

**Department of State  
Division of Publications**

312 Rosa L. Parks Ave., 8th Floor, Snodgrass/TN Tower  
Nashville, TN 37243  
Phone: 615-741-2650  
Email: [publications.information@tn.gov](mailto:publications.information@tn.gov)

**For Department of State Use Only**

Sequence Number: 11-16-23

Rule ID(s): 9961

File Date: 11/27/2023

Effective Date: 2/25/2024

## Rulemaking Hearing Rule(s) Filing Form

*Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).*

*Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).*

**Agency/Board/Commission:** State Board of Education

**Division:** N/A

**Contact Person:** Angie Sanders

**Address:** 500 James Robertson Parkway, 8<sup>th</sup> Floor

**Zip:** 37243

**Phone:** 615-253-5707

**Email:** Angela.C.Sanders@tn.gov

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

☒ Amendment

☐ New

☐ Repeal

☐ Content based on previous emergency rule filed on \_\_\_\_\_

☐ Content is identical to the emergency rule

**Rule(s)** (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0520-12-01	Standards for School Administered Child Care Programs
Rule Number	Rule Title
0520-12-01-.07	Staff

## **AMENDMENT**

**AMEND** the rules of the State Board of Education Chapter 0520-12-01 Standards for School Administered Child Care Programs, Section .07 Staff, so that as amended, the revised Rule Section .07 shall read:

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

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

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

- (1) All Programs shall be staffed with a director and enough teachers and staff to meet the required adult:child ratios.
- (2) Every staff person, including auxiliary staff, substitutes, volunteers, and practicum students, shall be physically, mentally, and emotionally capable of using the appropriate judgment for the care of children, and otherwise performing his/her duties satisfactorily. A person who has a physical, mental, or emotional condition which is in any way potentially harmful to children shall not be present with the children.
- (3) Every staff person, both paid and unpaid, shall be at least twenty-one (21) years of age in order to work in an early child care Program.
- (4) At least one (1) adult available on the premises at all times during Program operating hours shall be able to read and write English.
- (5) Prior to assuming duties, each new employee shall receive two (2) hours of orientation, and be able to explain the Program philosophy, emergency procedures, policies regarding discipline of children, policies regarding the reporting of child abuse, Sudden Infant Death Syndrome (SIDS), and policies for receiving and dismissing children.
- (6) Within the first two (2) weeks on the job and annually thereafter, each employee, including directors, teachers, substitutes, volunteers, and practicum students, shall receive annual instruction in:
  - (a) Child abuse detection, reporting, and prevention;
  - (b) Parent-center communication;
  - (c) Disease control and health promotion;
  - (d) An overview of certificate of approval requirements;
  - (e) Information on risks of infection to female employees of childbearing age;
  - (f) Food allergies;
  - (g) Supervision during high risk activities such as eating and outdoor play;
  - (h) Meal service and safe food preparation policies;

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

Education level	Minimum experience required
Graduation from an accredited four-year (4 year) college.	One (1) year of full-time experience in a group setting. Experience may be paid or unpaid. (2 years school-age care experience = 1 year full-time experience)
Sixty (60) semester hours of college training, with at least thirty (30) hours of which shall be in business or management, child or youth development, early childhood education or related field.	Two (2) years of full-time experience in a group setting. Experience may be paid or unpaid. (2 years school-age care experience = 1 year full-time experience)
High school diploma (or high school equivalency credential approved by the State Board), and Tennessee Early Childhood Training Alliance (TECTA) certificate for completing thirty (30) clock hours of orientation training, or the equivalent as recognized by the Department.	Four (4) years of full-time experience in a group setting. Experience may be paid or unpaid. (2 years school-age care experience = 1 year full-time experience)
Has been continuously employed as an on-site Program director or child care agency owner since July 1, 2000.	Not applicable.

- (c) Within the first thirty (30) days of employment by a Program, a director shall complete an orientation provided by the Department of Education.

- (d) Directors shall complete at least thirty (30) hours of professional development, of which six (6) hours shall be in administration management or supervisory training and six (6) hours shall be in developmentally appropriate literacy practices.
  - (e) If a director serves a dual role (e.g. an individual serving as the director and a teacher), the duties of each role shall be performed separately and not simultaneously.
- (10) Programs may employ an on-site assistant director. An assistant director or other staff member shall be designated to be in charge in the absence of the director and all staff shall be notified of this designation. On-site assistant directors shall meet the following criteria:
- (a) The on-site assistant director shall be at least twenty-one (21) years of age if hired after June 30, 2017 and shall have at least two (2) years of college training or a Department recognized credential and one (1) year of full-time or two (2) years of part time school-age care documented work experience (paid or un-paid) in a group setting; or
  - (b) The on-site assistant director shall be at least twenty-one (21) years of age and shall have earned a high school diploma or high school equivalency credential approved by the State Board and two (2) years of full-time or four (4) years of part time school-age care documented work experience (paid or unpaid) in a group setting.
  - (c) Within the first thirty (30) days of employment, assistant directors shall complete an orientation provided by the department of education child care program evaluator.
  - (d) Assistant directors shall complete at least thirty (30) hours of professional development, of which six (6) hours shall be in developmentally appropriate literacy practices and three (3) hours shall be in administration management or supervisory training.
- (11) All teachers and assistant teachers shall be at least twenty-one (21) years of age if hired after June 30, 2017 and shall meet the following criteria:
- (a) Before assuming teaching duties, teachers and assistant teachers shall complete two (2) clock hours of pre-service orientation training offered or recognized by the Department. Pending completion of the orientation training, the teacher's employment status with the Program is conditional. Up to two (2) hours of training credit may be earned for Child and Adult Care Food Program (CACFP) training or USDA Free and Reduced Price Meal Program training.
  - (b) Full-time teachers and assistant teachers shall complete at least thirty (30) hours of professional development.
  - (c) At least six (6) hours of the required professional development shall be obtained outside of the Program. At least six (6) hours of the professional development shall be in developmentally appropriate literacy practices.
  - (d) Teachers shall be evaluated for knowledge and understanding of growth and development patterns of children and understanding of appropriate activities for children as well as those with special needs.
- (12) Part-time teachers and teaching assistants shall meet the following criteria:
- (a) Prior to assuming duties, part-time teachers and assistant teachers shall complete two (2) clock hours of pre-service orientation training offered or recognized by the Department.
  - (b) Part-time teachers and assistant teachers shall complete at least fifteen (15) hours of professional development, of which three (3) shall be in developmentally appropriate literacy practices and three (3) shall be obtained outside of the Program.

- (c) Part-time teachers shall be evaluated for knowledge and understanding of growth and development patterns of children and understanding of appropriate activities for children as well as those with special needs.
- (13) Substitute teachers shall meet the following criteria:
- (a) Substitutes shall comply with the same orientation requirements defined by these rules for all Program staff and shall be provided a classroom orientation prior to assuming duties.
  - (b) Substitutes who have acted as teachers for two hundred (200) or more hours in the previous calendar year shall meet the training requirements contained in the rules for part-time teachers.
  - (c) Auxiliary staff may be used as emergency substitutes if their qualifications permit, but not while performing auxiliary duties.
  - (d) Substitutes shall meet the criminal background check requirements and the same requirements as regular staff for the physical examination required by this Chapter.
  - (e) Practicum Students. Persons serving temporarily as teachers in field service placements as part of an educational course of study or other curriculum requirement shall not be considered as substitutes for purposes of this paragraph.
- (14) A volunteer is a person who provides services for a child care center without payment and who is used to supplement the regular staff or substitutes. Volunteers shall not be included in the adult:child ratios. The on-site director shall be responsible for and supervise the activities of volunteers to assure the safety of children.
- (15) All child care programs shall require any person employed in a position requiring proximity to children to:
- (a) Provide evidence of the following:
    - 1. Department of Health Vulnerable Persons Abuse Registry check;
    - 2. TBI/FBI Fingerprint and Background check; and
    - 3. TBI/FBI Sex Offender Registry.
  - (b) This evidence shall be obtained by the Program prior to employment.
  - (c) The Program shall immediately review the report of the background check received from the Tennessee Bureau of Investigation, and shall immediately consult with the Department to resolve any questions relative to the person's status. Upon determination that the person's status prohibits the person from having access to children as described in this Chapter, the Program shall immediately exclude such person from access to children. Failure to exclude the person under this part will result in immediate suspension of the Program's certificate of approval.
  - (d) A new fingerprint sample must be obtained, for all employees, every five (5) years.
- (16) No individual with a prohibited criminal history as defined below may work, substitute or volunteer in a Program, be an owner, director or manager of a Program who has access to children, have significant contact with children or otherwise have unrestricted access to children in any manner whatsoever. An individual shall be immediately and automatically excluded from a Program or any contact whatsoever with children if the individual's criminal history includes:

- (a) A criminal conviction or a no-contest or guilty plea; or any pending criminal action, including individuals subject to any warrant, indictment or presentment, etc.; or placement in a pretrial diversion; or
  - (b) A pending juvenile action or previous juvenile adjudication, which, if an adult, would constitute a criminal offense; and
  - (c) Any of the circumstances in (a) or (b) above involves any of the following criminal offenses:
    - 1. Any offense (including a lesser included offense) involving the physical, sexual or emotional abuse or gross neglect of a child or involving a threat to the health, safety or welfare of a child;
    - 2. Any offense (including a lesser included offense) involving violence, or the threat of violence against another person; and/or
    - 3. Any offense (including a lesser included offense) involving, the manufacture, sale, distribution or possession of any drug.
- (17) An individual shall also be immediately and automatically excluded from the Program or from access in any manner whatsoever to the children in the care of the Program, if the individual:
- (a) Reveals a prohibited or potentially prohibited criminal history on the criminal history disclosure form;
  - (b) Is listed on the Department of Health's Vulnerable Persons Abuse Registry; or
  - (c) Is known to the Program as a perpetrator of child abuse or child sexual abuse or to have a prohibited criminal record, who is identified to the Program's management by the Department of Children's Services as a validated perpetrator of abuse of a child based upon an investigation conducted by the Department of Children's Services or by the child protective services agency of any other state; or, who at any time is identified by any person or entity to the Program's management and is confirmed by the Department as having a prohibited criminal history.
- (18) An individual with a prohibited history as set forth below shall be immediately and automatically excluded from providing driving duties on behalf of the Program if the individual:
- (a) Has a pending criminal action (including warrants, indictments, presentments, etc.) is completing pretrial diversion, or has been convicted of or pled guilty to any offense involving the use of a motor vehicle while under the influence of any intoxicant, which constitutes a violation of T.C.A. §§ 39-13-213; 55-10-101; 55-10-102 or 55-10-401; or
  - (b) Has been convicted of or pled guilty to any felony involving use of a motor vehicle while under the influence of any intoxicant. In such case, the individual shall not be employed or otherwise serve as a driver for a Program for a period of five (5) years from the date of the conviction or guilty plea.
- (19) An individual who has been identified by the Department of Children's Services as having neglected a child based on an investigation conducted by the Department of Children's Services, or any child protective services agency of any state, and who has not been criminally charged or convicted or pled guilty as stated above, shall be supervised by another adult while providing care for children.
- (20) Any person who is excluded or whose certificate of approval or operator status is denied based upon the results of the criminal history background review or based upon any other determination

may request in writing to the Department within ten (10) calendar days of receiving notice of such exclusion or denial, a waiver from these automatic exclusion requirements.

- (a) Requests for a waiver shall state the basis for the request, including any extenuating or mitigating circumstances that would, in the person's opinion, clearly warrant an exemption from the exclusion. Any documentary evidence may also be submitted with the request.
  - (b) Requests for waivers shall be heard by an advisory committee, composed, at a minimum, of law enforcement personnel, persons experienced in child protective services, persons experienced in child development issues and child care providers issued a certificate of approval by the Department and reviewed by the Department.
  - (c) Any person who is excluded from providing care or services to children under any provisions of this subchapter shall remain excluded pending the outcome of any exemption review and appeals.
- (21) The Department may, at any time, request that the criminal background status or the Department of Health's Vulnerable Persons Abuse Registry of any individuals having access to children under any of the circumstances set forth in this subchapter be reviewed using the processes described above.
- (22) The employment status of persons for whom a post-employment criminal background check was conducted, or the status of existing Program owners or operators, substitutes or volunteers of a Program for whom a criminal background check was conducted after issuance of a certificate of approval or after employment or assuming duties as a volunteer or substitute, and who were not otherwise subject to a pre-status applicant background check and to the exclusionary provisions provided in this subchapter, shall be governed by the provisions of this Chapter.

**Authority:** T.C.A. §§ 4-5-201, et seq.; 49-1-302(l); 49-1-1101 through 49-1-1109; 49-2-203; 49-5-413; and 71-3-507(g) and (h). **Administrative History:** Original rule filed September 26, 1990; effective December 29, 1990. Amendment filed April 30, 2002; effective July 14, 2002. Amendment repealing and replacing rule filed March 15, 2010; effective August 29, 2010. Amendments filed November 2, 2017; effective February 1, 2018. Amendments filed May 3, 2018; effective August 1, 2018. Amendments filed January 25, 2019; effective April 25, 2019.



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

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Jordan Mollenhour	X				
Bob Eby	X				
Ryan Holt	X				
Warren Wells	X				
Lillian Hartgrove	X				
Nate Morrow	X				
Darrell Cobbins	X				
Larry Jensen	X				
Krissi McInturff	X				
Laurel Cox				X	
Victoria Harpool, designee for Steven Gentile, Interim Executive Director, Tennessee Higher Education Commission <b>Non-Voting Ex-Officio</b>					

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the State Board of Education on 11/03/2023, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 08/11/2023

Rulemaking Hearing(s) Conducted on: (add more dates). 10/02/2023

Date: 11/20/2023

Signature: 


Name of Officer: Angie Sanders

Title of Officer: General Counsel

Agency/Board/Commission: State Board of Education

Rule Chapter Number(s): 0520-12-01

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

  
Jonathan Skrmetti  
Attorney General and Reporter  
Nov. 21, 2023  
Date



**Department of State Use Only**

Filed with the Department of State on: 11/27/2023

Effective on: 2/25/2024

  
Tre Hargett  
Secretary of State

**RECEIVED**

Nov 27 2023, 1:54 pm

Secretary of State  
Division of Publications

### **Public Hearing Comments**

The Tennessee State Board of Education held a public rulemaking hearing on Rule 0520-12-01-.07 on October 2, 2023, at 500 James Robertson Parkway, Nashville, TN and via Webex. No public comments were submitted at the hearing regarding this rule.

**Regulatory Flexibility Addendum**

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

This rule does not affect small businesses. While a school-administered child care center may qualify as a small business, these changes are technical in nature and do not alter any existing requirements.

**Impact on Local Governments**

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228, "On any rule and regulation proposed to be promulgated, the proposing agency shall state in a simple declarative sentence, without additional comments on the merits or the policy of the rule or regulation, whether the rule or regulation may have a projected financial impact on local governments. The statement shall describe the financial impact in terms of increase in expenditures or decrease in revenues."

This rule has no fiscal impact on local governments.

### Additional Information Required by Joint Government Operations Committee

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

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

Revisions to these rules are proposed in alignment with Public Chapter 114 of 2023 (PC 114) to remove specific references to the GED or HiSET assessments and refer instead to a high school equivalency credential approved by the State Board of Education.

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

Public Chapter 114 of 2023 removed specific references to the GED or HiSET assessments throughout Tennessee Code Annotated to refer instead to a high school equivalency credential approved by the State Board of Education.

T.C.A. § 4-3-1422 authorizes the Tennessee Department of Labor and Workforce Development to make recommendations to the State Board relative to criteria or assessments that lead to the award of a high school equivalency credential, and authorizes the State Board to promulgate rules to effectuate the section.

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

These rules have a direct effect on the State Board, Department of Education, and Department of Labor and Workforce Development and all urge adoption. These rules also have a direct effect on school administered childcare programs. The State Board did not hear from any programs urging adoption or rejection of the rules.

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

None.

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

None.

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

Angie Sanders (State Board of Education)  
[Angela.C.Sanders@tn.gov](mailto:Angela.C.Sanders@tn.gov)

Nathan James (State Board of Education)  
[Nathan.James@tn.gov](mailto:Nathan.James@tn.gov)

Robin Yeh (Department of Education)  
[Robin.Yeh@tn.gov](mailto:Robin.Yeh@tn.gov)

Stamatia Xixis (Department of Labor)

[Stamatia.Xixis@tn.gov](mailto:Stamatia.Xixis@tn.gov)

Jay Baker (Department of Labor)

[Jay.Baker@tn.gov](mailto:Jay.Baker@tn.gov)

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

Angie Sanders (State Board of Education)

[Angela.C.Sanders@tn.gov](mailto:Angela.C.Sanders@tn.gov)

Nathan James (State Board of Education)

[Nathan.James@tn.gov](mailto:Nathan.James@tn.gov)

Robin Yeh (Department of Education)

[Robin.Yeh@tn.gov](mailto:Robin.Yeh@tn.gov)

Stamatia Xixis (Department of Labor)

[Stamatia.Xixis@tn.gov](mailto:Stamatia.Xixis@tn.gov)

Jay Baker (Department of Labor)

[Jay.Baker@tn.gov](mailto:Jay.Baker@tn.gov)

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

Angie Sanders  
State Board of Education  
500 James Robertson Parkway, 8th Floor  
Nashville, TN 37243  
(615) 253-5707  
[Angela.C.Sanders@tn.gov](mailto:Angela.C.Sanders@tn.gov)

Nathan James  
State Board of Education  
500 James Robertson Parkway, 8th Floor  
Nashville, TN 37243  
(615) 532-3528  
[Nathan.James@tn.gov](mailto:Nathan.James@tn.gov)

Robin Yeh  
Department of Education  
710 James Robertson Parkway, 9<sup>th</sup> Floor  
Nashville, TN 37243  
(615) 445-9543  
[Robin.Yeh@tn.gov](mailto:Robin.Yeh@tn.gov)

Stamatia Xixis  
Department of Labor  
220 French Landing Drive  
Nashville, TN 37243  
(615) 770-1710  
[Stamatia.Xixis@tn.gov](mailto:Stamatia.Xixis@tn.gov)

Jay Baker



Department of Labor  
220 French Landing Drive  
Nashville, TN 37243  
(615) 770-1710  
[Jay.Baker@tn.gov](mailto:Jay.Baker@tn.gov)

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

None.

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

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

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

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

- (1) All **P**rograms shall be staffed with a director and enough teachers and staff to meet the required adult:child ratios.
- (2) Every staff person, including auxiliary staff, substitutes, volunteers, and practicum students, shall be physically, mentally, and emotionally capable of using the appropriate judgment for the care of children, and otherwise performing his/her duties satisfactorily. A person who has a physical, mental, or emotional condition which is in any way potentially harmful to children shall not be present with the children.
- (3) Every staff person, both paid and unpaid, shall be at least twenty-one (21) years of age in order to work in an early child care **P**rogram.
- (4) At least one (1) adult available on the premises at all times during **P**rogram operating hours shall be able to read and write English.
- (5) Prior to assuming duties, each new employee shall receive two (2) hours of orientation, and be able to explain the **P**rogram philosophy, emergency procedures, policies regarding discipline of children, policies regarding the reporting of child abuse, Sudden Infant Death Syndrome (SIDS), and policies for receiving and dismissing children.
- (6) Within the first two (2) weeks on the job and annually thereafter, each employee, including directors, teachers, substitutes, volunteers, and practicum students, shall receive annual instruction in:
  - (a) Child abuse detection, reporting, and prevention;
  - (b) Parent-center communication;
  - (c) Disease control and health promotion;
  - (d) An overview of certificate of approval requirements;
  - (e) Information on risks of infection to female employees of childbearing age;
  - (f) Food allergies;
  - (g) Supervision during high risk activities such as eating and outdoor play;
  - (h) Meal service and safe food preparation policies;
  - (i) Shaken baby syndrome;
  - (j) Abusive head trauma;
  - (k) Safe sleep procedures;
  - (l) Developmentally appropriate practices; and

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

(m) Policies regarding discipline and supervision of children.

- (7) All training shall be documented in the Pprogram's records and be available for review by the Department's staff at any time.
- (8) The Pprogram must maintain written documentation that each employee has read the full set of all applicable rules. In addition, a copy of these rules shall be maintained in an area that is readily accessible to all staff.
- (9) Each Pprogram location where children are present shall have an on-site director. The on-site director, with the guidance of the board or owner of the Pprogram, shall be responsible for staff and the day-to-day operation of the Pprogram. On-site directors shall meet the following criteria:
- (a) The on-site director of a Pprogram shall be a full-time employee and shall be physically present in the Pprogram's facilities daily at least half of the total hours of operation.
- (b) A director shall be at least twenty-one (21) years of age if hired after June 30, 2017 and shall meet at least one (1) of the minimum qualifications listed below:

Education level	Minimum experience required
Graduation from an accredited four-year (4 year) college.	One (1) year of full-time experience in a group setting. Experience may be paid or unpaid. (2 years school-age care experience = 1 year full-time experience)
Sixty (60) semester hours of college training, with at least thirty (30) hours of which shall be in business or management, child or youth development, early childhood education or related field.	Two (2) years of full-time experience in a group setting. Experience may be paid or unpaid. (2 years school-age care experience = 1 year full-time experience)
High school diploma (or <u>equivalent high school equivalency credential approved by the State Board</u> ), and Tennessee Early Childhood Training Alliance (TECTA) certificate for completing thirty (30) clock hours of orientation training, or the equivalent as recognized by the Department.	Four (4) years of full-time experience in a group setting. Experience may be paid or unpaid. (2 years school-age care experience = 1 year full-time experience)
Has been continuously employed as an on-site Pprogram director or child care agency owner since July 1, 2000.	Not applicable.

- (c) Within the first thirty (30) days of employment by a Pprogram, a director shall complete an orientation provided by the Department of Education.
- (d) Directors shall complete at least thirty (30) hours of professional development, of which six (6) hours shall be in administration management or supervisory training and six (6) hours shall be in developmentally appropriate literacy practices.
- (e) If a director serves a dual role (e.g. an individual serving as the director and a teacher), the duties of each role shall be performed separately and not simultaneously.

- (10) Programs may employ an on-site assistant director. An assistant director or other staff member

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

shall be designated to be in charge in the absence of the director and all staff shall be notified of this designation. On-site assistant directors shall meet the following criteria:

- (a) The on-site assistant director shall be at least twenty-one (21) years of age if hired after June 30, 2017 and shall have at least two (2) years of college training or a Department recognized credential and one (1) year of full-time or two (2) years of part time school-age care documented work experience (paid or un-paid) in a group setting; or
  - (b) The on-site assistant director shall be at least twenty-one (21) years of age and shall have earned a high school diploma or ~~equivalent educational credential recognized by the Department~~ high school equivalency credential approved by the State Board and two (2) years of full-time or four (4) years of part time school-age care documented work experience (paid or unpaid) in a group setting.
  - (c) Within the first thirty (30) days of employment, assistant directors shall complete an orientation provided by the department of education child care program evaluator.
  - (d) Assistant directors shall complete at least thirty (30) hours of professional development, of which six (6) hours shall be in developmentally appropriate literacy practices and three (3) hours shall be in administration management or supervisory training.
- (11) All teachers and assistant teachers shall be at least twenty-one (21) years of age if hired after June 30, 2017 and shall meet the following criteria:
- (a) Before assuming teaching duties, teachers and assistant teachers shall complete two (2) clock hours of pre-service orientation training offered or recognized by the Department. Pending completion of the orientation training, the teacher's employment status with the ~~P~~program is conditional. Up to two (2) hours of training credit may be earned for Child and Adult Care Food Program (CACFP) training or USDA Free and Reduced Price Meal Program training.
  - (b) Full-time teachers and assistant teachers shall complete at least thirty (30) hours of professional development.
  - (c) At least six (6) hours of the required professional development shall be obtained outside of the ~~P~~program. At least six (6) hours of the professional development shall be in developmentally appropriate literacy practices.
  - (d) Teachers shall be evaluated for knowledge and understanding of growth and development patterns of children and understanding of appropriate activities for children as well as those with special needs.
- (12) Part-time teachers and teaching assistants shall meet the following criteria:
- (a) Prior to assuming duties, part-time teachers and assistant teachers shall complete two (2) clock hours of pre-service orientation training offered or recognized by the Department.
  - (b) Part-time teachers and assistant teachers shall complete at least fifteen (15) hours of professional development, of which three (3) shall be in developmentally appropriate literacy practices and three (3) shall be obtained outside of the ~~P~~program.
  - (c) Part-time teachers shall be evaluated for knowledge and understanding of growth and development patterns of children and understanding of appropriate activities for children as well as those with special needs.

(13) Substitute teachers shall meet the following criteria:

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

- (a) Substitutes shall comply with the same orientation requirements defined by these rules for all Pprogram staff and shall be provided a classroom orientation prior to assuming duties.
  - (b) Substitutes who have acted as teachers for two hundred (200) or more hours in the previous calendar year shall meet the training requirements contained in the rules for part-time teachers.
  - (c) Auxiliary staff may be used as emergency substitutes if their qualifications permit, but not while performing auxiliary duties.
  - (d) Substitutes shall meet the criminal background check requirements and the same requirements as regular staff for the physical examination required by this Chapter.
  - (e) Practicum Students. Persons serving temporarily as teachers in field service placements as part of an educational course of study or other curriculum requirement shall not be considered as substitutes for purposes of this paragraph.
- (14) A volunteer is a person who provides services for a child care center without payment and who is used to supplement the regular staff or substitutes. Volunteers shall not be included in the adult:child ratios. The on-site director shall be responsible for and supervise the activities of volunteers to assure the safety of children.
- (15) All child care programs shall require any person employed in a position requiring proximity to children to:
- (a) Provide evidence of the following:
    - 1. Department of Health Vulnerable Persons Abuse Registry check;
    - 2. TBI/FBI Fingerprint and Background check; and
    - 3. TBI/FBI Sex Offender Registry; and
  - (b) This evidence shall be obtained by the Pprogram prior to employment.
  - (c) The Pprogram shall immediately review the report of the background check received from the Tennessee Bureau of Investigation, and shall immediately consult with the Department to resolve any questions relative to the person's status. Upon determination that the person's status prohibits the person from having access to children as described in this Chapter, the Pprogram shall immediately exclude such person from access to children. Failure to exclude the person under this part will result in immediate suspension of the Pprogram's certificate of approval.
  - (d) A new fingerprint sample must be obtained, for all employees, every five (5) years.
- (16) No individual with a prohibited criminal history as defined below may work, substitute or volunteer in a Pprogram, be an owner, director or manager of a Pprogram who has access to children, have significant contact with children or otherwise have unrestricted access to children in any manner whatsoever. An individual shall be immediately and automatically excluded from a Pprogram or any contact whatsoever with children if the individual's criminal history includes:
- (a) A criminal conviction or a no-contest or guilty plea; or any pending criminal action, including individuals subject to any warrant, indictment or presentment, etc.; or placement in a pretrial diversion; or
  - (b) A pending juvenile action or previous juvenile adjudication, which, if an adult, would



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

constitute a criminal offense; and

- (c) Any of the circumstances in (a) or (b) above involves any of the following criminal offenses:
  - 1. Any offense (including a lesser included offense) involving the physical, sexual or emotional abuse or gross neglect of a child or involving a threat to the health, safety or welfare of a child;
  - 2. Any offense (including a lesser included offense) involving violence, or the threat of violence against another person; and/or
  - 3. Any offense (including a lesser included offense) involving, the manufacture, sale, distribution or possession of any drug.
- (17) An individual shall also be immediately and automatically excluded from the Pprogram or from access in any manner whatsoever to the children in the care of the Pprogram, if the individual:
  - (a) Reveals a prohibited or potentially prohibited criminal history on the criminal history disclosure form;
  - (b) Is listed on the Department of Health's Vulnerable Persons Abuse Registry; or
  - (c) Is known to the Pprogram as a perpetrator of child abuse or child sexual abuse or to have a prohibited criminal record, who is identified to the Pprogram's management by the Department of Children's Services as a validated perpetrator of abuse of a child based upon an investigation conducted by the Department of Children's Services or by the child protective services agency of any other state; or, who at any time is identified by any person or entity to the Pprogram's management and is confirmed by the Department as having a prohibited criminal history.
- (18) An individual with a prohibited history as set forth below shall be immediately and automatically excluded from providing driving duties on behalf of the Pprogram if the individual:
  - (a) Has a pending criminal action (including warrants, indictments, presentments, etc.) is completing pretrial diversion, or has been convicted of or pled guilty to any offense involving the use of a motor vehicle while under the influence of any intoxicant, which constitutes a violation of T.C.A. §§ 39-13-213; 55-10-101; 55-10-102 or 55-10-401; or
  - (b) Has been convicted of or pled guilty to any felony involving use of a motor vehicle while under the influence of any intoxicant. In such case, the individual shall not be employed or otherwise serve as a driver for a Pprogram for a period of five (5) years from the date of the conviction or guilty plea.
- (19) An individual who has been identified by the Department of Children's Services as having neglected a child based on an investigation conducted by the Department of Children's Services, or any child protective services agency of any state, and who has not been criminally charged or convicted or pled guilty as stated above, shall be supervised by another adult while providing care for children.
- (20) Any person who is excluded or whose certificate of approval or operator status is denied based upon the results of the criminal history background review or based upon any other determination may request in writing to the Department within ten (10) calendar days of receiving notice of such exclusion or denial, a waiver from these automatic exclusion requirements.
  - (a) Requests for a waiver shall state the basis for the request, including any extenuating or mitigating circumstances that would, in the person's opinion, clearly warrant an



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

exemption from the exclusion. Any documentary evidence may also be submitted with the request.

- (b) Requests for waivers shall be heard by an advisory committee, composed, at a minimum, of law enforcement personnel, persons experienced in child protective services, persons experienced in child development issues and child care providers issued a certificate of approval by the Department and reviewed by the Department.
  - (c) Any person who is excluded from providing care or services to children under any provisions of this subchapter shall remain excluded pending the outcome of any exemption review and appeals.
- (21) The Department may, at any time, request that the criminal background status or the Department of Health's Vulnerable Persons Abuse Registry of any individuals having access to children under any of the circumstances set forth in this subchapter be reviewed using the processes described above.
- (22) The employment status of persons for whom a post-employment criminal background check was conducted, or the status of existing ~~P~~program owners or operators, substitutes or volunteers of a ~~P~~program for whom a criminal background check was conducted after issuance of a certificate of approval or after employment or assuming duties as a volunteer or substitute, and who were not otherwise subject to a pre-status applicant background check and to the exclusionary provisions provided in this subchapter, shall be governed by the provisions of this Chapter.

**Authority:** T.C.A. §§ 4-5-201, et seq.; 49-1-302(l); 49-1-1101 through 49-1-1109; 49-2-203; 49-5-413; ~~49-6-300; 49-10-608~~; and 71-3-507(g) and (h). **Administrative History:** Original rule filed September 26, 1990; effective December 29, 1990. Amendment filed April 30, 2002; effective July 14, 2002. Amendment repealing and replacing rule filed March 15, 2010; effective August 29, 2010. Amendments filed November 2, 2017; effective February 1, 2018. Amendments filed May 3, 2018; effective August 1, 2018. Amendments filed January 25, 2019; effective April 25, 2019.

Formatted: Indent: Left: 0.1", Right: 0"