after feeding.
  - (e) Frozen breast milk shall be labeled with the date it was expressed and the name of the child.
  - (f) Food, formula, milk, or breast milk brought from home shall be:
    - 1. Labeled with the child's name;
    - 2. Labeled with the date the item(s) were received; and
    - 3. Shall be refrigerated immediately, if applicable.
  - (g) Previously opened baby food jars shall not be accepted in the child care agency.
  - (h) If food is fed directly from the jar by the educator, the jar shall be used for only one feeding and discarded.
- (4) Nutritional Needs.
- (a) If the child care agency provides food, it shall be in accordance with the USDA's Child and Adult Care Food Program (CACFP) nutritional guidelines.
  - (b) Whether provided by the parent or the child care agency, the following meals/snacks shall at a minimum be offered to children based on their hours of attendance:
    - 1. Breakfast or morning snack;
    - 2. Lunch;
    - 3. Afternoon snack;
    - 4. A child in care for ten (10) hours or more shall be offered an additional snack or meal;
    - 5. Breakfast shall be provided to children who arrive before 7:00 a.m. and have not had breakfast at home.  
  
Exception: Not required for children who receive breakfast at school; and
    - 6. Extended Care: For a child who is in care for extended or nighttime hours, meals and snacks will be offered in accordance with the child's hunger and the hours of attendance.
- (5) Food Service.
- (a) A child shall not be forced to eat.
  - (b) Food shall not be withheld from a child.
  - (c) Children shall be given adequate time to eat.
  - (d) Food shall not be used as a reward.

(Rule 1240-04-01-.13, continued)

- (e) Food Allergies.
    - 1. Information about individual children's food allergies shall be posted prominently, both where food is prepared and where food is served.
    - 2. For a child with life-threatening allergies, a written plan of action endorsed by the child's pediatrician or licensed medical provider shall be posted where the educator has immediate access.
    - 3. Any child's food allergies and the accommodations and precautions in place to address food allergies shall be prominently noted.
    - 4. Outline child care agency procedures that reduce cross-contamination of allergenic foods and other inadvertent exposure to allergens for any child with food allergies.
  - (f) A weekly menu that includes all snacks and foods served shall be posted and followed.
  - (g) Meal and snack substitutions shall be noted on the menu in advance.
  - (h) The feeding schedule for an infant shall be in accordance with the child's need.
  - (i) When caring for nursing children, the child care agency shall make accommodations that support and facilitate a family's decision to continue breast feeding.
- (6) High Chairs and Tables.
- (a) 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 shall be allowed to eat with fingers or a spoon.
  - (b) High chairs and tables on which food is prepared and served shall be washed with soap and water and sanitized directly 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.
- (7) Dishes and Utensils.
- (a) Napkins and individual break-resistant utensils, glasses/cups and appropriate dishware shall be provided for children who eat independently.
- (8) Food Storage.
- (a) Foods requiring refrigeration or cold storage shall be maintained at forty degrees Fahrenheit (40°F) or below.
  - (b) Foods requiring hot storage shall be maintained at an internal temperature of one hundred forty degrees Fahrenheit (140°F) or above.
  - (c) Frozen foods shall be maintained at a temperature of zero degrees Fahrenheit (0°F) or below.
  - (d) Thermometers shall be placed in all refrigerators, freezers and all other cold storage equipment.

(Rule 1240-04-01-.13, continued)

- (e) No poisonous or toxic materials, except those required for sanitization purposes, may be used or stored in a food-service area of a facility.
- (9) Food Sanitation.
- (a) All food shall be protected from contamination during storage, preparation, transportation, and serving.
  - (b) The child care agency shall not serve home-preserved food or raw milk to children in care.
  - (c) Raw fruits and vegetables prepared on-site shall be washed before use.
  - (d) 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.
  - (e) All re-useable utensils, cups, and dishware shall be made from nontoxic materials.
  - (f) All re-useable utensils, cups, and dishware shall be thoroughly cleaned and sanitized after each use.
  - (g) Single-service articles shall be made from nontoxic materials and shall be stored, handled, and dispensed in a sanitary manner.
  - (h) All utensils and food-contact surfaces or equipment used in the preparation, transportation, service, display, or storage of food shall be thoroughly cleaned and sanitized prior to and after each use.

**Authority:** T.C.A. §§ 4-5-201, et seq.; 71-1-105(12); and 71-3-501, et seq. **Administrative History:** Original rules filed May 1, 2018; effective July 30, 2018.

**1240-04-01-.14 EQUIPMENT FOR CHILDREN.**

- (1) General.
  - (a) All indoor and outdoor equipment, appliances, and furnishings shall be safe.
  - (b) There shall be developmentally-appropriate equipment and furnishings for each age group enrolled.
  - (c) The manufacturer's safety instructions shall be followed for assembling, installing, securing, and using all indoor and outdoor equipment, appliances, and furnishings. Such instructions shall be retained on-site and communicated to all appropriate staff.
  - (d) Items within the reach of children shall have no:
    - 1. Dangerous angles;
    - 2. Sharp edges;
    - 3. Splinters;
    - 4. Protruding nails;
    - 5. Protruding nuts or bolts;

(Rule 1240-04-01-.14, continued)

6. Heavy or hard swing seats;
  7. Head entrapment spaces; or
  8. Open S-hooks or pinch points, or similar hazards.
- (e) All indoor and outdoor large and heavy equipment, appliances and furnishings shall be secured or supported so that they cannot fall or tip over. This includes, but is not limited to, the following:
1. Television sets;
  2. Computers;
  3. Monitors;
  4. Book cases;
  5. Cubbies;
  6. Dressers; and
  7. Shelves.
- (f) Electrical cords shall be inaccessible to children younger than school-age.
- (g) Cords on window blinds or curtains shall be inaccessible to children.
- (h) Damaged, unsteady, or non-useable equipment shall be immediately repaired or immediately removed from the room or playground.
- (i) Equipment shall be kept clean by washing it frequently with soap and water.
- (2) Indoor Equipment.
- (a) Sufficient indoor equipment, materials, and toys shall be available to:
1. Meet the active and quiet play needs of all children enrolled.
  2. Provide a variety of developmentally appropriate equipment so that each child may choose from at least two play options.
- (b) Toys, educational materials, and play materials shall be organized and displayed within children's reach so that each child can select and return items independently.
- (c) Toys and teaching materials and supplies which are small or which have small parts that can be inhaled or swallowed shall be inaccessible to infants and toddlers.
- (d) Equipment and a safe space on the floor shall be provided for infants and toddlers for climbing, crawling, pulling up and exploring without the use of confining equipment. The equipment and safe space shall:
1. Be exclusively used for infants and toddlers; and
  2. Be clean and safe at all times.

(Rule 1240-04-01-.14, continued)

(3) Outdoor Play Equipment.

- (a) Trampolines are prohibited.
- (b) A variety of developmentally appropriate outdoor play equipment shall be available.
- (c) Climbing equipment shall be placed at least six (6) feet from retainer structures, fencing, other equipment and traffic paths.
  - 1. A fall zone of at least six (6) feet shall surround all climbing equipment on all sides.
  - 2. The requirements in part 1 above shall apply to:
    - (i) All updates to currently licensed playgrounds; and
    - (ii) All child care agencies effective one (1) year from the effective date of these rules.
- (d) The fall zone around swings shall extend twice the distance of the length of the swing chain.
- (e) Climbers, swings, and other heavy equipment that could cause injury if toppled shall be securely anchored to the ground.
- (f) Climbers and swings shall have a protective fall zone surface recognized by the Consumer Product Safety Commission (CPSC) as a shock absorbing, resilient material maintained with a minimum average depth of six (6) inches.
  - 1. This requirement is effective for family and group homes one (1) year after the effective date of these rules.
- (g) Portable equipment shall be securely anchored or rendered immobile if required according to the manufacturer's instructions.
- (h) Manufactured unitary surfaces shall be installed according to the safety specifications of the manufacturer and shall conform to American Society for Testing and Materials (ASTM) F1292 standards.

(4) Naptime and Sleeping Equipment.

- (a) Napping or sleeping equipment shall be available for each child six (6) weeks to five (5) years of age, who is in care for six (6) hours or more.
- (b) A quiet rest area and cots or mats shall be available for all children who want to rest or nap.
- (c) All nap/sleep equipment shall be clean and in good repair, and shall comply with the following requirements:
  - 1. Individual cots or two-inch (2") mats shall be provided for children ages twelve (12) months through five (5) years.
  - 2. Individual beds, playpens, cribs, 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.

(Rule 1240-04-01-.14, continued)

3. Each child under twelve (12) months shall have an individual, free-standing crib/or play yard at least twenty-two inches (22") by thirty-six inches (36") with an open top.
4. Each crib, cot, bed or mat shall be labeled with the child's name or a corresponding code to ensure that each child sleeps on his or her own bedding.
  - (i) If a cot or mat is used by more than one child throughout the day, it shall be properly labeled and sanitized between uses, with a solution appropriate for general cleaning.
5. Cribs and play yards must comply with CPSC requirements.
6. Stackable cribs are prohibited.
7. Nesting beds are prohibited.
8. Adjacent, uniformly spaced crib parts such as slats, spindles, corner posts and rods shall not be more than two and three-eighths inches (2 3/8") apart at any point.
9. Original manufacturers' mattresses and sleep surfaces upholstered with a safe, waterproof material shall be used in each crib and play yard.
10. Mattresses and foam pads shall fit the crib without any gaps or spaces in order to prevent suffocation.
11. A clean sheet shall be used to cover each child's sleeping surface.
12. A blanket or covering shall be available to each child age thirteen (13) months or older.
13. Soiled sheets and blankets shall be promptly replaced.

**Authority:** T.C.A. §§ 4-5-201, et seq.; 71-1-105(12); and 71-3-501, et seq. **Administrative History:** Original rules filed May 1, 2018; effective July 30, 2018.

**1240-04-01-.15 PROGRAM, LANGUAGE, AND LITERACY DEVELOPMENT.**

- (1) Schedule and Routines.
  - (a) Each child shall be provided an opportunity to participate in the program activities.
  - (b) The environment shall support the development of each child's independence and self-help skills.
  - (c) Routines such as snacks, meals, and rest shall occur at approximately the same time each day.
  - (d) There shall be a balance between child's choice and educator-directed activities.
  - (e) There shall be a balance between vigorous activity and quiet play or rest throughout the day.

(Rule 1240-04-01-.15, continued)

- (f) The child care agency shall plan for and provide distinctive arrival and departure routines that will support children in their transitions.
- (g) The educator(s) shall give individual attention to each child throughout the day to include the following activities:
  - 1. For infants/toddlers:
    - (i) The educator shall hold and comfort children that are upset;
    - (ii) The educator shall provide rich social interchanges such as smiling, talking, touching, rocking, singing, and reading;
    - (iii) The educator shall respond to the child's sound;
    - (iv) The educator shall engage in interactive play that includes activities such as movement, dance, musical games, pretend play and finger play;
    - (v) The educator shall be attuned to child's needs and respond;
    - (vi) Children that lack mobility shall have an opportunity to experience their environment by engaging in the following activities daily:
      - (I) Being read to individually or in small groups;
      - (II) Carrying them around in order to explore the classroom;
      - (III) Allowing them to touch a variety of objects; and
      - (IV) Naming and identifying objects.
    - (vii) A variety of culturally diverse books shall be available for children to explore including board, cloth, and soft vinyl books; and
    - (viii) Each infant shall have direct supervised tummy time for infants less than six (6) months of age, every day when they are awake. Engage with infants on the ground each day to optimize adult-infant interactions.
  - 2. For pre-school children:
    - (i) The educator shall engage in pretend play;
    - (ii) The educator shall provide age-appropriate puzzles and blocks;
    - (iii) The educator shall encourage children to talk with each other;
    - (iv) The educator shall provide opportunities for problem-solving activities;
    - (v) The educator shall provide opportunities for writing;
    - (vi) The educator shall provide opportunities for creative activities;
    - (vii) A variety of culturally diverse books shall be available for children to handle including board, cloth, and soft vinyl books;
    - (viii) The educator shall read to individually or in a group daily;



(Rule 1240-04-01-.15, continued)

- (ix) The educator shall provide sorting and identifying activities; and
  - (x) The educator shall provide opportunities for helping with daily classroom and self-care routines.
3. For school-age children:
- (i) The educator shall provide opportunities for group activities and cooperative play;
  - (ii) The educator shall provide activities that foster gaining a sense of competence and developing pride in their accomplishments;
  - (iii) The educator shall provide activities that promote learning to make decisions with others;
  - (iv) The educator shall provide opportunities for learning to share and take turns;
  - (v) The educator shall provide activities that foster coordination of large and small muscles; and
  - (vi) The educator shall provide opportunities for increasing problem-solving skills and for conflict resolution.
- (h) Upon arrival, infants and toddlers shall be removed from car seats immediately.
- (i) Children shall never be left unattended in any restraining device, including swings and high chairs.
- (j) Children shall not be kept in restraining devices such as swings and high chairs, or similar seating devices for longer than fifteen (15) minutes.
- Exception: Children may remain in high chairs while eating.
- (k) The educator shall plan and provide developmentally appropriate opportunities for children to interact with one another.
- (l) The educator shall provide opportunities for children to play alone or do homework, if they choose, in a small, quiet area away from other activities while maintaining supervision requirements in 1240-04-01-.11.
- (m) School-age children shall be encouraged to participate in planning their own schedules and activities.
- (n) Extended Care. Children shall be given the same opportunities for developmentally appropriate activities during extended care hours as during conventional care hours.
- (2) Electronic Media and Devices.
- (a) If electronic media, including but not limited to television, videos/DVDs, or video/computer games, or personal electronic devices are used, they shall be limited as follows:
    - 1. For children less than two (2) years of age, use of electronic media and other

(Rule 1240-04-01-.15, continued)

electronic devices is prohibited.

2. Television and video/DVD viewing shall be limited to one (1) hour per day and for educational or physical activities only.

Exception: Viewing time may exceed one (1) hour per day for special activities such as movie time as long as the total average time per week does not exceed one hour per day.

3. Computer and personal electronic device time is limited to one (1) hour per day.
4. Television and video/DVD viewing is not allowed during meal or snack time.
5. Exceptions
  - (i) Use of electronic media for personal recorded messages from relatives serving abroad in the military is not limited.
  - (ii) Use of electronic media during transition times when there is a single educator such as during preparation of a meal is limited to the duration of the transition.
  - (iii) School-age children may use computers for completion of homework with no time limitations.
  - (iv) All children may participate in activities that utilize computers and electronic devices for educational programs.

- (b) If used, computers which allow internet access by children shall be equipped with monitoring or filtering software, or other type of software protection that limits children's access to inappropriate websites, e-mail, and instant messages.

- (c) Videos, movies, and video/computer games shall be previewed by staff for content.

- (d) Programs, movies, computer games, and music with violent or adult content shall not be permitted in children's presence.

- (e) Programs, movies, computer games, and music shall be developmentally appropriate for the viewers.

- (f) Child care agencies shall inform parents in writing of any scheduled media program viewing.

- (g) Other activity choices shall be available to children who do not wish to participate in media time.

(3) Outdoor Play and Playground Routines.

- (a) Children of all ages, including infants, who are in care more than three (3) daylight hours, shall have a daily opportunity for outdoor play when the temperature range, after adjustment for wind chill and heat index, is between thirty-two degrees and ninety-five degrees Fahrenheit (32°F and 95°F) and it is not raining.

Exception: Child care agencies where outdoor play is prohibitive or dangerous, as determined in the discretion of the Department, may substitute unoccupied indoor space providing fifty (50) square feet per child, subject to approval by the Department.

(Rule 1240-04-01-.15, continued)

- (b) Outdoor play and moderate to vigorous indoor or outdoor physical activity shall be available as follows:
    - 1. Weather permitting, infants shall be taken outside at least once per day.
    - 2. Toddlers and preschoolers shall have sixty (60) to ninety (90) minutes of outdoor play per day.  
  
Exception: Indoor activity can be increased if adverse weather does not permit outdoor play.
    - 3. Toddlers shall have sixty (60) to ninety (90) minutes of moderate to vigorous physical activity per eight (8) hour day.
    - 4. Preschoolers shall have ninety (90) to one hundred and twenty (120) minutes of moderate to vigorous physical activity per eight (8) hour day.
  - (c) Children shall be properly dressed and the length of time outside adjusted according to the weather conditions and the age of the children.
  - (d) Educators shall be alert for any signs of weather-related distress, including dehydration, heat stroke and frostbite.
  - (e) Each child care agency shall develop simple playground rules that use positive language. Staff shall verbally communicate these rules to children prior to outdoor play.
  - (f) Staff shall plan and implement activities that engage all children in developmentally appropriate active, physical play such as skipping, running, and jumping.
- (4) Reclining Rest Period.
- (a) All children in care for six (6) hours or more shall have an opportunity for a reclining rest period.  
  
Exception: Not required during extended field trips.
  - (b) Children who are fatigued shall be offered an opportunity to rest in addition to scheduled rest periods.
  - (c) Each child shall be allowed to form his or her own patterns of sleep.
  - (d) When awake, a child shall not be left in a crib/bed or on a cot or mat for any length of time that is unreasonable for the developmental age of the child.
  - (e) No child shall be forced to lie down or nap or be forced to stay on a cot or on a mat for an extended period of time.
    - 1. Children shall be allowed to participate in a quiet activity if not asleep within in a reasonable time or if they wake up prior to the end of the rest period.
  - (f) Nap Room Environment.
    - 1. Areas where a child sleeps shall have adequate lighting which allows the educator to see each child with a quick glance and respond appropriately to each child's physical and emotional needs.

(Rule 1240-04-01-.15, continued)

2. If music is played in areas where children sleep, the music shall be soothing and soft enough so children can be heard.

(5) Behavior Management and Guidance.

- (a) Behavioral interventions shall be developmentally appropriate, with consideration given to the attention spans and skills of individual children.
- (b) Discipline shall be reasonable, appropriate, and in terms the child can understand.
- (c) Potentially shaming, humiliating, frightening, verbally abusive, injurious discipline methods, and/or techniques that isolate the child are prohibited.
- (d) Discipline shall not be related to food, rest, or toileting. Food shall not be used or withheld as a form of discipline.
- (e) Spanking and all types of corporal punishment are prohibited.
- (f) Mechanical and chemical restraints are prohibited.
- (g) Educators shall focus upon positive behavior and on the individual child's strengths.
- (h) The educator shall address each incident of unacceptable behavior by using methods of positive guidance and discipline to help the child manage his/her behavior.
- (i) Each time a child is engaging in unacceptable behavior the educator shall first redirect the child's attention and substitute a desirable activity prior to disciplining the child.
- (j) Less restrictive, positive behavior management techniques shall be employed before using time-out.
- (k) Time-out may be used to intervene with a child whose behavior is disruptive to the group or hurtful to other children and who does not respond to educator redirection or guidance.
  1. Time-out shall be reasonable and developmentally appropriate and shall not include restraint or seclusion.
  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 no child under thirty-six (36) months shall be placed in time out.
  3. Time-out shall take place in an appropriate location within sight of the educator.
  4. Restraining devices such as high chairs, cribs, or car seats shall not be used for time-out.
  5. Redirection or a similar approach shall be used for children younger than thirty-six (36) months of age.
- (l) Physical Restraint
  1. Staff shall not restrain a child by any means other than holding and then for only as long as it is necessary for the child to regain control.

(Rule 1240-04-01-.15, continued)

- (6) Physical Care - Toileting.
  - (a) Toilet learning shall be done in cooperation with the parents, and communication with parents shall be maintained throughout the process.
  - (b) Toilet learning shall not be started until a child is able to understand, to demonstrate some degree of bodily control, to do what is asked of them, and to communicate their need to use the bathroom.
  - (c) Children shall not be made to sit on the potty or toilet for more than five (5) minutes at a time.
  - (d) Children who are toilet learning shall be cleaned and assisted as needed in a safe, sanitary manner.
- (7) Educational Activities.
  - (a) Activities shall be intentionally planned based upon the developmental age of the child.
  - (b) A daily program shall provide developmentally appropriate opportunities for learning math, literature, science, and health, as well as opportunities for self-expression through a variety of creative and multi-cultural activities such as art, music, movement, and dramatic play.
  - (c) Indoor physical activities, requiring children to use both large and small muscles, shall be provided for children of each age group.
  - (d) For infants and toddlers, a portion of the day shall include floor time to optimize adult-infant interactions, including direct supervised tummy time for infants less than six (6) months of age, for activities that develop physical, social, language and cognitive skills. The floor shall be clean and safe.
  - (e) Educators shall listen to and respond verbally to infants and toddlers throughout the day.
  - (f) The director or primary educator shall observe and document the use of the applicable developmental learning standards.
- (8) Personal Safety Curriculum Components and Guidelines.
  - (a) For ages three (3) years through school age, a personal safety curriculum shall be provided at least once a year.
  - (b) The personal safety curriculum shall include a Department-recognized component for the prevention of child abuse.
  - (c) For children four (4) years of age and older, a child sexual abuse prevention component shall be included.
  - (d) The child care agency may choose terminology and instructional methods for this curriculum that provides clear, effective and appropriate instruction to the children in personal safety, including the prevention of all forms of child abuse.
  - (e) Personal Safety Instruction Requirements for School Age Children.
    1. For school-age children, the curriculum shall include instruction for reporting

(Rule 1240-04-01-.15, continued)

- physical, sexual or verbal abuse.
- 2. School-age children shall not be required to receive personal safety instruction from the child care agency if they annually receive the personal safety instruction required under this paragraph (8) from their school or other educational setting, as approved by the Department.
- 3. Documentation of Personal Safety Instruction in Educational Settings.
  - (i) Written documentation that annual personal safety instruction as required by this paragraph (8) is being provided in a public educational setting to each child enrolled in the child care agency shall be maintained on file with the Department.
  - (ii) For children who do not attend public schools, the child care agency shall maintain documentation that each school-age child enrolled in the child care agency is receiving annual personal safety instruction as required by this subparagraph (e).
- (f) The personal safety curriculum used shall be made available to parents/guardians for review. The child care agency shall use a notification form developed by the Department to document that the parents/guardians have been notified of the curriculum and of their opportunity to review.
- (g) The record of each enrolled child shall include a copy of the signed notification form.
- (h) If requested, child care agency staff shall meet with the parents/guardians to discuss the curriculum.
- (i) Specific requirements for drop-in centers are described in 1240-04-01-.23.
- (9) Extended Care. Child care agencies providing nighttime care shall meet the following additional requirements:
  - (a) Quiet, calming activities shall be provided preceding bedtime, such as reading or listening to a story or soft music. In addition, children shall receive individual attention from educators as needed.
  - (b) Routine personal hygiene shall be encouraged and supervised. A plan shall be made with parents/guardians for maintaining children's routines such as tooth brushing, bath time, and bedtime rituals.
- (10) The parents/guardians shall be consulted in developing a plan to meet the individual needs of a child with special needs.

**Authority:** T.C.A. §§ 4-5-201, et seq.; 71-1-105(5); 71-3-501, et seq.; and 71-3-502(a)(2).  
**Administrative History:** Original rules filed May 1, 2018; effective July 30, 2018.

#### 1240-04-01-.16 PHYSICAL FACILITIES.

- (1) A temporary or an annual license shall not be issued unless all of the following requirements are met:
  - (a) An initial and annual inspection verifying compliance with all applicable state and local fire and environmental requirements which includes:

(Rule 1240-04-01-.16, continued)

1. Inspection by the State Fire Marshal's Division of the Tennessee Department of Commerce and Insurance and/or local fire authority; and
2. The General Environmental Division of the Tennessee Department of Health.
  - (b) The physical facilities (indoor and outdoor) present no apparent hazards; and
  - (c) The physical facilities are otherwise deemed appropriate by the Department for the safe care of children.
- (2) Additional approvals are required:
  - (a) For facilities that have not previously been approved by the State Fire Marshal;
  - (b) Prior to relocation; and
  - (c) Prior to occupying newly renovated space, newly constructed space, new building additions, or previously unlicensed space.
- (3) The child care agency shall maintain documentation of required inspections and the approvals.
- (4) Continuing Compliance.
  - (a) The child care agency shall maintain compliance with all applicable codes as set forth in paragraph (1) above throughout the licensing year.
  - (b) The child care agency shall additionally comply with any updated standards issued by the Department of Health and the State Fire Marshal.
- (5) The child care agency shall not be located in a building used for purposes which would be hazardous to the children.
- (6) The child care agency shall not be located in a building that would prohibit outdoor play.

Exception: A child care agency may request an exception from the Department pursuant to the requirements for "Outdoor Play" found in 1240-04-01-.15(3).
- (7) The child care agency shall ensure that the physical facilities are:
  - (a) Safe;
  - (b) Clean;
  - (c) In good repair; and
  - (d) Free from hazards and clutter.
- (8) Telephones and Other Communication Devices.
  - (a) At least one (1) working telephone shall be available at the child care agency.
  - (b) The telephone number shall be made available to parents.
- (9) Outdoor Play/Care Area.

(Rule 1240-04-01-.16, continued)

- (a) Outdoor play areas shall contain a minimum of fifty (50) square feet of usable play space for each child using the area at any one time.
- (b) The outdoor play area shall be enclosed by a fence or barrier at least four (4) feet in height.

Exception: A child care agency may request that the Department, in its discretion, waive such requirement upon a clear showing that the lack of such fence or barrier poses no apparent or potential risk to children.

- (c) The areas where children play or are cared for shall be properly maintained:
  1. A pre-play/care inspection of the outdoor play area shall be completed by the child care agency prior to each use by children.
  2. The play/care areas shall be free of hazardous conditions, items, or materials.
 

Exception: Potentially hazardous items/materials shall be kept inaccessible to children, except when utilized in an intentional manner as part of a planned, supervised activity.
  3. All such play/care areas shall be free of all animal wastes.

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

- (a) Children shall not be present if an adequate water supply is not available for handwashing and plumbing is not operating properly.
- (b) Water Supply.
  1. The drinking water supply shall be from a source approved by the health authority having jurisdiction.
  2. Drinking water shall be available to all children upon request throughout the day.
- (c) Sewage and Waste Disposal.
  1. Children shall not be present if the sewage is not operating.
  2. Connection to a public sewage disposal system shall be made where possible.
  3. The use of a private sewage disposal system shall have the approval of the local Department of Environment and Conservation Division of Ground Water Protection and it shall be operating satisfactorily at all times.
  4. All garbage shall be removed from the building daily.
  5. All outdoor garbage storage receptacles shall be outside and kept closed.
  6. The area surrounding outdoor garbage receptacles shall be kept clean.
- (d) Building, Grounds and Pools.
  1. The building shall be kept clean and maintained in good repair, without unsafe cracks, leaks, or plumbing that is in disrepair.



(Rule 1240-04-01-.16, continued)

2. All outside doors and windows of the licensed space shall be in good repair.
3. Adequate natural and/or artificial lighting shall be provided throughout the facility.
4. All rooms used by children shall be maintained at a temperature of between sixty-eight degrees to seventy-eight degrees Fahrenheit (68°F to 78°F) by means of heating, cooling or ventilation sources approved for use.
5. Children shall not be present if the indoor temperature cannot be maintained between sixty-eight degrees to seventy-eight degrees Fahrenheit (68°F to 78°F).
6. Stoves, hot radiators, steam and hot water pipes, fans, or other potentially hazardous items shall be inaccessible to children.
7. The use of unvented fuel burning heaters is prohibited.
8. The use of portable heaters is prohibited.
9. The building and grounds shall be kept free of broken glass, trash and debris.
10. Building and grounds shall be kept free of unprotected ponds, wells, cisterns, unused refrigerators and similar hazards.
11. Swimming pools shall be made inaccessible to children through the use of fences and locked gates. Swimming is prohibited in Drop-In Care.
12. Swimming pools and/or wading pools shall not be used without prior approval by the local health department.
13. Grounds, tire swings and containers shall have adequate drainage to prevent standing water that can breed mosquitoes and other insects.
14. Animals shall be:
  - (i) In good health and immunized in accordance with local health authority;
  - (ii) Free of fleas, ticks and other parasites;
  - (iii) Contained in a way that does not allow unsupervised access; and
  - (iv) Kept away from all food storage and preparation or service areas.
  - (v) Cages, fish tanks or other containment devices shall be cleaned regularly.
15. Reptiles and amphibians shall not be kept as pets due to the risk of Salmonella.

**Authority:** T.C.A. §§ 4-5-201, et seq.; 71-1-105(5); 71-3-501, et seq.; and 71-3-502(a)(2).  
**Administrative History:** Original rules filed May 1, 2018; effective July 30, 2018.

#### **1240-04-01-.17 TRANSPORTATION.**

- (1) Transportation shall comply with all state laws and these rules.
- (2) Child care agencies shall not transport children without prior written approval by the Department.

(Rule 1240-04-01-.17, continued)

- (3) Prior to providing child care transportation services of any type, directly or by contract, all new and existing child care agencies shall provide a written statement to the Department that includes:
- (a) Scope of transportation that will be offered;
  - (b) A list and description of the vehicles that will be used, including color, make, and model of vehicle, the license plate number, and provisions for how the child care agency will address emergency situations if the temporary use of alternate vehicles is necessary;
  - (c) Copies of any contracts, agreements or arrangements with any third parties for transportation; and
  - (d) Policies, procedures, and staff training plans to ensure that all transportation staff properly performs all duties related to the following requirements:
    - 1. Child care agencies shall adhere to child-safety restraint requirements set forth in state law;
    - 2. Child care agencies shall account for each child when loading or unloading to ensure that no child is left on a vehicle unattended;
    - 3. Child care agencies shall conduct vehicle emergency evacuation drills quarterly;
    - 4. Use of cell phones and texting devices is prohibited while en route;  
  
Exception: Limited use of cell phones and texting devices by vehicle monitors, who are not driving, to communicate with the child care agency or parents, is allowable, but personal calls are prohibited.
    - 5. Child care agencies shall institute plans for emergency communication during transportation;
    - 6. Carrying, possessing, or storing firearms or other weapons in vehicles is prohibited;
    - 7. Routine transportation shall be limited to forty-five (45) minutes each way;
      - (i) An individualized plan may be approved by the Department allowing the child care agency to exceed this time frame if signed by the parent/guardian and the child care agency.
      - (ii) Field trip travel time is not limited for school-agers.
    - 8. Child care agencies shall have current documentation of medical and liability insurance as required by law;
    - 9. Child care agencies shall use Department-approved vehicle monitoring devices for all vehicles designed to transport six (6) passengers or more;
      - (i) Exceptions:
        - (I) Vehicles in which all the children being transported are five (5) years of age and in kindergarten, or older, unless any of the children are developmentally or physically disabled or non-ambulatory;

(Rule 1240-04-01-.17, continued)

- (II) Vehicles used exclusively for field trips; or
  - (III) Vehicles used by family or group child care homes.
10. Child care agencies shall maintain documentation of daily inspections and necessary repairs or other appropriate action taken before transporting children that includes:
- (i) A visual inspection of the vehicle's tires for wear and adequate pressure;
  - (ii) A visual inspection for working headlights and tail lights, signals, mirrors, wiper blades and dash gauges;
  - (iii) An inspection for properly functioning child and driver safety restraints;
  - (iv) An inspection for properly functioning doors and windows;
  - (v) An inspection for the presence of safety equipment required by these rules or any other provisions of law or regulations, and repair or replacement as necessary based upon visual evidence of the need to do so;
  - (vi) A determination that the vehicle has adequate fuel; and
  - (vii) An inspection for, and cleaning of, debris from the vehicle's interior.
11. Hazardous Temperatures and Extreme Weather;
- (i) Staff shall consider the special needs of individual children when determining if children can be transported safely during extreme temperatures;
  - (ii) Child care agency staff shall monitor the interior temperature of a vehicle when transporting children during extreme weather conditions to ensure child safety.
12. Emergency Transportation;
- (i) The child care agency shall notify the Department immediately or no later than one business day following emergency transportation that requires the use of alternate vehicles.
- (4) The child care agency is fully responsible for compliance with all transportation rules, regardless of whether the agency provides transportation directly, through a third party by contract, or otherwise.
- (5) The child care agency shall be fully responsible for the children during transportation on any vehicle which it operates, for which it contracts, or which is otherwise under its direction or control.
- (6) The child care agency shall maintain responsibility for all children until the children are signed off the vehicle by the parent/guardian or authorized individual.
- (7) Exceptions for field trips.
- (a) Child care agencies that are not licensed to transport on a regular basis may provide transportation for up to four (4) field trips per calendar year.

(Rule 1240-04-01-.17, continued)

- (b) Drivers for these four (4) field trips shall comply with driving regulations that apply to all drivers in Tennessee:
    - 1. Proof of at least a valid Class D driver license;
    - 2. Proof of adequate insurance required by Tennessee law; and
    - 3. Vehicles shall have and use age-appropriate restraints for all adults and children being transported.
  - (c) All rules regarding monitoring of children apply, except for the requirement of the vehicle to have a monitoring device.
  - (d) Vehicle capacity and cargo rules shall be followed during these four (4) field trips.
  - (e) Vehicles utilized for these four (4) field trips, which are designed to carry ten (10) or more passengers but which do not conform to all Federal Motor Vehicle Safety Standards (FMVSS) governing either "large" school buses or "small" school buses are prohibited.
  - (f) Vehicles utilized for these four (4) field trips are not required to have signage required by 1240-04-01-.17(13).
- (8) Supervision of Children during Transportation.
- (a) An adult shall be in the vehicle whenever a child is in the vehicle.
  - (b) An adult shall be seated behind the steering wheel if the motor is running and children are being loaded and/or are on board.
  - (c) Adult Monitor Requirements.
    - 1. An adult monitor, in addition to the driver, is required to be in the vehicle for transportation of four (4) or more children ages six (6) weeks through five (5) years of age, who are not in kindergarten.
    - 2. An adult monitor, in addition to the driver, is required to be in the vehicle on all routes exceeding thirty (30) minutes for children ages six (6) weeks through five (5) years of age who are not in kindergarten, regardless of the total number being transported.
    - 3. An adult monitor, in addition to the driver, is required to be in the vehicle for transportation of twenty (20) or more children ages five (5) years of age and older.
    - 4. An adult monitor, in addition to the driver, is required to be in the vehicle for transportation of four (4) or more non-ambulatory children (permanent or temporary) of any age.
    - 5. An adult monitor shall not be seated in the front passenger seat, but shall be seated in the vehicle in a position that allows each child's activities to be observed and that allows the monitor to respond immediately should there be an emergency.
- (9) Responsibility for Loading, Unloading and Accounting for Each Child.

(Rule 1240-04-01-.17, continued)

(a) Passenger Log:

1. A passenger log provided by, or in a format approved by, the Department shall be used to account for each child during transportation.
2. The first and last name of each child received for transport shall be recorded on the passenger log.
3. Either the driver of the vehicle or the monitor shall be designated by the child care agency as the person responsible for completing the log.
4. Passenger logs shall be maintained for one (1) year.

(b) Loading Procedures:

1. As each child is loaded onto the vehicle the time shall be recorded onto the passenger log.
2. If the child was loaded from home, the parent/guardian or other authorized person will also sign the log indicating that the child was placed on the vehicle.

(c) Unloading Procedures:

1. The individual designated by the child care agency as responsible for the log shall update it immediately upon the child being released from the vehicle. The log shall be updated by the designated staff member by:
  - (i) Recording the time the child was released; and
  - (ii) Initialing next to the time of release.
2. The parent/guardian or other authorized person shall sign the log indicating that the child was released to them.

(d) Confirming that Every Child Is Off of the Vehicle after Each Trip Destination

1. Immediately upon unloading the last child the driver shall:
  - (i) Physically walk through the vehicle;
  - (ii) Inspect all seat surfaces, under all seats and in all compartments or recesses in the vehicle's interior;
  - (iii) Sign the passenger log, with the driver's full name; and
  - (iv) Give the passenger log to the reviewer.
2. Reviewer Responsibilities:
  - (i) The child care agency shall designate a staff person as a reviewer to conduct an additional inspection once the vehicle has been unloaded.
  - (ii) The reviewer shall:
    - (I) Have no other responsibilities at the time of the vehicle inspection;

(Rule 1240-04-01-.17, continued)

- (II) Physically walk through the vehicle;
  - (III) Inspect all seat surfaces, under all seats and in all compartments or recesses in the vehicle's interior;
  - (IV) Reconcile the passenger log with the child care agency's master sign-in and out sheet to verify that each child is off the vehicle and accounted for in the child care agency;
  - (V) Sign the passenger log with the reviewer's full name; and
  - (VI) Immediately notify the director or other individual designated in charge of any discrepancies between the passenger log and the master sign-in and out sheet.
3. Additional Responsibilities for a family or group home with a single educator:
- (i) In circumstances when an additional adult is not available the primary educator shall develop a Department approved alternative system for ensuring that all children are off the vehicle.
- (e) Loading/Unloading Children at School.
1. When children are transported to school, they shall be released in accordance with the following procedures:
    - (i) Children shall be unloaded only at the location designated by the school;
    - (ii) Children shall be unloaded from the child care agency's vehicle only at the time the school is officially open with staff present to receive them;
    - (iii) When possible, the driver/monitor shall watch the children who are unloaded from the vehicle walk through the entrance door designated by the school for the children;
    - (iv) Any additional procedures established by the school shall be followed;
    - (v) Passenger logs shall be completed in accordance with this Rule 1240-04-01-.17.
  2. After all the children have been unloaded at school, the vehicle shall return to the child care agency for the vehicle inspection procedures outlined above.
  3. When children are picked up from school they shall be loaded on the vehicle at the location designated by the school. Passenger logs shall be completed in accordance with this Rule 1240-04-01-.17.
  4. The child care agency shall develop a written policy approved by the Department that contains procedures for the driver to follow in the event that a child scheduled to be picked up does not report to the vehicle.
- (f) Unloading Children at the End of the Day. If a vehicle does not return to the child care agency for the final inspection, the child care agency shall develop procedures approved by the Department, to:

(Rule 1240-04-01-.17, continued)

1. Verify that all children are off the vehicle; and
2. Verify that each child was released to the parent/guardian or authorized individual.

(10) Transportation Staff Qualifications.

- (a) Driver Qualification. Except as provided in part 2, all drivers and monitors employed by the child care agency or provided through contract or otherwise, shall comply with all applicable transportation staff qualifications set forth in this chapter.

Exception: Drivers providing transportation for up to four (4) off-site trips per year are only subject to the qualifications in 1240-04-01-.17(3)(h)2.

- (b) Documentation of all transportation staff qualifications, including a clearance letter from the Department that specifically states that the individual is clear to drive, shall be kept on file at the child care agency and be available to the Department upon request.

- (c) Driver License. At a minimum, the driver shall possess a current, valid Tennessee driver license with an "F" ("For Hire") endorsement or a valid driver license from the state of residence and recognized by the Department of Safety as meeting the minimum qualifications for transportation of children enrolled in the child care agency in the applicable type of vehicle in which the children are being transported.

- (d) Health Examinations for Drivers.

1. The child care agency or the contractor shall maintain documentation, updated annually and signed by the examining licensed medical professional, verifying that the driver is physically, mentally and emotionally capable of safely and appropriately providing transportation for children.

- (e) Drug Screenings for Drivers.

1. Individuals, including contractors, shall pass a drug screening test no later than ten (10) days prior to assuming driving duties.
2. At a minimum, the drug screening shall utilize a five (5) panel test as defined by this chapter.
3. The child care child care agency shall immediately review the results.
4. In the event of a positive drug screen result, the child care agency shall immediately:
  - (i) Notify the Department and prohibit the individual from any duties involving any children; and
  - (ii) Comply with a safety plan that excludes the individual from driving until the individual passes a drug screen test and is otherwise approved, in writing, by the Department, to provide driving duties.
5. The child care agency shall be responsible for verifying that a contractor, or other person or entity providing transportation for compensation to the child care agency, has not employed or assigned any driving duties to any individual who fails to pass a drug screen as required by this subparagraph.

(Rule 1240-04-01-.17, continued)

6. Based upon reasonable suspicion, the Department may require that a driver to have a drug screening test.
  - (i) If the results are positive for illegal drug use, such person shall be subject to a safety plan that excludes the individual from driving duties until the individual passes a drug screen test and is otherwise approved, in writing, by the Department, to provide driving duties.
- (f) Required Transportation Training.
  1. Prior to assuming their duties, and no less often than every six (6) months thereafter, all drivers, monitors and reviewers and persons who may become responsible at any time for transportation shall complete and have documented Department-recognized training in:
    - (i) All Department transportation rules;
    - (ii) The proper daily safety inspection of the vehicle as required by these rules;
    - (iii) The proper use of child safety restraints required by these rules and state law;
    - (iv) The proper loading, unloading, and tracking of children as required by these rules;
    - (v) The proper use of a bloodborne pathogen kit, first aid kit, and other required vehicle emergency equipment as required by these rules;
    - (vi) The proper verification procedures for the evacuation of the vehicle based upon the type of vehicle and the ages of the children served; and
    - (vii) The developmentally appropriate practices applicable to the behavior management and supervision of children during transportation.
  2. Department of Safety Driver/Monitor Training Requirements.
    - (i) The child care agency shall maintain documentation of completion of any training and testing required, provided, or otherwise approved by the Department of Safety.
    - (ii) All drivers and monitors shall obtain annual training offered by the Department of Safety or such other equivalent training as the Department of Safety may determine is appropriate.
- (g) Emergency Aid Training. All drivers and monitors, or staff who may become responsible at any time for transportation, shall hold current certification in:
  1. Infant/Child Cardiopulmonary Resuscitation (CPR) or equivalent from the American Red Cross, the American Heart Association, or other certifying organization as recognized by the Department; and
    - (i) The certification shall be applicable to the ages present on the vehicle:
      - (I) Infant/Child CPR; and/or
      - (II) Adult CPR if children over age twelve (12) are present.



(Rule 1240-04-01-.17, continued)

2. A first aid course from a certifying organization recognized by the Department.
    - (i) The certification shall be applicable to the ages present on the vehicle:
      - (I) Infant/Child first aid; and/or
      - (II) Adult first aid if children over age twelve (12) are present.
    - (h) The child care agency shall ensure that volunteers meet the requirements described in 1240-04-01-.17(3)(h)2., and that any individuals who do not appear to be capable of driving for any reason, including, but not limited to, the use of alcohol or drugs, are not permitted to provide transportation for off-site trips.
- (11) Vehicle Requirements and Inspections.
- (a) The requirements of this paragraph do not apply to vehicles used exclusively for the provision of the allowed four (4) field trips as defined in 1240-04-01-.17(3)(h)1.
  - (b) The following equipment shall be maintained in the vehicle and stored in a manner which is not readily accessible to children:
    1. Fire extinguisher – a pressurized UL approved dry chemical extinguisher with a minimum rating of 2A:10BC, equipped with a pressure gauge which indicates that the extinguisher is sufficiently charged;
    2. Emergency reflective triangles;
    3. First aid kit;
    4. Seat-belt cutter or similar device manufactured and designed to immediately release the vehicle's child restraint system(s) in an emergency;
    5. Bloodborne pathogenic clean-up kit; and
    6. Working flashlight.
  - (c) The driver or monitor assigned to the vehicle shall be familiar with the location and use of all equipment required under subparagraph (b) above.
  - (d) The child care agency shall maintain documentation that:
    1. Maintenance of the vehicle used for the transportation of children has been performed by a certified mechanic in accordance with the maintenance schedule recommended by the vehicle manufacturer; and
    2. The vehicle has received regular inspections.
  - (e) Vehicle Safety Standards.
    1. All vehicles utilized by a child care agency which are designed to carry ten (10) or more passengers shall conform to all Federal Motor Vehicle Safety Standards (FMVSS) governing either "large" school buses or "small" school buses.
  - (f) Department of Safety Inspections.

(Rule 1240-04-01-.17, continued)

1. All child care 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.

Exception: With prior approval by the Department a qualifying replacement vehicle may be used for up to fourteen (14) business days without inspection by the Department of Safety.

- (g) Vehicles that do not pass the inspections required in this paragraph (7) shall not be used until necessary repairs have been made and approved in writing by the Department.

- (h) Capacity Limitations and Cargo Requirements.

1. The total number of adults and children in vehicles used for the transportation of children enrolled in the child care agency shall never exceed the manufacturer's rated passenger capacity.
2. All cargo, luggage or equipment of any type shall be adequately secured at all times in such manner as to protect the passengers in case of accident or emergency maneuvers.

(12) Passenger Safety Restraints.

- (a) The provisions of this paragraph apply to all transportation, including transportation used for field trips.
- (b) All vehicles shall have a rear seat that has been factory-installed or professionally-retrofitted.
  1. The rear seat shall have factory-installed or professionally-retrofitted passenger restraint anchorages and passenger restraints as required by the provisions of this paragraph for the age and size of the passengers being transported and the type of vehicle being used.
  2. Passenger restraint devices which are designed by the manufacturer to be attached to the seat by the end-user, e.g., add-on restraint systems such as infant carriers and harness systems, are not required to be factory-installed.
- (c) All restraints shall be used in accordance with the restraint manufacturer's instructions and shall be secured to the vehicle in accordance with the vehicle manufacturer's and the restraint manufacturer's instructions.
- (d) Passenger air bags shall remain turned off unless an adult or a child fifteen (15) years of age or older is riding in the front passenger seat of the vehicle.
- (e) No child or adult shall ride on the floor of a vehicle.
- (f) No child shall be placed with another child in the same restraint device.
- (g) Children under four (4) years of age shall always be placed in a rear seat of the vehicle. For the purposes of this paragraph, a "rear seat" in any vehicle which is categorized as a "school bus" shall mean any passenger seat that has been factory-installed or professionally-retrofitted and that is located behind the bus driver or behind the bus entrance which is directly to the right of the bus driver.

(Rule 1240-04-01-.17, continued)

- (h) All vehicles shall have qualifying restraints based upon the class of the vehicle in accordance with state and federal law.
  - (i) Child Restraint Requirements under Applicable State or Federal Law. In addition to the requirements set forth in subparagraphs (a) through (h) above, all children shall be restrained in accordance with the requirements for child passenger restraint systems set forth in T.C.A. §§ 55-9-601-55-9-603 and any applicable federal law or regulation.
  - (j) Adult Restraint Requirements. Adults shall be restrained in accordance with applicable state or federal law or regulation.
- (13) Vehicle Signage Requirements.
- (a) On each side of the vehicle the following information shall be displayed in a block font that is not less than one and one-half inches (1 1/2") in height:
    - 1. The name of the child care agency and emergency contact phone number for the child care agency; and
    - 2. The words "Child Care Transportation Complaints" followed by the Department's toll-free Child Care Complaint Hotline phone number.
  - (b) On the rear of the vehicle the following information shall be displayed:
    - 1. The name of the child care agency and the words "Child Care Transportation Complaints" followed by the Department's toll-free Child Care Complaint Hotline phone number in black letters in a block font not less than one inch (1") in height.

Exception: Display of the Complaint number is not required on passenger automobiles used for transportation by the child care agency with a manufacturer's rated seating capacity of six (6) or fewer passengers.
  - (c) Special Requirements for Centralized Transportation. Central transportation operations or any other entity that may own or operate more than one (1) child care agency and which may provide centralized transportation services for its child care agencies, and contractors, or other transportation service providers under the direction or control of the child care agency that may provide centralized transportation services to more than one child care agency, may substitute for the name and phone number of the child care agency the full name and emergency contact number of the central operator, contractor or other transportation service providers under the direction or control of the child care agency. If the name on the vehicle does not clearly designate the child care agency or entity as one providing child care transportation, language such as "Child Care Transportation Vehicle" or "Child Care Transportation Services", or similar language approved by the Department, shall be displayed on the vehicle in a manner that demonstrates, as determined by the Department, that the vehicle is providing child care transportation.
  - (d) Exceptions to Vehicle Identification Requirements:
    - 1. Vehicles used exclusively for the provision of the allowed four (4) field trips as defined in 1240-04-01-.17(3)(h)1.
    - 2. Vehicles used exclusively for the limited provision of emergency transportation, e.g., as a result of the mechanical breakdown of the regular child care vehicle.

(Rule 1240-04-01-.17, continued)

3. The Department may, in its discretion, waive the requirements of this paragraph (9) if circumstances clearly warrant such an exemption.

**Authority:** T.C.A. §§ 4-5-201, et seq.; 55-9-601 through 55-9-603; 71-1-105(5); 71-3-501, et seq.; 71-3-502(a)(2); and 71-3-502(d)(7)(C)(iii); 49 C.F.R. §§ 571, et seq.; and 49 C.F.R. § 571.208. **Administrative History:** Original rules filed May 1, 2018; effective July 30, 2018.

**1240-04-01-.18 EMERGENCY PREPAREDNESS.**

All persons or entities operating a child care agency as defined in this part, excluding drop-in child care centers and those programs and facilities exempt from licensing as provided in § 71-3-503, shall, in consultation with appropriate local authorities and local emergency management, develop a written multi-hazard plan to protect children in the event of emergencies, including, but not limited to, fires, tornados, earthquakes, chemical spills, and floods. Such persons or entities shall also inform parents and guardians of children attending the child care agency of the plan. The child care agency shall comply will all other requirements related to emergency preparedness provided under T.C.A. § 71-3-517.

**Authority:** T.C.A. §§ 4-5-201, et seq.; 71-1-105(5); and 71-3-517. **Administrative History:** Original rules filed May 1, 2018; effective July 30, 2018.

**1240-04-01-.19 RESERVED FOR FUTURE USE.**

**1240-04-01-.20 SPECIFIC REQUIREMENTS FOR FAMILY CHILD CARE HOMES.**

- (1) Required Adult:Child Ratios.
  - (a) Adult:child ratios shall be maintained by the child care agency while the children are on the premises of the child care agency, including outdoors or on the playground.
  - (b) A child care family home shall not exceed licensed capacity.
  - (c) Adult:Child Ratio Requirements for Family Child Care Homes.
    1. No more than seven (7) children may be present at any one time;
      - (i) Exception: Up to twelve (12) children may be present only if any number above seven (7) are related to the primary educator.
      - (ii) Exception: If the family child care home is the occupied residence of the primary educator, children related to the primary educator nine (9) years of age or older will not be counted in determining the maximum number of children permitted if those children are provided a separate space from that occupied by the family child care home.
  - (d) Children related to the primary educator nine (9) years of age or older may interact with children in the licensed family child care home provided that the required level of care and supervision is not compromised.
  - (e) The number of educators in a family child care home required to supervise children enrolled in the home shall comply with one of the options listed on the chart below.

1. Family Child Care Home Ratios and Group Size Chart:

Maximum Number of Children and Ages (including children "related" to the primary	Educators Required
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(Rule 1240-04-01-.20, continued)

educator under nine (9) years of age)	
Seven (7) or fewer children; and No more than four (4) under two (2) years	1
Seven (7) or fewer children; and Five (5) or more under two (2) years	2
More than seven (7) children; and No more than four (4) under two (2) years	2
More than seven (7) children; and Five (5) or more under two (2) years	3

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

1. If there is a sleeping or resting child, there shall be at least one (1) adult educator awake and supervising.
  - (i) The educator shall be able to hear the child at all times, shall be able to see the child with a quick glance, and shall be able to physically respond immediately.
  - (ii) Helper devices such as mirrors, electronic sound monitors, etc. may be used as appropriate to meet these requirements.
2. Adult:child ratios shall be maintained.

(2) Primary Educator Qualifications for Family Child Care Homes.

- (a) Primary educators that received an initial license on or after the effective date of these rules shall be required to have earned a high school diploma or equivalent educational credential as recognized by state law.
- (b) The primary educators shall complete a Department-sponsored child-care informational intake meeting and an orientation session that is at least four (4) hours in length no more than six (6) months prior to a license being issued.
- (c) The primary educators shall complete at least three (3) hours of training on the applicable developmental learning standards within the first three (3) months.
- (d) The primary educator in a family child care home shall have, in addition to other required training in specific subject areas, evidence of receiving annual training as follows in Department-recognized workshops/training, or one-on-one consulting sessions:
  1. Effective July 1, 2018, at least eighteen (18) clock hours.
    - (i) At least six (6) hours must be health and safety such as but not limited to:
      - (I) Prevention and control of infectious diseases (including immunization);
      - (II) Prevention of sudden infant death syndrome and use of safe sleeping practices;
      - (III) Administration of medication, consistent with standards for parental consent;

(Rule 1240-04-01-.20, continued)

- (IV) Prevention of and response to emergencies due to food and allergic reactions;
  - (V) Building and physical premises safety, including identification of and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic,
  - (VI) Prevention of shaken baby syndrome and abusive head trauma;
  - (VII) Emergency preparedness and response planning for emergencies resulting from an actual disaster, or a man-caused event (such as violence at a child care facility), within the meaning of those terms under section 602 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195a);
  - (VIII) Handling and storage of hazardous materials and the appropriate disposal of biological contaminants;
  - (IX) Precautions in transporting children (if applicable);
  - (X) First aid and cardiopulmonary resuscitation;
  - (XI) Poison prevention;
  - (XII) Nutrition and physical activity;
  - (XIII) Child development; or
  - (XIV) Caring for and inclusion of children with special needs.
- (ii) At least three (3) hours of training on pre-literacy and literacy skills and education implementation.
  - (iii) After the first year, this training shall be in addition to other required training in specific subject areas such as Child and Adult Care Food Program (CACFP), personal safety, etc.
  - (iv) Training in first aid and CPR may be counted as necessary to maintain current certification as required by 1240-04-01-.12.
- 2. The primary educator shall have evidence of completing training in Adverse Childhood Experiences every five (5) years.
- (e) The primary educator shall not be employed or engaged in any other full-time activities during hours of operation, except in an official capacity in a program sponsored or recognized by the Department.
  - (f) A qualified educator shall be on-site any time that the primary educator is not on-site during child care operating hours.
- (3) Educator Qualifications for Family Child Care Homes.
    - (a) Educators/Assistants sixteen (16) through seventeen (17) years of age may assist an educator and be counted as an adult in the adult:child ratio if the individual is:
      - 1. Never left alone with children; and

(Rule 1240-04-01-.20, continued)

2. Always under the direct supervision of a primary educator.
- (b) All educators shall complete at least three (3) hours of training on the applicable developmental learning standards within the first three (3) months.
- (c) All educators in a family child care home shall have, in addition to other required training in specific subject areas, evidence of receiving annual training as follows in Department-recognized workshops/training, or one-on-one consulting sessions:
  1. Effective July 1, 2018 at least twelve (12) clock hours.
    - (i) At least six (6) hours must be health and safety such as but not limited to:
      - (I) Prevention and control of infectious diseases (including immunization);
      - (II) Prevention of sudden infant death syndrome and use of safe sleeping practices;
      - (III) Administration of medication, consistent with standards for parental consent;
      - (IV) Prevention of and response to emergencies due to food and allergic reactions;
      - (V) Building and physical premises safety, including identification of and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic;
      - (VI) Prevention of shaken baby syndrome and abusive head trauma;
      - (VII) Emergency preparedness and response planning for emergencies resulting from an actual disaster, or a man-caused event (such as violence at a child care facility), within the meaning of those terms under section 602 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195a);
      - (VIII) Handling and storage of hazardous materials and the appropriate disposal of biological contaminants;
      - (IX) Precautions in transporting children (if applicable);
      - (X) First aid and cardiopulmonary resuscitation.
      - (XI) Poison prevention;
      - (XII) Nutrition and physical activity;
      - (XIII) Child development; or
      - (XIV) Caring for and inclusion of children with special needs.
    - (ii) At least three (3) hours of training on pre-literacy and literacy skills and education implementation.

(Rule 1240-04-01-.20, continued)

- (iii) After the first year, this training shall be in addition to other required training in specific subject areas such as Child and Adult Care Food Program (CACFP), personal safety, etc.
    - (iv) Training in first aid and CPR may be counted as necessary to maintain current certification as required by 1240-04-01-.12.
  - 2. Educators shall have evidence of completing training in Adverse Childhood Experiences every five (5) years.
- (4) All staff responsible for food service, preparation, or supervision shall be trained on the mealtime supervision plan as described in 1240-04-01-.11(2)(c).
- (5) Licensed Capacity of Physical Space.
  - (a) The maximum number of children who may be present inside a physical space shall be determined in accordance with the minimum square footage requirements.
  - (b) The Department may, in its discretion, restrict the child care agency's licensed capacity below the maximum set forth in these rules.
  - (c) If the number of children exceeds seven (7) at one time or the care is provided in one room of the home, the area shall provide thirty (30) square feet per child of usable play space.
  - (d) For the purposes of calculating square footage requirements, the following space or area will not be counted:
    - 1. Restrooms;
    - 2. Hallways;
    - 3. Kitchen;
    - 4. Office space; and
    - 5. Space used by cribs or large pieces of furniture.
  - (e) Adequate Plumbing Facilities. The child care agency shall have the minimum number of functional toilets and hand-washing stations in accordance with the:
    - 1. Requirements of any applicable local ordinances and regulations;
    - 2. Proximity of the plumbing to the classroom(s); and
    - 3. Ages of the children served.

**Authority:** T.C.A. §§ 4-5-201, et seq.; 71-1-105(5); 71-3-501, et seq.; and 71-3-502(a)(2).  
**Administrative History:** Original rules filed May 1, 2018; effective July 30, 2018.

**1240-04-01-.21 SPECIFIC REQUIREMENTS FOR GROUP CHILD CARE HOMES.**

- (1) Required Adult:Child Ratios.
  - (a) Adult:child ratios shall be maintained at all times while the children are on the premises, including outdoors or on the playground.



(Rule 1240-04-01-.21, continued)

1. All children, including related children younger than age nine (9), shall be counted in the ratio and group size and shall have required records on file before care is provided.
  2. The maximum number of children present in a group child care home shall not exceed twelve (12).
    - (i) Exception:
      - (I) If the group child care home is in the occupied residence of the primary educator, children nine (9) years of age or older and related to the primary educator are not counted if those children are provided a separate space from that occupied by the group child care home; and
      - (II) Up to three (3) additional school-age children, related or unrelated to the primary educator, may be in care before and after school, on school holidays, on school snow days and during summer vacation.
  3. Children related to the primary educator who are nine (9) years of age or older may interact with the children in the licensed group child care home provided that the required level of care and supervision is not compromised.
  4. Adult:child ratios and group sizes in group child care homes may exceed requirements by up to ten percent (10%), rounded to the nearest whole number, no more frequently than three (3) days per week.
    - (i) At no time shall the licensed capacity be exceeded.
    - (ii) Infant and toddler groups may never exceed the required ratios and group sizes.
    - (iii) The Department may terminate this variance in individual cases under provisions for issuance of a restricted license pursuant to T.C.A. § 71-3-502.
    - (iv) Group Child Care Home child care agencies who use the variance may, at the Department’s discretion, be required to obtain fire approval prior to enrolling additional children.
- (b) The number of educators required shall comply with one of the options listed on the Chart below.

Group Home Ratio and Group Size Chart:

Number of Children	Ages of Children	Educators Required
Twelve (12) – Fifteen (15) (any number over twelve (12) must be school-age)	No more than twelve (12) children three (3) years of age or older	1
Twelve (12) – Fifteen (15) (any number over twelve (12) must be school-age)	Up to nine (9) children under three (3) years of age; and No more than four (4) present under two (2) years of age	2

(Rule 1240-04-01-.21, continued)

Twelve (12) – Fifteen (15) (any number over twelve (12) must be school-age)	Ten (10) or more under three (3) years of age	3
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- (c) If school-age children are enrolled, a school-age program shall be provided.
  - (d) If four (4) or more infants/toddlers attend a group child care home, they shall have a separate and distinct space and their own educator.
    - 1. The space shall provide thirty (30) square feet per child.
    - 2. Barriers shall be sufficient to provide separation without isolating children.
  - (e) If attendance drops to seven (7) or fewer children, family child care home ratios apply.
  - (f) Naptime Supervision and Requirements for Naptime and Nighttime Care.
    - 1. If there is a sleeping or resting child, there shall be at least one (1) adult educator awake and supervising the child.
      - (i) The educator shall be able to hear the child at all times, shall be able to see the child with a quick glance, and shall be able to physically respond immediately.
      - (ii) Helper devices such as mirrors, electronic sound monitors, etc. may be used as appropriate to meet these requirements.
    - 2. Adult:child ratios shall be maintained.
- (2) Primary Educator Qualifications for Group Child Care Homes.
- (a) Primary educators shall have a high school diploma or equivalent educational credential as recognized by state law.
  - (b) The primary educator shall complete a Department-sponsored child-care informational intake meeting and an orientation session that is at least four (4) hours in length no later than six (6) months prior to a license being issued.
  - (c) The primary educator shall complete at least three (3) hours of training on the applicable developmental learning standards within the first three (3) months.
  - (d) The primary educator in a group child care home shall have, in addition to other required training in specific subject areas, evidence of receiving annual training as follows in Department-recognized workshops/training, or one-on-one consulting sessions:
    - 1. Effective July 1, 2018, at least eighteen (18) clock hours.
      - (i) At least six (6) hours must be health and safety such as but not limited to:
        - (I) Prevention and control of infectious diseases (including immunization);
        - (II) Prevention of sudden infant death syndrome and use of safe sleeping practices;

(Rule 1240-04-01-.21, continued)

- (III) Administration of medication, consistent with standards for parental consent;
  - (IV) Prevention of and response to emergencies due to food and allergic reactions;
  - (V) Building and physical premises safety, including identification of and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic;
  - (VI) Prevention of shaken baby syndrome and abusive head trauma;
  - (VII) Emergency preparedness and response planning for emergencies resulting from an actual disaster, or a man-caused event (such as violence at a child care facility), within the meaning of those terms under section 602 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195a);
  - (VIII) Handling and storage of hazardous materials and the appropriate disposal of biological contaminants;
  - (IX) Precautions in transporting children (if applicable);
  - (X) First aid and cardiopulmonary resuscitation (CPR);
  - (XI) Poison prevention;
  - (XII) Nutrition and physical activity;
  - (XIII) Child development; or
  - (XIV) Caring for and inclusion of children with special needs.
- (ii) At least three (3) hours of training on pre-literacy and literacy skills and education implementation.
  - (iii) After the first year, this training shall be in addition to other required training in specific subject areas such as Child and Adult Care Food Program (CACFP), personal safety, etc.
  - (iv) Training in first aid and CPR may be counted as necessary to maintain current certification as required by 1240-04-01-.12.
2. The primary educator shall have evidence of completing training in Adverse Childhood Experiences every five (5) years.
- (d) Owners who are employed elsewhere shall ensure that a primary educator is always on-site.
  - (e) The primary educator shall not be employed at any other job during the hours of operation unless the Department has approved the primary educator's employment in an official capacity in a program sponsored or recognized by the Department.
  - (f) An educator shall be on-site any time that the primary educator is not on-site during child care operating hours.

(Rule 1240-04-01-.21, continued)

- (3) Educator Qualifications for Group Child Care Homes.
- (a) Educators/Assistants sixteen (16) through seventeen (17) years of age may assist a primary educator and be counted in the ratio if the individual is:
1. Never left alone with children; and
  2. Always under the direct supervision of a primary educator.
- (b) An educator in a group child care home shall have, in addition to other required training in specific subject areas, evidence of receiving annual training as follows in Department-recognized workshops/training, or one-on-one consulting sessions:
1. Effective July 1, 2018, at least twelve (12) clock hours.
    - (i) At least six (6) hours must be health and safety such as but not limited to:
      - (I) Prevention and control of infectious diseases (including immunization);
      - (II) Prevention of sudden infant death syndrome and use of safe sleeping practices;
      - (III) Administration of medication, consistent with standards for parental consent;
      - (IV) Prevention of and response to emergencies due to food and allergic reactions;
      - (V) Building and physical premises safety, including identification of and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic;
      - (VI) Prevention of shaken baby syndrome and abusive head trauma;
      - (VII) Emergency preparedness and response planning for emergencies resulting from an actual disaster, or a man-caused event (such as violence at a child care facility), within the meaning of those terms under section 602 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195a);
      - (VIII) Handling and storage of hazardous materials and the appropriate disposal of biological contaminants;
      - (IX) Precautions in transporting children (if applicable);
      - (X) First aid and cardiopulmonary resuscitation;
      - (XI) Poison prevention;
      - (XII) Nutrition and physical activity;
      - (XIII) Child development; or
      - (XIV) Caring for and inclusion of children with special needs.

(Rule 1240-04-01-.21, continued)

- (ii) At least three (3) hours of training on the applicable developmental learning standards within the first three months.
    - (iii) At least three (3) hours of training on pre-literacy and literacy skills and education implementation.
  - (c) After the first year, this training shall be in addition to other required training in specific subject areas such as Child and Adult Care Food Program (CACFP), personal safety, etc.
  - (d) Training in first aid and CPR may be counted as necessary to maintain current certification as required by 1240-04-01-.12.
  - (e) Educators shall have evidence of completing training in Adverse Childhood Experiences every five (5) years.
- (4) All staff responsible for food service, preparation, or supervision shall be trained on the mealtime supervision plan as described in 1240-04-01-.11(2)(c).
- (5) Licensed Capacity of Physical Space.
- (a) A minimum of thirty (30) square feet of usable indoor play space shall be provided for each child.
  - (b) The maximum number of children who may be present inside a physical space shall be determined in accordance with the minimum square footage requirements.
  - (c) The Department may restrict the child care agency's licensed capacity below the maximum.
  - (d) The following shall not be counted toward to the square footage requirements:
    1. Restrooms;
    2. Hallways;
    3. Kitchen;
    4. Office space; and
    5. Any space used by cribs or large pieces of furniture.
  - (e) Adequate Plumbing Facilities. The child care agency shall have the minimum number of functional toilets and hand-washing stations in accordance with the:
    1. Requirements of any applicable local ordinances and regulations;
    2. Proximity of the plumbing to the classroom(s); and
    3. Ages of the children served.

**Authority:** T.C.A. §§ 4-5-201, et seq.; 71-1-105(5); 71-3-501, et seq.; and 71-3-502(a)(2).  
**Administrative History:** Original rules filed May 1, 2018; effective July 30, 2018.

**1240-04-01-.22 SPECIFIC REQUIREMENTS FOR CHILD CARE CENTERS.**

(1) Required Adult:Child Ratios.

(a) Adult:child ratios in this paragraph shall be maintained by the child care agency while the children are on the premises of the child care agency, including outdoors or on the playground.

(b) Adult:Child Ratio Requirements for Child Care Centers.

1. Adult:child ratios and group sizes in child care centers may exceed requirements set by the rule of the Department of Human Services by up to ten percent (10%), rounded to the nearest whole number, no more frequently than three (3) days per week.

(i) At no time shall the licensed capacity be exceeded.

(ii) Infant and toddler groups may never exceed the required ratios and group sizes.

(iii) The Department may terminate this variance in individual cases under provisions for issuance of a restricted license pursuant to T.C.A. § 71-3-502.

(iv) Child care centers that use the variance may, at the Department's discretion, be required to obtain fire approval prior to enrolling additional children.

2. When more than twelve (12) children are present on the premises, a second adult shall be physically available on the premises.

(c) Child Care Ratio and Group Size Charts.

1. Chart 1 – Age Grouping.

Age of Children	Adult:Child Ratio						Maximum Group Size
Six (6) weeks – Fifteen (15) months	1:4						8
Twelve (12) – Thirty (30) months		1:6					12
Twenty-four (24) – Thirty-five (35) months			1:7				14
Three (3) years					1:9		18
Four (4) years						1:13	20
Five (5) years						1:16	20
School-age (Kindergarten and above)							1:20 No Max

2. Chart 2 – Age Grouping.

Age of Children	Adult:Child Ratio	Maximum Group Size

(Rule 1240-04-01-.22, continued)

Six (6) weeks – Thirty (30) months	1:5							10
Two (2) – Four (4) years		1:8						16
Two and one-half (2½) – Three (3) years (Thirty (30) – Forty-seven (47) months)			1:9					18
Two and one-half (2½) – Five (5) years				1:11				20
Two and one-half (2½) – Twelve (12) years	1:10							10
Three (3) – Five (5) years					1:13			22
Four (4) – Five (5) years						1:16		24
Five (5) – Twelve (12) years							1:20	No Max

3. Chart 3 – Allowable Combined Grouping and Adult:Child Ratio Chart for first/last hour and one-half (½) of each day only:

Age of Children	Adult:Child Ratio		Maximum Group Size	
Two and one-half (2½) – Five (5) years	1:10		10	
Three (3) – Twelve (12) years		1:15	15	
Four (4) – Twelve (12) years			1:20	20

(d) Assignment of Children to Groups.

1. Each child shall be on roll in a defined group and assigned to that group with a specific educator(s).
2. Maximum group size requirements, as established in subparagraph (c) above, shall be maintained at all times with the exception of meals served in common dining rooms, napping in common nap rooms, or outdoors on the playground.
3. Infants shall have a separate space and shall never be grouped with children older than thirty (30) months of age.
4. Extended Care. Children age thirteen (13) months and older may be grouped together while sleeping in overnight care.
5. Children shall be kept with the same group throughout the day.
6. Children shall not be promoted to a new group until required based upon the age and developmental needs of the child.
7. 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 sixty (60) minutes duration per day as long as adult:child ratios are met.
8. Pre-school and school-age groups may be combined for up to one and one-half

(Rule 1240-04-01-.22, continued)

(1½) hours at the beginning of the day and for up to one and one-half (1½) hours at the end of the day as set forth in Adult:Child Ratio Chart 3 in 1240-04-01-.22(1)(c)3.

9. Groups of children may never be mixed as part of the regular routine or operation.

Exception: Pre-school and school-age groups may be mixed based upon emergencies, holidays or low attendance days.

10. Child care agencies shall define grouping for each classroom.

(e) Each group shall have a designated classroom with enough space for the entire group.

(f) Child care centers shall provide written lesson plans for each group of children.

(g) When more than twelve (12) children in first grade and above are present, a separate educator, a separate group, a separate space, and a separate program shall be provided for them.

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

1. At naptime and during nighttime care, after the children have settled down, adult:child ratios for ages thirty-one (31) months and above may be reduced by fifty percent (50%) in each classroom as long as the children are adequately protected and all of the following requirements are met:

- (i) At least one (1) adult educator shall be awake and supervising the children in each nap room/sleeping area;
- (ii) There are enough adults on the premises so that the adult:child ratio required for children when they are awake shall be met immediately.
- (iii) Ratios for children six (6) weeks through thirty (30) months shall be maintained.

2. Maximum group size limits do not apply.

(2) Multi-Site Personnel Qualifications for Child Care Centers.

(a) Multi-Site Coordinator. The multi-site coordinator shall meet the same requirements listed below for a single-site child care center director.

(b) Qualifications of On-Site Director under a Multi-Site Coordinator.

1. The on-site director under a multi-site coordinator shall have earned at least eighteen (18) credit hours of college course work, or shall have earned a Department-recognized credential and one (1) year of full-time documented work experience with children in a group setting; or
2. The on-site director under a multi-site coordinator shall have a high school diploma or equivalent educational credential recognized by state law, in addition to at least two (2) years of full-time documented work experience with children in a group setting.

(3) Qualifications for Director of a Single-Site Child Care Center.



(Rule 1240-04-01-.22, continued)

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

If Minimum Education Is:	The Minimum Group Care Experience Required Is:
Graduation from an accredited four-year (4-year) college or a registered nurse (RN) with less than a four (4) year degree.	One (1) year of full-time (paid or unpaid) experience with children in a group setting.
Thirty-six (36) credit hours of college coursework at least thirty (30) hours of which shall be in business or management, child or youth development, early childhood education or closely related field or a Tennessee Early Childhood Administrator Credential.	Two (2) years of full-time (paid or unpaid) experience with children in a group setting.
High school diploma (or equivalent as recognized by state law), and Tennessee Early Childhood Training Alliance (TECTA) certificate for completing thirty (30) clock hours of the Administrator Orientation training or the equivalent as recognized by the Department.	Four (4) years of full-time (paid or unpaid) experience with children in a group setting.
Continuously employed as an on-site child care director or a child care agency owner since July 1, 2000.	Not Applicable.

- (b) Training Requirements:

1. No more than six (6) months prior to issuance of the first license, owners (or a designee thereof who is not the on-site director) and directors shall complete the Department-sponsored child care informational intake meeting.
2. Within the first three (3) months of employment the director shall complete a Department-provided training that includes but is not limited to applicable licensing rules.
3. The director shall complete pre-employment training, recognized by the Department that includes but is not limited to, training in interviewing and evaluating educators for service in a child care agency and in working effectively with parents.
4. During the first year of employment a new director shall:
  - (i) Complete an orientation course sponsored by the Department within three (3) months of assuming the position.
  - (ii) Satisfy one of the following:
    - (I) Complete thirty (30) hours of administrator training through the TECTA program; or
    - (II) Earn credit during the year in one (1) academic course in administration, child development, early childhood education, health/safety or other related field from an accredited academic institution.
  - (iii) Complete at least six (6) hours of health and safety training such as but not limited to:

(Rule 1240-04-01-.22, continued)

- (I) Prevention and control of infectious diseases (including immunization);
  - (II) Prevention of sudden infant death syndrome and use of safe sleeping practices;
  - (III) Administration of medication, consistent with standards for parental consent;
  - (IV) Prevention of and response to emergencies due to food and allergic reactions;
  - (V) Building and physical premises safety, including identification of and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic;
  - (VI) Prevention of shaken baby syndrome and abusive head trauma;
  - (VII) Emergency preparedness and response planning for emergencies resulting from an actual disaster, or a man-caused event (such as violence at a child care facility), within the meaning of those terms under section 602 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195a);
  - (VIII) Handling and storage of hazardous materials and the appropriate disposal of biological contaminants;
  - (IX) Precautions in transporting children (if applicable);
  - (X) First aid and cardiopulmonary resuscitation (CPR);
  - (XI) Poison prevention;
  - (XII) Nutrition and physical activity;
  - (XIII) Child development; or
  - (XIV) Caring for and inclusion of children with special needs.
5. After the first year of employment, the director shall:
- (i) Earn credit during the year in one (1) academic course in administration, child development, early childhood education, health/safety or other related field from an accredited academic institution; or
  - (ii) The director in a child care center shall have, in addition to other required training in specific subject areas, evidence of receiving annual training as follows in Department-recognized workshops/training, or one-on-one consulting sessions:
    - (I) Effective July 1, 2018, at least twenty-four (24) clock hours to include the training topics specified below.
    - (II) At least three (3) hours of training on pre-literacy and literacy skills and education implementation.

(Rule 1240-04-01-.22, continued)

- (III) At least six (6) hours must be health and safety such as but not limited to:
  - I. Prevention and control of infectious diseases (including immunization);
  - II. Prevention of sudden infant death syndrome and use of safe sleeping practices;
  - III. Administration of medication, consistent with standards for parental consent;
  - IV. Prevention of and response to emergencies due to food and allergic reactions;
  - V. Building and physical premises safety, including identification of and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic;
  - VI. Prevention of shaken baby syndrome and abusive head trauma;
  - VII. Emergency preparedness and response planning for emergencies resulting from an actual disaster, or a man-caused event (such as violence at a child care facility), within the meaning of those terms under section 602 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195a);
  - VIII. Handling and storage of hazardous materials and the appropriate disposal of biological contaminants;
  - IX. Precautions in transporting children (if applicable);
  - X. First aid and cardiopulmonary resuscitation;
  - XI. Poison prevention;
  - XII. Nutrition and physical activity;
  - XIII. Child development; or
  - XIV. Caring for and inclusion of children with special needs.
- (IV) At least three (3) hours of training on the applicable developmental learning standards within the first three (3) months.
- (V) Four (4) hours of the required twenty-four (24) hours may be earned by conducting training.
- (VI) This training shall be in addition to other required training in specific subject areas such as Child and Adult Care Food Program (CACFP), personal safety, etc.

(Rule 1240-04-01-.22, continued)

- (VII) Training in first aid and CPR may be counted as necessary to maintain current certification as required by 1240-04-01-.12.
- (iii) The director shall have evidence of completing training in Adverse Childhood Experiences every five (5) years.
- (c) The director of a single-site child care center shall be at least twenty-one (21) years of age.
- (4) Assistant Director Qualifications for Child Care Centers.
  - (a) An assistant director shall have:
    - 1. Earned a bachelor's degree, an associate's degree in child development or early childhood education, a CDA credential, or a Child Care Professional credential; or
    - 2. Earned credit during the year in one (1) academic course in administration, child development, early childhood education, health/safety or other related field from an accredited academic institution and one (1) year of full-time (paid or unpaid) documented work experience with children in a group setting; or
    - 3. The on-site assistant director shall have earned a high school diploma or equivalent educational credential recognized by the Department and two (2) years of full-time (paid or unpaid) documented work experience with children in a group setting.
  - (b) Initial Training.
    - 1. During the first three (3) months of employment a new assistant director shall:
      - (i) Complete an orientation course sponsored by the Department within three (3) months of assuming the position; provided, however, that this course shall not be required if the assistant director has received specific training meeting the requirements of this part within three (3) years prior to assuming the assistant director position.
    - 2. During the first year of employment a new assistant director shall:
      - (i) Satisfy one of the following:
        - (I) Earn credit for the year in one (1) academic course in administration, child development, early childhood education, health/safety or other related field from an accredited academic institution; or
        - (II) Have evidence of receiving at least eighteen (18) clock hours of Department-recognized, competency-based training, six (6) hours of which shall be in administration, management or supervisory training.
      - (ii) Complete at least six (6) hours of health and safety training such as but not limited to:
        - (I) Prevention and control of infectious diseases (including immunization);

(Rule 1240-04-01-.22, continued)

- (II) Prevention of sudden infant death syndrome and use of safe sleeping practices;
  - (III) Administration of medication, consistent with standards for parental consent;
  - (IV) Prevention of and response to emergencies due to food and allergic reactions;
  - (V) Building and physical premises safety, including identification of and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic;
  - (VI) Prevention of shaken baby syndrome and abusive head trauma;
  - (VII) Emergency preparedness and response planning for emergencies resulting from an actual disaster, or a man-caused event (such as violence at a child care facility), within the meaning of those terms under section 602 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195a);
  - (VIII) Handling and storage of hazardous materials and the appropriate disposal of biological contaminants;
  - (IX) Precautions in transporting children (if applicable);
  - (X) First aid and cardiopulmonary resuscitation;
  - (XI) Poison prevention;
  - (XII) Nutrition and physical activity;
  - (XIII) Child development; or
  - (XIV) Caring for and inclusion of children with special needs.
3. After the first year of employment, the assistant director shall:
- (i) Earn credit during the year in one (1) academic course in administration, child development, early childhood education, health/safety or other related field from an accredited academic institution; or
  - (ii) In addition to other required training in specific subject areas, evidence of receiving annual training as follows in Department-recognized workshops/training, or one-on-one consulting sessions.
    - (I) Effective July 1, 2018, at least eighteen (18) clock hours to include the training topics specified below.
    - (II) Four (4) hours of training shall be in administration, management or supervisory training.
    - (III) At least three (3) hours of training on the applicable developmental learning standards within the first three months.
    - (IV) At least three (3) hours of training on pre-literacy and literacy skills

(Rule 1240-04-01-.22, continued)

and education implementation.

- (V) At least six (6) hours must be health and safety training such as but not limited to:
    - I. Prevention and control of infectious diseases (including immunization);
    - II. Prevention of sudden infant death syndrome and use of safe sleeping practices;
    - III. Administration of medication, consistent with standards for parental consent;
    - IV. Prevention of and response to emergencies due to food and allergic reactions;
    - V. Building and physical premises safety, including identification of and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic;
    - VI. Prevention of shaken baby syndrome and abusive head trauma;
    - VII. Emergency preparedness and response planning for emergencies resulting from an actual disaster, or a man-caused event (such as violence at a child care facility), within the meaning of those terms under section 602 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195a);
    - VIII. Handling and storage of hazardous materials and the appropriate disposal of biological contaminants;
    - IX. Precautions in transporting children (if applicable);
    - X. First aid and cardiopulmonary resuscitation;
    - XI. Poison prevention;
    - XII. Nutrition and physical activity;
    - XIII. Child development; or
    - XIV. Caring for and inclusion of children with special needs.
  - (VI) Two (2) hours of the required eighteen (18) hours may be earned by conducting training.
  - (VII) This training shall be in addition to other required training in specific subject areas such as Child and Adult Care Food Program (CACFP), personal safety training, etc.
4. Training in first aid and CPR may be counted as necessary to maintain current certification as required by 1240-04-01-.12.

(Rule 1240-04-01-.22, continued)

5. The assistant director shall have evidence of completing training in Adverse Childhood Experiences every five (5) years.
  - (c) The assistant director of a child care center shall be at least eighteen (18) years of age.
- (5) Educator Qualifications for Child Care Centers.
  - (a) Sixteen (16) and seventeen (17) year-old students currently enrolled in a Department-recognized career and technical child care educational program may be used as floaters or assistant teachers provided, however, that they shall always be under the direct supervision of an adult educator and shall not be left alone with a group of children.
  - (b) Each group shall have at least one (1) educator present who has a high school diploma or equivalent educational credential as recognized by the Department.
  - (c) Training for Educators during the First Year of Employment.
    1. New educators shall complete sixteen (16) clock hours of Department-recognized, competency-based training within the first year of employment, six (6) hours of which shall be completed within the first six (6) months of employment.
      - (i) At least six (6) hours must be health and safety such as but not limited to:
        - (I) Prevention and control of infectious diseases (including immunization);
        - (II) Prevention of sudden infant death syndrome and use of safe sleeping practices;
        - (III) Administration of medication, consistent with standards for parental consent;
        - (IV) Prevention of and response to emergencies due to food and allergic reactions;
        - (V) Building and physical premises safety, including identification of and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic;
        - (VI) Prevention of shaken baby syndrome and abusive head trauma;
        - (VII) Emergency preparedness and response planning for emergencies resulting from an actual disaster, or a man-caused event (such as violence at a child care facility), within the meaning of those terms under section 602 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195a);
        - (VIII) Handling and storage of hazardous materials and the appropriate disposal of biological contaminants;
        - (IX) Precautions in transporting children (if applicable);
        - (X) First aid and cardiopulmonary resuscitation;

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- (XI) Poison prevention;
  - (XII) Nutrition and physical activity;
  - (XIII) Child development; or
  - (XIV) Caring for and inclusion of children with special needs.
2. Failure of the educator to complete the required six (6) clock hours of training within the first six (6) months of employment shall require that the employee be removed from educator duties until completion of the training.
3. Exception: Educators who hold a Bachelor's or Associate's degree in child development or a related field, a CDA credential, or Certified Child Care Professional (CCP) credential, as recognized by the Department, shall instead comply with the training requirements for experienced educators required in subparagraph (d) below.
- (d) Training for Educators after the First Year of Employment.
1. Educators in a child care center shall have, in addition to other required training in specific subject areas, evidence of receiving annual training as follows in Department-recognized workshops/training or one-on-one consulting sessions:
- (i) Effective July 1, 2018, at least twelve (12) clock hours to include the training topics specified below.
  - (ii) At least three (3) hours of training on the applicable developmental learning standards within the first three months.
  - (iii) At least three (3) hours of training on pre-literacy and literacy skills and education implementation.
  - (iv) A maximum of two (2) clock hours training credit annually may be credited for Child and Adult Care Food Program (CACFP) training.
  - (v) At least six (6) clock hours of the required training shall be non-agency based, e.g., obtained from sources other than training resources developed within the center itself. Multi-location programs may conduct conference-like or pre-service events that meet the required training needs.
  - (vi) At least six (6) hours must be health and safety training such as but not limited to:
    - (I) Prevention and control of infectious diseases (including immunization);
    - (II) Prevention of sudden infant death syndrome and use of safe sleeping practices;
    - (III) Administration of medication, consistent with standards for parental consent;
    - (IV) Prevention of and response to emergencies due to food and allergic



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- reactions;
  - (V) Building and physical premises safety, including identification of and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic;
  - (VI) Prevention of shaken baby syndrome and abusive head trauma;
  - (VII) Emergency preparedness and response planning for emergencies resulting from an actual disaster, or a man-caused event (such as violence at a child care facility), within the meaning of those terms under section 602 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195a);
  - (VIII) Handling and storage of hazardous materials and the appropriate disposal of biological contaminants;
  - (IX) Precautions in transporting children (if applicable);
  - (X) First aid and cardiopulmonary resuscitation;
  - (XI) Poison prevention;
  - (XII) Nutrition and physical activity;
  - (XIII) Child development; or
  - (XIV) Caring for and inclusion of children with special needs.
2. Up to four (4) clock hours training credit annually may be earned by conducting training.
  3. After the first year, this training shall be in addition to other required training in specific subject areas, such as Child and Adult Care Food Program (CACFP), personal safety training, etc.
  4. Training in first aid and CPR may be counted as necessary to maintain current certification as required by 1240-04-01-.12.
  5. Educators shall have evidence of completing training in Adverse Childhood Experiences every five (5) years.
- (6) Licensed Capacity of Physical Space.
- (a) The maximum number of children who may be present inside a physical space, e.g., the child care agency's "licensed capacity", shall be determined in accordance with the minimum square footages set forth in this paragraph.
  - (b) The Department may, in its discretion, as determined reasonably necessary to maintain the health and safety of the children in care, restrict the child care agency's licensed capacity below the maximum set forth in these rules.
  - (c) A minimum of thirty (30) square feet of usable indoor play space shall be provided for each child in each classroom.
  - (d) Each nap room shall contain a minimum of thirty (30) square feet of floor space per

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child.

- (e) Teen parenting, occupational/career, and technical education classes shall have a separate space for the group, with a minimum of thirty-five (35) square feet of usable play space per child that is apart from the classroom space for students. The designated separate space may be located in the same room and divided by movable barriers less than four (4) feet in height.
- (f) The following are not counted toward required square footage:
  - 1. Restrooms;
  - 2. Halls;
  - 3. Kitchen;
  - 4. Office space; or
  - 5. Any space used by cribs or large pieces of furniture.
- (g) Rooms with sufficient floor space may be divided by a barrier at least four (4) feet in height for use by more than one (1) group if each area is adequately equipped and arranged and that each group shall have the security of a stable classroom space.
- (h) Adequate Plumbing Facilities. The child care agency shall have the minimum number of functional toilets and hand-washing stations in accordance with the:
  - 1. Requirements of any applicable local ordinances and regulations;
  - 2. Proximity of the plumbing to the classroom(s); and
  - 3. Ages of the children served.
- (7) Equipment for Children.
  - (a) Individual lockers or cubbies, separate hooks and shelves or other containers, placed so that children may reach them, shall be provided for each child's belongings.
  - (b) Naptime Sleeping Procedures.
    - 1. Positioning of cots, cribs and sleeping mats.
      - (i) In order to avoid the spread of airborne diseases children shall be positioned on mats in a face to feet alternating pattern, unless they are separated by an appropriate solid barrier.
      - (ii) Cots, cribs, and mats shall be positioned at least eighteen inches (18") apart to allow an adult to walk between them, unless they are separated by a solid barrier.
      - (l) If barriers are used, they shall be arranged to permit staff to observe and have immediate access to each child.
- (8) Meals and Snacks. Any person responsible for preparing meals or snacks shall not be included in the adult:child ratio while preparing meals/snacks or doing related tasks, such as washing dishes.

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- (9) Schedules and Routines. In an infant or toddler room with more than one (1) educator, each educator shall be responsible for providing consistent care for specific infants and toddlers. Consistent care includes, but is not limited to, planning and record-keeping for the child, communication, general interaction with and routine care of the child.
- (10) Interim Director. Following the issuance of an annual license, a child care center may operate without an on-site director for a period of no more than sixty (60) days total within the licensing year. A qualified person, as determined by the Department, shall be in charge in the interim.

**Authority:** T.C.A. §§ 4-5-201, et seq.; 71-1-105(5); 71-3-501, et seq.; and 71-3-502(a)(2).  
**Administrative History:** Original rules filed May 1, 2018; effective July 30, 2018. Amendments filed October 5, 2018; effective January 3, 2019.

#### 1240-04-01-.23 SPECIFIC REQUIREMENTS FOR DROP-IN CHILD CARE CENTERS.

- (1) Record Keeping. The following records shall be maintained in an organized manner at the drop-in center and made available to the Department upon request:
  - (a) A signed statement from the parent/guardian verifying that the child or children are in good health and current with immunizations; and
  - (b) Written consent of the parent/guardian regarding emergency medical care including verification of any food or other allergies from the parent/guardian.
- (2) Admission of Children and Communication with Parents.
  - (a) Before accepting a child for care, the parent/guardian shall provide a statement regarding the estimated amount of time that the parent/guardian anticipates that the child will be in attendance at the drop-in center.
  - (b) An individual child may not exceed seven (7) hours per day or fourteen (14) hours per week during regular working hours.
  - (c) Care may be provided for no more than a total of twenty (20) hours for an individual child per week, exclusive of snow days when the school of the affected child is closed.
  - (d) The drop-in center shall maintain and make available to the Department attendance records verifying that no child receives care in excess of the maximum allowable hours.
- (3) Personal Safety Curriculum.
  - (a) The child care agency shall familiarize staff with the following required personal safety materials and be prepared to discuss them with parents:
    - 1. "Personal Safety Tips for Children and Their Parents"; and
    - 2. "Personal Safety Curriculum Notification Form for Drop-In Child Care Centers".
  - (b) The child care agency shall provide parents of children ages three (3) and over with a copy of the above forms.
  - (c) The child care agency shall maintain a copy of the Personal Safety Curriculum Notification Form signed by the parent/guardian on file at the child care agency.

(Rule 1240-04-01-.23, continued)

- (4) Care of School-Age Children on Snow Days.
- (a) A drop-in center may not accept any school-age child for care on snow days unless the license specifically authorizes the licensee to provide such care.
  - (b) The number of school-age children that a drop-in center may accept at any given time shall be determined by the Department based upon the amount of floor space.
  - (c) No child thirteen (13) years of age or older may be cared for by a drop-in center on a snow day.
  - (d) The center shall annually provide the Department with an updated list of trained educators and staff available for emergency call duty.
- (5) Transportation. Transportation is prohibited.
- (6) Staff Qualifications.
- (a) Director of a Drop-in Child Care Center.
    - 1. The drop-in center shall have an on-site director.

Exception: A drop-in child care center may operate without an on-site director no more than sixty (60) days total within the licensing year.
    - 2. The director of a single-site drop-in child care center shall be at least twenty-one (21) years of age.
    - 3. The director shall have earned a high school diploma or its equivalent and one (1) year of full-time documented work experience with children in a group setting.
    - 4. No more than six (6) months prior to issuance of the first license, owners (or a designee thereof who is not the on-site director) and directors shall complete a child care informational intake meeting sponsored by the Department.
    - 5. Within the first three (3) months of employment the director shall complete a Department-provided training that includes but is not limited to applicable licensing rules.
    - 6. The director shall complete pre-employment training, recognized and approved by the Department that includes but is not limited to, training in interviewing and evaluating educators for service in a child care agency and in working effectively with parents.
    - 7. If the director has received specific training meeting the requirements of this part within three (3) years prior to employment, the requirement may be waived by the Department.
    - 8. The director shall have evidence of completing at least six (6) clock hours annually of Department-recognized training. At least three (3) of these hours shall be in administration, management or supervisory training.
      - (i) The remaining three (3) hours shall be in health and safety such as but not limited to:
        - (l) Prevention and control of infectious diseases (including

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- immunization);
  - (II) Prevention of sudden infant death syndrome and use of safe sleeping practices;
  - (III) Administration of medication, consistent with standards for parental consent;
  - (IV) Prevention of and response to emergencies due to food and allergic reactions;
  - (V) Building and physical premises safety, including identification of and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic;
  - (VI) Prevention of shaken baby syndrome and abusive head trauma;
  - (VII) Emergency preparedness and response planning for emergencies resulting from an actual disaster, or a man-caused event (such as violence at a child care facility), within the meaning of those terms under section 602 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195a);
  - (VIII) Handling and storage of hazardous materials and the appropriate disposal of biological contaminants;
  - (IX) Precautions in transporting children (if applicable);
  - (X) First aid and cardiopulmonary resuscitation (CPR);
  - (XI) Poison prevention;
  - (XII) Nutrition and physical activity;
  - (XIII) Child development; or
  - (XIV) Caring for and inclusion of children with special needs.
9. The director shall have evidence of completing training in Adverse Childhood Experiences every five (5) years.
- (b) Educators.
1. Each educator who is used to meet the minimum required adult:child ratio shall have a high school diploma.
  2. Educators shall have evidence of receiving at least three (3) clock hours annually in Department-recognized training on basic health and safety topics such as but not limited to:
    - (i) Prevention and control of infectious diseases (including immunization);
    - (ii) Prevention of sudden infant death syndrome and use of safe sleeping practices;
    - (iii) Administration of medication, consistent with standards for parental

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consent;

- (iv) Prevention of and response to emergencies due to food and allergic reactions;
- (v) Building and physical premises safety, including identification of and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic;
- (vi) Prevention of shaken baby syndrome and abusive head trauma;
- (vii) Emergency preparedness and response planning for emergencies resulting from an actual disaster, or a man-caused event (such as violence at a child care facility), within the meaning of those terms under section 602 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195a);
- (viii) Handling and storage of hazardous materials and the appropriate disposal of biological contaminants;
- (ix) Precautions in transporting children (if applicable);
- (x) First aid and cardiopulmonary resuscitation;
- (xi) Poison prevention;
- (xii) Nutrition and physical activity;
- (xiii) Child development; or
- (xiv) Caring for and inclusion of children with special needs.

3. Educators shall have evidence of completing training in Adverse Childhood Experiences every five (5) years.

(7) Supervision and Grouping of Children.

(a) Age Categories and Adult:Child Ratios.

- 1. Children shall be placed in age-appropriate groups and with adequate adult educator supervision as established in parts 2-4 below.
- 2. Age Grouping.

Age of Children	Adult:Child Ratio
Six (6) weeks – Fifteen (15) months	1:4
Twelve (12) months – Thirty (30) months	1:8
Two (2) years	1:12
Three (3) years	1:15
Four (4) years	1:18
Five (5) years (not in Kindergarten)	1:20
School-age	1:22

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(Kindergarten and above) \_\_\_\_\_

3. Multi-Age Grouping.

- (i) The adult:child ratio of a multi-age grouping shall be determined by the age of the majority of the children in the group; provided, however:
  - (I) No majority age: If the ages of the children are evenly divided, the adult:child ratio shall be determined by the age of the youngest child in the group.
  - (II) Infants: The adult:child ratio of any group containing an infant shall be determined solely by the number of infants in the group.
- (ii) The adult:child ratio for any multi-age grouping containing three (3) or more infants is 1:4.
- (iii) The adult:child ratio for a multi-age group containing infants is as follows:

Majority Age of Children Present	One Infant	Two Infants
Twelve (12) months – Thirty (30) months	1:8	1:6
Two (2) years	1:10	1:8
Three (3) years	1:12	1:10
Four (4) years	1:15	1:12
Five (5) years (not in Kindergarten)	1:17	1:13
School-age (Kindergarten and above)	1:19	1:15

4. When more than fourteen (14) children are present, children under two (2) years of age shall have their own designated area.

(8) Nutritional Needs.

- (a) A meal or a snack shall be available every three (3) hours according to a normal pattern as follows:
  - 1. Three (3) to five (5) hours: One (1) meal or snack; and
  - 2. Five (5) to six (6) hours: Two (2) meals or snacks.
- (b) Extended Care: For a child who is in care for extended or nighttime hours, meals and snacks will be offered in accordance with the child’s hunger and the hours of attendance.
- (c) If the child care agency provides food, it shall be in accordance with the USDA’s Child and Adult Care Food Program (CACFP) nutritional guidelines.

(9) Naptime Sleeping Procedures.

- (a) Children shall be positioned on mats in a face to feet alternating pattern, unless separated by an appropriate solid barrier.

(Rule 1240-04-01-.23, continued)

- (b) Cots, cribs, and mats shall be positioned at least eighteen inches (18") apart, unless separated by a solid barrier.
  - 1. If barriers are used, they shall be arranged to permit staff to observe and have immediate access to each child.
  
- (10) Licensed Capacity of Physical Space.
  - (a) The maximum number of children who may be present inside a physical space shall be determined in accordance with the minimum square footage. The Department may, in its discretion, restrict the child care agency's licensed capacity below the maximum set forth in these rules.
  - (b) A minimum of thirty (30) square feet of usable indoor play space shall be provided for each child.
  - (c) Each nap room shall contain a minimum of thirty (30) square feet of floor space per child.
  - (d) For the purposes of calculating square footage requirements, the following shall not be counted:
    - 1. Restrooms;
    - 2. Hallways;
    - 3. Kitchen;
    - 4. Office space; or
    - 5. Any space used by cribs or large pieces of furniture.
  - (e) Rooms with sufficient floor space, as defined by the requirements set forth in these rules, may be divided by a barrier at least four (4) feet in height and used for more than one (1) group.
  - (f) Adequate Plumbing Facilities. The child care agency shall have the minimum number of functional toilets and hand-washing stations in accordance with the:
    - 1. Requirements of any applicable local ordinances and regulations;
    - 2. Proximity of the plumbing to the classroom(s); and
    - 3. Ages of the children served.
  
- (11) Staff shall have documentation of all children's allergies and how to deal with any allergic reaction.
  
- (12) Staff shall review emergency preparedness and fire procedures and shall physically walk through the evacuation process every quarter.
  
- (13) First Aid & CPR
  - (a) At least one staff member who has certification in first aid from a certifying organization recognized by the Department shall be present onsite at all times.



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1. The certification shall be applicable to the ages present:
  - (i) Infant/Child first aid; and/or
  - (ii) Adult first aid if children over age twelve (12) are present.
- (b) At least one staff member who has certification in CPR from a certifying organization recognized by the Department shall be present onsite at all times.
  1. The certification shall be applicable to the ages present:
    - (i) Infant/Child CPR; and/or
    - (ii) Adult CPR if children over age twelve (12) are present.
- (14) Prohibited Activities and Rules Not Applicable to Drop-In Child Care Centers:
  - (a) Prohibited Activities:
    1. Swimming;
    2. Transportation;
    3. Provision of specialized services.
  - (b) Rules Not Applicable to Drop-In Child Care Centers:
    1. Completed child application, immunization certificates (for children over two (2) months of age), and health history prior to admission;
    2. Written documentation of parent/guardian pre-enrollment visit;
    3. License notation to provide extended care hours;
    4. Parent/guardian signed receipt of polices and summary of licensing requirements;
    5. Ongoing parent/guardian communication regarding curriculum, personnel changes, and changes in child's routine care;
    6. Posting a report card;
    7. Emergency procedure practice drills for the children;
    8. Written action plan for each child with life-threatening allergies;
    9. Immunization requirement exceptions;
    10. Documentation of specific infant, toddler, or non-verbal child activities under children's records;
    11. Documentation of well-child exam prior to care (child under sixty (60) months);
    12. Parent/guardian signed kindergarten status acknowledgement;
    13. Daily written activity record for children with special needs;

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14. Records regarding proof of staff education;
15. Staff sign-in of children during transportation;
16. First aid certification for all staff during extended hours;
17. Accommodations that support and facilitate a family's decision to continue breast feeding;
18. Sufficient indoor equipment, materials, and toys based upon the activities in 1240-04-01-.14;
19. Outdoor play or equipment;
20. Napping or sleeping equipment for each child six (6) weeks to five (5) years in care for six (6) or more hours;
21. Bedding labeled with each child's name or corresponding code;
22. Time limitation on the use of television, radio, video, computers, and personal electronic devices;
23. A reclining rest period for children in care six (6) or more hours;
24. Individual educator attention to each child described in 1240-04-01-.15;
25. Educational activities described in 1240-04-01-.15(7);
26. Plans for bedtime rituals/routines;
27. Developmental checklist of developmental milestones upon disenrollment; and
28. Requirement regarding when toilet learning is started.

**Authority:** T.C.A. §§ 4-5-202; 71-3-501, et seq.; and 71-3-502(a)(2). **Administrative History:** Original rules filed May 1, 2018; effective July 30, 2018.